SENATE—*Monday, November 22, 1993*

The Senate met at 4 p.m. and was called to order by the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee.

PRAYER

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

Let us pray:

* * * *except the Lord keep the city, the watchman waketh but in vain.*—Psalm 127:1.

Eternal God, the minds and hearts of a nation are recalling, with sadness, the tragedy that took place in Dallas, TX, 30 years ago. May we hear the words with which President Kennedy intended to close a speech that day:

We in this country, in this generation, are—by destiny rather than choice—the watchmen on the walls of world freedom. We ask, therefore, that we may be worthy of our power and responsibility, that we may exercise our strength with wisdom and restraint, and that we may achieve, in our time and for all time, the ancient vision of peace on Earth, good will toward men. That must always be our goal * * *. For as was written long ago, "Except the Lord keep the city, the watchman waketh but in vain."

Mighty God, we pray that such a tragedy will never happen again. We ask for your protection for the President, the Vice President, Members of Congress and the Supreme Court, and for all who bear public responsibility. And we pray for a fresh visitation of the Spirit of God upon our Nation which will restore our sanity and peace.

In the name of Him who is the Prince of Peace. Amen.

APPOINTMENT OF THE 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, November 22, 1993.

To the Senate:

Under the provisions of rule 1, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

EXPRESSION OF GRATITUDE TO THE SENATE CHAPLAIN

Mr. MITCHELL. Mr. President, I know that I speak on behalf of every Member of the Senate when I express my gratitude to our beloved Chaplain, Reverend Halverson, for his remarks today and every day, and for his spiritual efforts in our behalf. His has been a difficult and often lonely task, one which has not received the recognition and gratitude which is earned and deserved, and therefore I wish to take this occasion to thank Reverend Halverson from the bottom of my heart on behalf of all Members of the Senate.

We thank you for your service to the institution and to the individual Members here.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. Mr. President, let me join in the remarks of the majority leader, and let me also suggest that as I look at Dr. Halverson, he is getting stronger and stronger each day. He tells me he is feeling better, and that is even more important. So we wish him and his family happy Thanksgiving; that he will enjoy his holiday season.

EXECUTIVE SESSION

NOMINATION OF NORMAN E. D'AMOURS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate proceed to executive session to consider the following nomination:

Calendar No. 517, Norman E. D'Amours, to be a member of the National Credit Union Administration Board.

I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that upon confirmation, a motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The nomination was considered and confirmed.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business during which Senators be permitted to speak therein for up to 10 minutes each.

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

LEAKING OF CLASSIFIED INFORMATION

Mr. MITCHELL. Mr. President, last month, several newspaper articles were published which contained classified and sensitive information which was leaked from a briefing given to Senators and staff by the Central Intelligence Agency. It is disheartening to have to remind the members of the Senate and the staff who serve us that leaks of classified information are shortsighted, destructive, and illegal. Nonetheless, one or more individuals deliberately disclosed classified information from a Senate briefing, and those individuals may have been Senators or Senate employees. An investigation of those leaks is underway; however, given the nature of leaks to the media, it will be difficult to identify with certainty the guilty party or parties.

As I have stated before, I will not tolerate leaks of classified or confidential Senate business in my office. I consider it the responsibility of every Senator to do the same in his or her office. The Republican leader and I recently sent a letter to all Senators regarding leaks, and I would like to read from that letter now, for the benefit of those Senators and staff who have not yet seen it.

Simply put, there is no justification whatever for any Member or employee of the Senate to disclose classified information to the media or to the public. Unauthorized disclosure of classified information is a violation of Senate security regulations, the Standing Rules of the Senate, and of Title 18 of the U.S. Code. There is no exception to these restrictions for furthering or undermining policy goals, however, noble the intentions of the leaker. The unauthorized disclosure of classified information can cost money, security and, sometimes, human life.

In addition to the disclosure of classified information, we also are concerned about the disclosure of the confidential business or proceedings of the Senate. Senate Rule XXIX

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

was amended just last year to stiffen the penalties for disclosure of such information. Senate Rule XXIX, paragraph 5, states:

"Any Senator, officer or employee of the Senate who shall disclose the secret or confidential business or proceedings of the Senate, including the business and proceedings of the committees, subcommittees, and offices of the Senate, shall be liable, if a Senator, to suffer expulsion from the body; and if an officer or employee, to dismissal from the service of the Senate, and to punishment for contempt."

We will seek punishment under Rule XXIX for any Senator, officer, or employee of the Senate found to have leaked classified or confidential information. Our own staff are aware that we will not tolerate such leaks under any circumstances. We ask that you make your staff aware of your own commitment to this principle.

Various Executive Branch departments and agencies regularly share with Members and employees of the Senate classified information of great sensitivity. It would not be possible for Senators to make well-informed decisions on matters of national security in the absence of such information. However, absent some assurance that classified information will be afforded appropriate protection by the Senate, Executive agencies will become more hesitant to share with us the most sensitive information. If we are to continue receiving such information, we must demonstrate that we can be entrusted with it.

Also of vital importance to the Senate and to the national security is the free exchange of views between the Senate and the Executive Branch, and candid discussions among Senators on issues of national security. The Senate is, of right and necessity, a partner in the information of U.S. national security policy. It is in the interest of the Senate and of the President—any President—that there be an appropriate, private forum for the free and candid exchange of ideas, opinions and differences. During classified briefings, many Senators, and Executive branch officials, make candid remarks which contribute to policy discussions and are not intended for public disclosure. When such remarks, even when unclassified, are leaked to the media, the result can be a stifling of debate and the exchange of views. This benefits neither the Senate nor the national security.

It is our view that such discussion is protected by Rule XXIX, and therefore should not be publicly disclosed without leave of the Senate.

We sincerely hope that you will help us to ensure that the classified and confidential business of the Senate is afforded the protection required by Senate Rules and federal statutes.

Mr. President, that is the conclusion of the letter sent to all Senators, and signed by myself and Senator DOLE.

Mr. President, I conclude by reiterating that disclosure of classified information is a criminal act. Violations of Senate rule XXIX will be pursued aggressively by the leadership, and evidence of criminal activity will be referred for prosecution.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. Mr. President, Harry Truman once said that "If you want a friend in Washington, DC, buy a dog."

Well, as anyone who served in the House of Representatives in the 1960's or 1970's could tell you, if you wanted a friend in Washington, all you had to do was to know Ernest Petinaud.

Ernie passed away on November 4, and I just wanted to take a minute of the Senate's time to remember this remarkable gentleman.

Ernie saw a lot of history in his time. He was born in Panama in 1905, and came to Washington, DC in the mid-1920's, where he found work in the House of Representatives dining room.

From 1930 to 1938, Ernie served as a steward on ships sailing the St. Lawrence River and the Great Lakes. He then returned to the House of Representatives as a waiter, was made maitre'd in 1962, and served in that position until his retirement in 1973.

Ernie came into contact with Congressmen, Senators, and Presidents during his career, and a lot of good people all over America, and all regarded him as a friend. I remember that President Bush was a special friend of Ernie's, and took great care to remain in contact with him.

Upon his retirement, Ernie was honored with the designation of the "Petinaud Room" in the Capitol, and a plaque in his honor was placed in the Hall of Fame in the Capitol.

Ernie was very involved in the community through his membership in the Masons, the Shriners, and his work on behalf of the Plymouth Congregational United Church of Christ.

Ernie's funeral services were held in that church this past Saturday, where I joined many others such as former Speaker O'Neill, Congressman STOKES, former Congressman Clarence Bud Brown, Cokie Roberts—whose father and mother served in Congress—all of whom were very close friends of Ernie Petinaud.

We were all there along with dozens and dozens of others to remember a man we were all fortunate and proud to call our friend.

TRIBUTE TO OFFICER LEON MONROE

Mr. DOLE. Mr. President, when Congress returns in January, the U.S. Capitol will be a very different place. It will be different because Officer Leon Monroe will not be at his post.

Officer Monroe has served as a member of the U.S. Capitol Police since January 7, 1974, and will retire upon his 20th anniversary in the Capitol.

Officer Monroe has been recognized time and again for his diligence and professionalism. I am told his personnel file is full of letters from citizens and Members of the House and Senate, complimenting the superb manner in which he carries out his duties.

He has also shown concern for his coworkers by donating his leave to those who have experienced extended absences because of illness or injury.

Officer Monroe also served his Nation for many years in the U.S. Air Force. He and his family are very deserving of retirement years rich in health and happiness.

I know I speak for all of my colleagues who see Officer Monroe every time they leave the Capitol, every night they leave the Capitol. We wish him a very happy and well deserved retirement.

Mr. BUMPERS. Mr. President, will the minority leader yield?

Mr. DOLE. I am happy to yield to the Senator, Senator BUMPERS.

Mr. BUMPERS. Mr. President, I want to echo what the distinguished minority leader has said about Officer Monroe. Certainly he has been on that front door, I think, ever since I came to the Senate. He has shown unbelievable patience with Senators. He is consistently friendly, always courteous, polite, and helpful, not only to Senators but to all people. In all candor, I cannot say that about every member of the Capitol Police. But he is one of the very best people I have known since I have been in Washington.

And I am very happy to be able to extend my best wishes to him in his retirement, along with those of the minority leader.

Mr. DECONCINI. Mr. President, will the minority leader yield?

Mr. DOLE. Yes.

Mr. DECONCINI. Mr. President, I want to also add my congratulations to Officer Monroe, and to the Capitol Police, for the fine job so many of them do in our behalf, in behalf of our safety and security, and that of the public as well.

Officer Monroe has been here longer than I have. That is 17 years. He always has a smile on his face. I do not care how tired he is, or even when he has been under the weather with ill health or a cold, or something. He is always there to assist Members, spouses and families, and constituents.

I thank the minority leader for bringing it to the attention of the Senate, and I wish him every success in his retirement. It is well deserved.

Mr. DOLE. Mr. President, I thank my colleagues from Arkansas and Arizona. And many of my colleagues will join in making statements or extending their best wishes.

Officer Monroe even puts up with my dog.

So he is an outstanding officer, and we will miss him.

HEALTH CARE REFORM

Mr. DOLE. Mr. President, as the end of the first session of the 103d Congress comes to a close, I am pleased to be a cosponsor of two major pieces of health legislation—one introduced by Senator JOHN CHAFEE of Rhode Island and one introduced by Senator DON NICKLES of Oklahoma.

The purpose of my cosponsorship of more than one piece of legislation is not to add confusion to an already very complex issue, but rather to underscore the basic principles that I believe are essential to real health care reform.

Mr. President, by cosponsoring both plans, I want to encourage the creativity that will be essential to expanding coverage, restraining runaway health care costs, and preserving quality, choice, and jobs.

I have always said that there are a lot of good ideas out there on health care reform for a long time.

They were expressed last year, the year before that, the year before that, and now they are being expressed—yes. By the President and Mrs. Clinton; yes, by Members of the House, Republicans and Democrats, and in some cases bipartisan efforts in the House; and, yes, by a number of our colleagues on both sides of the aisle in the Senate.

Mr. President, while there are some differences between different pieces of legislation, and some difference between these two pieces of legislation, Senator CHAFEE and Senator NICKLES, I join in cosponsoring both because I believe that at this early stage in the debate we cannot afford to take any promising approaches off the table.

They ought be on the table. It is going to be a long, long debate. In my view, the American people may have been a little bit confused and may still be a little bit confused. We just assigned the bill, I guess to the Finance Committee—I hope that is the committee it was assigned to—on Saturday evening.

So the hearings will start in January in earnest. And there will be months and months and months of hearings before we even vote.

So I guess one thing I would caution the American people on is that it is not going to be a vote next week or next month. There may be a vote next year. So we have a long, long way to go.

The Chafee-Dole plan contains a lot of good ideas. There is no doubt about it, no one on our side of the aisle has worked harder on health care than JOHN CHAFEE.

The Nickles bill is another shot in the arm to the national health care dialog, and it shares a lot of common ground with the Chafee plan—in particular, one principle I believe is paramount to health care reform, and that is individual responsibility.

The President talked about individual responsibility when he addressed the Nation on health care. It was the last of six points on his list. In my view, it should have been up a little higher.

In addition, neither bill has employer mandates or price controls, but both reform the insurance market so that health insurance is more accessible, more affordable and more secure for many more Americans. Both bills contain costs through malpractice and antitrust reform, as well as through the simplification of paperwork.

No doubt about it, a lot of good ideas have been put forward. The alternatives by Senator GRAMM, Senator BREAUX, Congressman COOPER, and the House Republican leadership, as I indicated before, have also been constructive additions to the discussion.

Now that these plans, as well as the administration's plan, are in written text and we finally have the language, we look forward to receiving some very valuable feedback from people all across America—doctors, nurses, hospital administrators, insurance people, consumers, senior citizens, workers, whatever—because this is a very important piece of legislation. We hope we will receive a lot of information from across America and from our own States during the congressional recess.

We are in the very early stages of this health care debate. It seems to me that the number of the plans that are floating around underscore just how important this issue is. Everybody has some ideas. Some may be good, and some may not be good at all.

However, it is my belief that after we sample all of the proposed cures, speaking now for the Republicans, I think we hope to come together on our side to unite around one prescription for reform and, hopefully, we can do that by February, March, or April, so that we will have a prominent role to play in the health care debate. That will include doses of many of the plans which have been proposed to date and will help ensure that Republicans will have a strong voice in whatever reform package ultimately becomes law.

I would like to submit for the RECORD a brief description of the similarities between the two bills that I mentioned—that is, the Chafee bill and the Nickles-Mack-Chafee-Dole proposal.

I ask unanimous consent that that description be printed in the RECORD following my statement.

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

SUMMARY OF MAJOR PROVISIONS OF NICKLES/MACK

1. No employer mandate to pay (same as Chafee/Dole).

2. Individual Mandates: All heads of households required to purchase at least a catastrophic benefit package. (Similar to Chefee/Dole.)

3. Medical Savings Accounts permitted and contributions given preferential tax treatment (treated as tax credit). (Similar in intention to Chafee/Dole.)

4. Small Market Insurance Reforms (virtually identical to Chafee/Dole).

5. Malpractice Reforms: (Differs from Chafee/Dole in that there is no mandated alternative despite resolution provisions.)

6. Administrative Simplicity: (virtually identical to Chafee/Dole).

7. Purchasing Co-Ops—allows them to be formed voluntarily. (Chafee/Dole more structured, has more state involvement.)

8. Benefits Package: Defines a *minimum* package of benefits that everyone must have (unlike Chafee/Dole, does not create a benefits commission to make decisions on inclusion of new benefits or changes).

9. Medicaid: Caps Federal expenditures for medicaid acute care services and capitates in the future. (Chafee/Dole liberalizes the managed care provisions—but applies *no* cap on expenditures.)

10. Low Income Subsidies: Creates refundable tax credits and additional subsidies to low-income people who are not eligible for Medicaid. (Chafee/Dole provides vouchers to those below 240% of poverty line.)

11. Price Controls: None—(identical to Chafee/Dole).

12. Tax Changes: Replaces the existing exclusion from income of employer provided health insurance with a new refundable tax credit for individuals and families for health insurance premiums and out-of-pocket costs.

13. Financing: Assumes medicare and medicaid cuts. (Similar in intention to Chafee/Dole.)

THE BRADY BILL

Mr. DOLE. Mr. President, I hope there is some resolution of the so-called Brady bill. I am not certain that will happen. It was made more difficult by the remarks of the chairman of the Judiciary Committee the other night. I thought he made an inappropriate remark. Now the rumor is that he even wants to change the Senate version further. I hope that as the chairman of the committee, and a member of the conference, he will uphold the Senate's position. That is how we got this far. That is why the Brady bill passed the Senate after everybody thought it had been consigned to the ash heap until next year. It was done in good faith, and we expect good faith from the conference. We expect good faith from our conferees.

You always learn something when you agree to something like this, and somebody pops up and makes a statement that undercuts somebody's good faith—in this case mine. I expect better from my colleagues on both sides of the aisle. We do not have much around here but our word. If our word is no good, then I do not think we can do business with each other in the future.

I yield the floor.

Mr. DECONCINI addressed the Chair.

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

COMPLIMENTING REPUBLICAN LEADER ON HEALTH CARE COMMENTS

Mr. DECONCINI. Mr. President, I want to particularly compliment the minority leader for his comments regarding national health insurance. I noticed his statements a number of times about concurring with what the President has said, that it must be a bipartisan effort, and that is not always the case around here on the jobs

bills and reconciliation bills and what have you.

I realize that the temptation to make health care partisan is great and demanding. I compliment the minority leader for a number of his statements, including one over the weekend on national television, and for his continued strong effort to keep it that way.

I assure him that the President and the administration is going to do their utmost to do it that way. But it is not going to happen if Democrats and Republicans cannot put the country first, and that means compromise on all sides.

A LEAK OF CLASSIFIED INFORMATION

Mr. DECONCINI. Mr. President, I want to comment for one moment about the statement regarding the reading of the letter from the majority leader and the minority leader a number of Senators regarding a leak of classified information that came out of a session held here in the Capitol regarding Haiti and the significance of that. The Intelligence Committee is the vanguard or protector of this information on behalf of the Senate, although it is available to any Senator, and that is true of all of the information that we have. We guard it very carefully in the offices in the Hart Building, and we take special precautions on security and monitoring our Members and our staffs almost on a daily basis.

I think it is regrettable that either a Member or a staff member would leak some information from that hearing. It is unfortunate and a discredit to all of us. I think it certainly should be sought out. I know how leaks, even if they are confirmed, or slightly confirmed here, rarely are dealt with. So I am not optimistic. It is only through the good will of the Members that we can keep these things in the national security interest.

IT IS TIME TO PROSECUTE YUGOSLAV WAR CRIMINALS

Mr. DECONCINI. Mr. President, as early as the fall of 1991, while Croatia was being invaded by Serbia, the world was becoming informed about atrocities being committed by Serb aggressors. At this time, the international community first called for those responsible to be held accountable for their gross violations of international law. One year later, in the fall of 1992, the world was becoming all too familiar with the grisly details of these atrocities as they moved to Bosnia-Herzegovina.

Even worse, the systematic nature by which many of these many horrible acts were being carried out made it clear that they were more than atrocities; they were part of a genocidal effort to ethnically cleanse areas of Bosnia-Herzegovina and Croatia.

The world was shocked by pictures of rape camps and gaunt men who spoke of horrors so terrible that Hitler-like ghosts came back to haunt us. It is now the fall of 1993, however, some 2 years later, and not one person has been found guilty, or even indicted, for war crimes committed in Bosnia-Herzegovina or in Croatia. In the meantime, war crimes continue to be committed.

Fortunately, however, an international war crimes tribunal has been established by the United Nations, with 11 judges, which is convening for the first time today in The Hague. A Venezuelan, Ramon Escovar Salom, has been appointed chief prosecutor, and Cherif Bassiouni, who now heads the U.N. War Crimes Commission, has organized a data base filled with information on specific criminal incidents, frequently including the names of victims and of the alleged perpetrators.

Let me highlight their cases here briefly, some based on Helsinki Watch reports, particularly the September 1993 report "Prosecute Now!," others on New York Times and other newspapers, the recent book of Pulitzer Prize-winning Newsday correspondent Roy Gutman entitled "A Witness to Genocide," and, finally, from an April 1993 video report entitled "A Town Called Kozarac" produced for the British television program, "Dispatches."

ZELJKO RAZNJATOVIC

Mr. Raznjatovic, popularly known as Arkan, is already an international criminal. He robbed banks in Belgium and the Netherlands, for which he was imprisoned, and committed several burglaries in Sweden and Germany. He was even imprisoned for a time in Croatia in 1990. When the war in Croatia broke out in 1991, he appeared as the commander of the Serbian Volunteer Guard, a paramilitary group. In early 1992, his group was responsible for a major massacre of Moslems in the town of Bijeljina and elsewhere in Bosnia-Herzegovina. He has since been elected to the Serbian Parliament by the Serbs in Kosovo, where he and his followers harass the local Albanian population.

With this machinery in place, we now must begin to name names, Mr. President; we must begin to investigate individuals more closely and issue warrants for their arrest if the information available suggests they are responsible for war crimes.

I have pictures here today of some of the people who seem deserving of immediate attention, ranging from political leaders to camp guards.

OMARSKA CAMP GUARDS

Omarska was a Serb-run detention camp for mostly Moslem civilians in northwestern Bosnia. According to Helsinki Watch, the camp was:

> * * * The scene of some of the most brutal atrocities committed in detention camps in the Balkan conflict, as Serbian soldiers and prison guards raped, castrated and brutally beat their prisoners. * * * Every night guards beat to death 5 to 15 men inside a white house used for interrogations. The guards left heaps of bodies lying in front of the building throughout the next day.

Mr. President, one of the most emotional experiences I have had as a Senator was meeting, in a refugee camp in Croatia, some of the survivors of Omarska who had only been released by the Bosnian Serb militants a few days before. Their tales of executions and torture were almost impossible to believe, but you could see in their faces that the horrors they were recalling were true.

ZELJKO MEJAKIC

This man, Mr. Mejakic, was commander of the camp guards. The smaller, black and white photo is from Roy Gutman's book, and shows his face slightly better. He had to have known what was going on, and, in all likelihood, he actually ordered such acts and perhaps even participated in some of them.

MLADO KRKAN

Here is Mr. Krkan, a guard who was known to be particularly brutal and is implicated in the murder of two prisoners. Surviving prisoners in one British documentary on Omarska said that most of the atrocities occurred during his shift.

MILOMIR STAKIC

Here, the new local mayor, Mr. Stakic, denies abuse during a British media interview. According to prisoners interviewed by Newsday correspondent Roy Gutman, however, well over 1,000 were killed at Omarska, and perhaps the same number disappeared without a trace when international attention forced the Serbs to close the camp.

RATKO MLADIC

Perhaps the most powerful Serb in Bosnia and Herzegovina is this man, General Mladic, who commands the Bosnian Serb forces. According to the New York Times, he is often called the ethnic cleanser in chief. Before moving to the Bosnian front, Mladic was commander of the Yugoslav army forces in the Serb-controlled Krajina region of Croatia, where he earned the additional title of "butcher of Knin." The troops under his control are responsible for many of the atrocities we hear about in Bosnia and Herzegovina, including the continuing siege of Sarajevo which isolates and strangles the city's more than 300,000 remaining residents.

RADOVAN KARADZIC

This familiar face from television and newspaper coverage of the Geneva negotiations is that of Mr. Karadzic, the political leader of the Bosnian Serb militants. He seems to agree to everything at the negotiating table, while his people on the ground do the opposite. Along with Mladic, he is perhaps

the person most responsible for ordering the atrocities that have been committed, a fact made all the more chilling because he is a psychiatrist by training.

SLOBODAN MILOSEVIC

Mr. Milosevic is the President of Serbia. He has stayed far away from the fighting, and denies any responsibility on his part or Serbia's. Yet, he is the conductor of this demonic orchestra, the one who developed the policy of achieving a Greater Serbia. That policy, which also keeps him in power, is one of repression, aggression and discrimination against non-Serbs. As it was implemented in Bosnia and Herzegovina, with the setting up of camps, the mass executions, the ordered rapes and forced impregnations, the forced displacements, all combined to spell genocide. He has encouraged the perpetrators of these crimes.

The people about whom I have spoken, Mr. President, are all Serbs. It has been primarily the Serbs who initiated the conflict and are responsible for most of the atrocities. That is not to say that Croats or Moslems, both of whom are increasingly responsible for atrocities against civilians, should not similarly be held responsible for their actions.

In late October, for example, there was a massacre at Stupni Do, where 15 bodies were found, many burned beyond recognition, one with her throat slit and two others shot in the face. A group of about 120 villagers were taken away.

The one U.N. personnel on the scene identified the commander of the local Croat Bobavac Brigade, Kresimir Bozic, as being responsible. And just last week, Croat forces destroyed the beautiful Ottoman bridge at Mostar, which dated back to the 16th century. How Croats, who rightly agonized over the Serb shelling of the cultural treasure of Dubrovnik in 1991, could then destroy such a landmark as this bridge is a question I cannot answer. I am sure that many Croats cannot answer this question either and hope that they will support prosecuting those Croat forces responsible for this and for the reprehensible isolation of tens of thousands of starving Moslems in Mostar with war crimes.

Investigations of Mate Boban, the Bosnian Croat leader, and perhaps Croatian Government officials who may have been involved in the decisionmaking leading to these incidents, may well be warranted.

Originally the victims of aggression and atrocities, some Moslems are desperate enough to fight fire with fire. In September 1993, for example, special Bosnian units attacked the village of Uzdol and killed dozens of civilians, and destroyed property and livestock. Some survivors recognized some of the attackers as Moslems from a neighboring village. If true, these people must be brought to justice as well.

To conclude, Mr. President, we have names, we have incidents, and, in many cases, we have surviving victims and eye witnesses. We don't yet have indictments, we don't yet have apprehensions, we don't yet have trials for war crimes. With the framework for a tribunal now in place, it is time that we put that framework and the information available to use and prosecute the war criminals of the former Yugoslavia.

This will not happen, however, unless the President of the United States makes it happen. In my view, history will already judge Europe and the United States harshly for allowing the Balkan conflict to reach its current level of madness.

To date, it has been the United States which has kept it alive, but unless our leaders act more forcefully on this, we will not move forward to the prosecution of individuals. Amnesties may be given, formally or informally, as part of a politically expedient settlement of territorial disputes. If this happens, Mr. President, it will be a travesty of the highest order.

In conclusion, Mr. President, I would like to introduce, for the record, a biographical account of this man, Arkan, and the Second Interim Report of the United Nations War Crimes Commission of Experts, which was released on October 5.

I ask unanimous consent that this material be printed in the RECORD.

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

U.N. SECURITY COUNCIL,
October 6, 1993.

LETTER DATED 5 OCTOBER 1993 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

By a letter of 9 February 1993 (S/25274), I forwarded to the President of the Security Council an interim report of the Commission of Experts established pursuant to Security Council resolution 780 (1992).

On 6 September 1993, the Acting Chairman of the Commission forwarded to me a second interim report, which describes the work of the Commission in the intervening seven months and outlines its projected future programme, which will enable the Commission to provide me with its final conclusions. The report is accompanied by several documents prepared by or under the supervision of the members of the Commission. Citing the preliminary nature and volume of these documents, the Commission has suggested that, rather than being annexed to the report, they should be made available for consultation by the members of the Security Council.

On 31 August 1993, during my recent visit to Geneva, I took the opportunity to meet with the members of the commission. This enabled me to learn at first hand of the nature of their work and to discuss with them their future programme and the relation of their work to that of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, which is in the process of being established. The members of the Commission expressed keen interest in assisting the Tribunal to the greatest extent possible.

I must also, with deep regret, inform you that the Acting Chairman of the Commission, Professor Torkel Opsahl of Norway, died in Geneva on 16 September 1992. Professor Opsahl had only recently agreed to assume the functions of Chairman of the Commission in place of Professor Frits Kalshoven of the Netherlands, who is on indefinite leave for medical reasons. Professor Opsahl had made an important contribution to the work of the Commission and his untimely death is a tragedy for his family and friends and a great loss to the Commission, to the United Nations and to the international legal community. In the light of these developments, I propose to appoint one of the remaining members of the Commission, Mr. Bassiouni, as the new Chairman of the Commission, and I have formally requested that the Netherlands and Norway provide me with the names of suitable replacements, giving preference to women, in place of the late Professor Opsahl and Professor Kalshoven. I shall inform the Council in due course of the results of the proposed changes.

BOUTROS BOUTROS-GHALI.

ANNEX—SECOND INTERIM REPORT OF THE COMMISSION OF EXPERTS ESTABLISHED PURSUANT TO SECURITY COUNCIL RESOLUTION 780 (1992)

INTRODUCTION

1. While the first interim report of the Commission of Experts[1] covered the period from November 1992 to January 1993, the present second interim report covers the period from February to August 1993. It describes the steps the Commission has taken towards the implementation of the programme of work outlined in the earlier report, and the progress achieved.[2]

2. It also sets forth how the Commission plans to pursue the implementation of its programme of work, in accordance with its mandate as defined in paragraph 2 of Security Council resolution 780 (1992),[3] and paying due heed to the last preambular paragraph of Security Council resolution 827 (1993), specifying that, pending the appointment of the Prosecutor of the International Tribunal established by that resolution for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia, the Commission should continue on an urgent basis the collection of information relating to evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law as proposed in its first interim report.

3. During the period covered by the present report, the Commission, whose composition remained unchanged,[4] held four sessions: its fourth, fifth, sixth and seventh sessions, held on 1 to 3 March, 24 and 25 May, 13 and 14 July and 30 and 31 August 1993 respectively. The Commission continued to discuss various substantive, organizational and methodological issues related to its mandate. At its seventh session, the Commission also discussed and approved the present interim report.

4. The Commission continued to attach considerable importance to the coordination of its efforts with those of other United Nations bodies and intergovernmental organizations concerned with the situation in the territory of the former Yugoslavia. It has maintained regular working cooperation with the Commission on Human Rights and its Special Rapporteur, Mr. Tadeusz

Mazowiecki. The said Commission, in paragraphs 20 and 22 of its resolution 1993/7, requested the Special Rapporteur, States, United Nations bodies, including the United Nations Protection Force (UNPROFOR), United Nations treaty bodies and specialized agencies as well as international humanitarian organizations to submit to the Commission of Experts all pertinent information which they might possess and urged States to provide to it resources, personnel and assistance in order to fulfill its mandate.[5]

5. The Commission has continued to be in touch with the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia through one of them who is also the Special Representative of the Secretary-General coordinating all the United Nations activities in that area.

6. Close cooperation has been maintained with UNPROFOR. The Commission wishes to place on record its gratitude for the assistance provided by UNPROFOR with its on-site investigations in the territory of the former Yugoslavia, both at the preparatory stage as well as once in the area.

7. The Commission has also maintained contacts with the representatives of a number of Permanent Missions to the United Nations Office at Geneva for the purpose of soliciting their support and cooperation as regards the Commission's plan of work.

8. The Commission has continued to maintain contacts with the United Nations High Commissioner for Refugees and with the International Committee of the Red Cross (ICRC). The Commission, furthermore, has established contacts with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and Amnesty International as well as with the European Community Monitoring Mission (ECCM). This latter organization has prepared briefings and provided invaluable assistance to the Commission with certain exploratory missions, such as the one to Dubrovnik (20–22 May 1993) undertaken by the Rapporteur for on-site investigations.

I. IMPLEMENTATION OF THE COMMISSION'S PROJECTED PLAN OF WORK

9. As indicated in paragraphs 65 and 66 of the first interim report, the Commission's plan of work includes, besides an updating of its database, selective in-depth investigations in the following areas:

(a) Mass killings and destruction of property;

(b) Treatment of prisoners and detainees;

(c) Systematic sexual assaults;

(d) "Ethnic cleansing".

10. Paragraph 67 of the same report outlines as short-term objectives of the Commission:

(a) To conduct further investigations into mass killings and destruction of property in the Vukovar area by expanding the scope of the various investigations conducted by forensic experts from Physicians for Human Rights and by deploying a team of military lawyers, police investigators and necessary support personnel in the Vukovar area;

(b) To conduct an on-site investigation into the treatment of prisoners and detainees at two or more camps or detention centres at places in Bosnia and Herzegovina yet to be specified;

(c) To study all available reports on systematic sexual assaults and determine as soon as possible the most effective way to approach the problem and whether on-site investigations should be undertaken;

(d) To study all available reports on "ethnic cleansing" and determine as soon as possible the most effective way to approach the problem and whether on-site investigations should be undertaken.

11. To implement this plan of work, which was endorsed by the Secretary-General in his letter dated 9 February 1993 addressed to the President of the Security council,[6] the Commission continued the work on the database. It also undertook a number of projects specifically designed to obtain further information and to test methods of investigation and verification of allegations.

A. Activities related to the plan of work as a whole

12. It followed from the nature of the projected plan of work that the Commission would be able to implement it only with the cooperation of Governments and local authorities that actually controlled the respective parts of the territory of the former Yugoslavia. The Commission therefore made special efforts to obtain such cooperation.

1. Mission to Zagreb, Belgrade, Sarajevo and Ljubljana

13. From 18 to 29 April 1993, the Commission sent a delegation to Zagreb, Belgrade, Saravejo and Ljubljana.[7] The delegation was composed of the Chairman and the two rapporteurs, accompanied by the Assistant Secretary of the Commission. It held talks with representatives of the Governments in these capitals, including Deputy Prime Ministers and Ministers for Foreign Affairs, Defense and Justice. It also had meetings with officials representing State commissions for war crimes, involved with legal aspects of war crimes documentation or investigation in the respective capitals.

14. During all the meetings, the delegation stressed the impartial nature of the Commission and its methods of work. It explained the Commission's mandate and provided information on its computer database, its short-term objectives and its long-term plan of work.

15. The authorities in Zagreb, Belgrade and Sarajevo assured the delegation of their support for the Commission's plan of work and promised their cooperation in the implementation of specific projects of the Commission in the territories under their control.

16. At the meetings with representatives of State commissions for war crimes in the four capitals, the delegation underscored the importance for the Commission to receive reports relating to violations of international humanitarian law, particularly of the 1949 Geneva Conventions and the two 1977 Additional Protocols, so as to assist the Commission to fulfill its mandate. It received promises of cooperation from all these commissions. It also offered them technical help and provided them with forms for the collection of such information.

2. Mission to Knin

17. Given the fact that one of the mass grave sites (Ovcara), the excavation of which is included in the Commission's plan of work, is situated in the territory under control of the self-proclaimed Serb administration in Knin, the Commission took steps to ensure the cooperation of that administration in the implementation of this project. During the visit to Belgrade in April, the delegation briefly discussed the matter with a representative of that administration. Subsequently, the Rapporteur for on-site investigations, on behalf of the Commission, went to Knin from 17 to 19 May 1993 and met with the Prime Minister of the Knin administration and his advisers. On that occasion the Rapporteur obtained a promise of cooperation also from this administration.

18. On the same occasion, the Rapporteur met with the local officials responsible for collecting information and evidence of war crimes and, on behalf of the Commission, urged them to send their reports to the Commission.

B. Activities related to information-gathering and to the database

19. In the period covered by the present interim report, the Commission, pursuant to the requests contained in Security Council resolutions 771 (1992) and 780 (1992), has again received thousands of pages of documentation as well as video information containing allegations of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia. In addition, the Commission has solicited documentation and supplemental information from various sources relating to the situation in the territory of the former Yugoslavia. The Commission has also requested and received information during its investigative missions in the territory of the former Yugoslavia.

1. Sources of information before the Commission

20. As of 31 August 1993, reports containing allegations of grave breaches of the Geneva Conventions and other violations of international humanitarian law have been submitted by the Governments of Austria, Bosnia and Herzegovina, Canada, Croatia, Denmark, Germany, Slovenia, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Federal Republic of Yugoslavia (Serbia and Montenegro).

21. The Commission has also continued to receive reports from United Nations bodies, intergovernmental organizations, international non-governmental organizations (NGOs), various national organizations and private sources.

22. The United Nations bodies and authorities in question include the Special Rapporteur appointed under resolution 1992/S–1/1 of the Commission on Human Rights to investigate first hand the human rights situation in the territory of the former Yugoslavia, the Commission on Human Rights and the United Nations High Commissioner for Refugees.

23. In addition, the Conference on Security and Cooperation in Europe (CSCE), the Council of Europe and ECMM have submitted reports or documentation to the Commission.

24. During the period concerned, the Commission has received reports or documentation in the public domain from a number of international NGOs: Amnesty International, ICRC, Medecins sans frontieres, Helsinki Watch, Humanitarian Law Fund, International Human Rights Law Group and Danish Helsinki Committee.

2. Requests by the Commission for information from specific sources

25. The Commission has requested information provided to the competent national authorities by refugees and other persons having left the war zones and now residing in Austria, Denmark, Germany, the Netherlands, Sweden, Switzerland and the United Kingdom. Information of this kind has begun to come to the Commission from the Governments of Austria, Denmark and Germany. The Government of the United Kingdom informed the Commission in March 1993 that it was in the process of collecting that type of information.

26. The Commission has also solicited, through the Governments of the United Kingdom, Austria, Germany and the Netherlands, video information from the respective

television companies concerning alleged violations of international humanitarian law in the territory of the former Yugoslavia. The British Broadcasting Corporation (BBC) has already submitted video information to the Commission. Moreover, footage of published television reports from all of the major networks in the United States (American Broadcasting Company (ABC), National Broadcasting Corporation (NBC), Columbia Broadcasting System (CBS) and Cable News Network (CNN)) as well as Independent Television News (ITN) and from TRV Belgrade and Television Tuzla has been obtained. The Austrian broadcasting company has indicated that it intends to provide video information to the Commission. To demonstrate how video footage can supplement the written record and assist in identifying persons and places. The Rapporteur for the gathering and analysis of facts has edited some of the footage in the Commission's possession and prepared a 60-minute video tape for use by the Commission.

27. Moreover, the Commission has contacted international NGOs, human rights organizations and private experts in North America and Europe. The Commission has thus received information from Helsinki Watch, the American Jewish Congress, the Women's Coalition Against Ethnic Cleansing, the Zenica Centre for Investigation of War Crimes and Crimes of Genocide on Muslims (Bosnia and Herzegovina), the Croatia Documentation Centre and State commissions on war crimes (in Belgrade, Sarajevo and Zagreb). Likewise, the Commission has been gathering valuable information from print and electronic media. Minnesota Advocates for Human Rights is assisting the Commission's Rapporteur on the gathering and analysis of facts to compile and analyse published articles relating to alleged violations.

3. Processing of information

28. As mentioned in paragraphs 22 et. seq. of its first interim report, the Commission has set up a database designed to provide a comprehensive, consistent and manageable record of all reported alleged grave breaches of the Geneva Conventions and other violations of international humanitarian law being committed in the former Yugoslavia. The inputting of information into the database is being effected in the International Human Rights Law Institute of DePaul University (Chicago, United States) under the supervision of the Rapporteur on the gathering and analysis of facts, who is also the President of the Institute. The offices where the database has been set up are protected by an electronic security system. Originals and photocopied documents are kept in locked filing cabinets. At the end of June 1993, the Chairman went to Chicago to observe the work on the database.

29. As of 31 August 1993, the database contained over 3,000 "cases", representing thousands of alleged violations and incidents of victimization. The database operates on several levels and manages multiple categories and subcategories of information, such as the violations alleged; victim, perpetrator and witness identification; source; location; evidence; and military affiliation data.

30. Information, either received directly by the Rapporteur or forwarded to him from the Commission secretariat at the United Nations Office at Geneva, is entered into the database by analysts with legal and/or human rights experience. Prior to data entry, the analysts review documents and identify information in the light of the categories and subcategories contained in the database. The information is then entered into the appropriate categories. A narrative description of each report that captures every important item of information relating to a particular incident is also entered.

31. Apart from storing information in an organized manner, the database is capable of performing a number of functions that will prove particularly useful to the Commission's work, such as generating reports by category, conducting context-sensitive searches, assembling information into case files and creating graphs that demonstrate trends in the data.

4. Examination and analysis of information

32. The cases already entered into the database reveal that alleged violations of international humanitarian law, mostly against the civilian population, have affected thousands of individuals on all sides of the conflicts in the territory of the former Yugoslavia. The majority of reported violations concern killings, torture, kidnapping/hostage-taking, forced eviction and imprisonment. A large number of alleged rapes have also been reported.

33. The database can only be as useful and comprehensive as the information and reports upon which it is based. Since the Commission began compiling information in November 1992, the character and quality of the information submitted by the various sources has changed little. Many of the reports lack sufficient detail about the reported event, i.e. information relating to the identify of victims, perpetrators, witnesses, etc. Only limited information on "order of battle" and the location of military units at a given time is presently available. This information is critical in order to identify military units and to establish "command responsibility". Finally, the actual sources upon which reports are based are not verifiable at this time. Many reports do not disclose original sources, nor do they state whether any original evidence may be available (e.g. affidavits of victims, witnesses or perpetrators; photographs; medical reports, autopsy reports). It could be that those who prepared the reports may have relied on diplomatic correspondence or intelligence sources and may not be able to reveal the information needed. Other sources for these reports may be the media, which would not be useful unless the original media source could be verified.

34. Thus, most of the reports received are, by themselves, of qualified evidentiary value. However, supplemented with other information, these reports form a substantial basis for further investigative work, which might lead to prosecution.

35. While continuing to enter new information into its database, the Commission has recently started the analytical phase of the work. In this connection, the Rapporteur has prepared "test" analyses of four incidents/locations relating to serious violations of international humanitarian law. Preliminary reports have been submitted to the Committee on the following:

(a) the abduction of civilians and military personnel from the Vukovar Hospital and the execution and mass grave at Ovcara;

(b) Detention centres and violations alleged to have been committed in and around the town of Brcko (including the Luka camp);

(c) Incidents relating to "ethnic cleansing" and detention centres in the area between Prijedor and Banja Luka (including the mass execution of prisoners at Keraterm and the alleged violations at the Omarska iron mine);

(d) Allegations of mass killings and "ethnic cleansing" perpetrated by both Bosnian Serbs and Bosnian Muslims in the Bratunac/Srebrenica region.

36. Likewise, a day-to-day chronological analysis has been prepared of the 17-month siege of Sarajevo (April 1992–August 1993). The study should enable investigative teams in Sarajevo better to identify incidents that require further investigation. The study also concentrates on important political developments associated with an increase or decrease of military activity in and around the city.

37. Lastly, two databases have been established to catalogue information pertaining to 353 reported detention centres (e.g., dates of operation, number of prisoners, prisoner exchange data) and over 200 reported mass graves[8] (e.g., location of the grave, number of persons reported buried, ethnicity of persons in the grave).

5. Computer linkage between the database and the Commission secretariat in Geneva

38. The Commission has ordered computer equipment for its secretariat in Geneva. The equipment, which is now being delivered, will provide direct computer linkage between the database in Chicago and the computers at the Commission secretariat. The computer equipment will have a read-out capability. The Commission therefore will know at all times the type of information that has been inputted into the database by access to the Internet network through the International Computing Centre at the United Nations Office at Geneva. Data entry will continue to be effected under the supervision of the Rapporteur on the gathering and analysis of facts.

C. Activities related to in-depth investigations

39. In order to verify allegations of grave breaches and other violations of international humanitarian law contained in the numerous reports received by the Commission, several investigative missions were undertaken. Whenever possible, these missions were preceded by a careful analysis of alleged facts available in the database and by the gathering of such further corroborative evidence as could be obtained from credible sources.

1. Reconnaissance mission to Vukovar

40. From 5 to 16 March 1993, the Commission sent a reconnaissance mission to the Vukovar area. The mission, led by the Rapporteur for on-site investigations, visited Vukovar and the mass grave site at Ovcara, as well as some other regions of the former Yugoslavia. The Rapporteur was accompanied by two members of a team of military lawyers and police investigators placed at the Commission's disposal by the Government of Canada and by two representatives of Physicians for Human Rights, the Boston-based NGO that has undertaken to help the Commission with exhumations of mass graves.[9]

41. The purpose of the mission was to prepare for the excavation of the mass grave at Ovcara and to work out methodological and practical recommendations for other investigations into mass killings and destruction of property, treatment of prisoners and detainees and systematic sexual assaults and "ethic cleansing". On the basis of its findings, the Commission arrived at the following conclusions.

42. The deteriorating conditions in various areas of the territory of the former Yugoslavia made some adjustments necessary both in the Commission's plan of work and in the timetable and the methods of its implementation.

43. With regard to the excavation of the mass graves at Ovcara and at another site in

UNPA Sector West in particular, it was accepted that this would require a great deal more resources than originally envisaged by the Commission of Physicians for Human Rights. The additional requirements included the services of a self-sustaining military engineering unit (40–50 persons) for the total period of the two excavations, estimated at 8 to 10 weeks. Since UNPROFOR was unable to provide such a unit, it would have to be made available by Governments of States Members of the United Nations.

44. Another additional requirement for this mission would be the availability of digging equipment, means of transportation of the remains for medico-legal examination, container and refrigeration units, water pumps, an electric generator, housing units, etc.

45. As regards the investigation of events in prison camps and other places of detention, the deployment of investigative teams in conditions of adequate security to existing camps where major violations of international humanitarian law were actually occurring would require the acquiescence of the detaining authorities. In the alternative, teams would have to confine their investigations to interviews of witnesses and the gathering of documentation away from the camp site.

2. Reconnaissance mission to Dubronik

46. From 20 to 22 May 1993, the Commission sent its Rapporteur for on-site investigation to Dubrovnik to explore the possibility of an on-site investigation into targeting, indiscriminate attacks, destruction of cultural property and "ethnic cleansing" in the area.

47. On the basis of his findings, the Commission concluded that a useful on-site investigation into these matters could be conducted in the Dubrovnik area. Focusing primarily on the question of responsibility for these acts, it might take the shape of an order-of-battle and chain-of-command study to be done by a small team of military law-of-war experts, rather than by criminal investigators.

3. Mission to Sarajevo

48. From 20 June to 9 July 1993, the Commission sent an investigative mission to Sarajevo to undertake three studies: a pilot study on systematic rape, a law-of-war study of a specific incident in the battle of Sarajevo and an analytical law-of-war survey of the battle of Sarajevo. The mission was led by the Rapporteur for on-site investigations, who was assisted by a group of Canadian military lawyers and police investigators and by the Deputy Secretary of the Commission.[10]

49. So far as the pilot study on the issue of systematic rape is concerned, the Commission obtained from the Bosnian War Crimes Commission all their information identified as relating to this issue (listing 126 victims, 113 incidents, 252 alleged perpetrators, 73 witnesses and 100 documents). The Commission has also received copies of all the files in the possession of the local authorities and identified as relating to rape.[11] The information contained in the files is being entered into the database of the Commission of Experts.

50. The lessons learned as a result of this study are:

(a) To collect evidence that would be accepted by courts, there should be direct and continuous coordination with the Bosnian War Crimes Commission and other organizations involved in collecting information, in order to encourage the development of standards of collection which will facilitate the completion of formal investigations and the establishment of prima facie cases;

(b) In order to achieve that goal, dedicated personnel, most effectively those with police investigative and law-of-armed-conflict backgrounds should be deployed as soon as possible in a pre-prosecution investigatory phase;

(c) As the experience in the field showed, the victims of rape had as a rule left their homes and were likely to be found either in refugee camps or to have moved to resettlement. Under these circumstances, small teams, including a high proportion of female personnel, deployed for extended periods of time in those locations would be the most effective means of gathering such information. Cooperation of the Governments providing refugee camps or resettlement for people from the former Yugoslavia is essential for this investigation.

51. The objective of the specific incident study was to prepare a report analysing in depth a specific incident in the siege of Sarajevo to identify specific violations of the law of war, particularly violations in which civilian casualties have occurred, to analyse the circumstances of the incident and to assess the feasibility of identifying and prosecuting alleged offenders, particularly the military commanders.

52. The incident selected for in-depth investigation was the mortar shelling of a soccer game in the Dobrinja suburb of Sarajevo on 1 June 1993 in which 13 persons were killed and 133 were injured. The investigators interviewed several witnesses on the Bosnian side and also reviewed the crater analysis produced by artillery experts. Investigators were unable to interview witnesses on the Serbian side.

53. On the basis of the investigation it is reasonable to conclude that a prima facie case exists, that persons on the Serbian side deliberately attacked civilians and, therefore, committed a war crime. With the information available, it is not possible to identify the alleged offender at present.

54. Another study based on the mission and entitled "The battle of Sarajevo and the law of armed conflict" focuses on combat-related offences, unlawful targeting and the use of unlawful means and methods of warfare. It will be continued during a further mission. The preliminary results show that most of the war crimes committed in Sarajevo have involved attacks on civilian persons and objects. It will be difficult, but not impossible, to compile a reasonably accurate list of persons killed or seriously injured during the siege of Sarajevo, to determine if they were combatants and to determine when, where and how they were killed or injured. Whether or not it is possible to determine which individuals or which units caused civilian casualties, it will certainly be possible to establish that a large number of casualties have been caused by the Bosnian Serb Army forces surrounding Sarajevo during a specific period of time. It will probably also be possible to determine roughly how many of the civilian casualties were caused by some form of sniper fire. It is reasonable to presume that civilian casualties caused by sniper fire are the result of deliberate attacks on civilians, not the result of indiscriminate attacks.

55. The compilation of a chronological and quantitative survey of damage to civilian objects in Sarajevo is more difficult. It would be possible to focus on certain types of objects, e.g., religious, cultural and medical buildings, and determine if there appeared to have been a deliberate attempt to target objects of these types. For example, a detailed study of the shelling of the Sarajevo University Clinical Centre or of the National Library would probably indicate these objects had been deliberately targeted. It may also be possible to establish that a deliberate effort has been made to target religious facilities. The tendency of Bosnia and Herzegovina forces to conceal its resources among civilian objects would probably result in some of the damage to civilian objects caused by Bosnian Serb Army projectiles constituting legitimate collateral damage. There is enough apparent damage to civilian objects in Sarajevo to justify an in-depth study of such damage. For security reasons this type of a study, which would require unimpeded movement for extended periods of time through Sarajevo, was not practicable at the time of the mission.

56. The Commission notes that it will probably be difficult to link specific individuals or specific units to specific incidents in which civilians or civilian objects have been deliberately attacked or subjected to indiscriminate attacks. Whether or not it is possible to develop a firm case against individual soldiers or unit commanding officers, it should be quite practicable to develop a prima facie case against the officer or officers responsible.[12]

4. Preparations for investigations of mass grave sites at Ovcara and in Sector West

57. It became clear from the very beginning that an excavation project for mass graves on this scale would take more time and human and material resources than any other on the Commission's programme of work.

58. Physicians for Human Rights set up a 20-member international forensic team that has been prepared since January 1993 to start work with six weeks' notice.

59. However, after the reconnaissance mission in March 1993 [13] it became evident that there were two preconditions for performing this investigation: the cooperation of the local authorities having control over both sites and the availability of a self-sustaining military engineering unit and of specialized technical equipment needed for the job.

60. While by May 1993 the Commission had been able to receive general oral promises of cooperation in both cases from the local administration,[14] obtaining a military engineering unit (40–50 people) proved to be a time-consuming problem.

61. However, in September 1993, after consultations in the Security Council,[15] the Government of the Netherlands, responding to the Commission's request, decided to provide such a unit and started training it with a view of making it available for the Commission in October 1993.

62. As to the equipment, the United States Government has pledged to provide a considerable part of it; another part will be provided by the Government of the Netherlands. The remaining equipment will have to be bought or rented by the United Nations.

5. Interviews with alleged war criminals

63. The Commission sent one of its members, accompanied by two assistants, to Zagreb from 11 to 14 August 1993, to interview five prisoners of war (POWs) who had been charged by the Croatian authorities with having committed war crimes on imprisonment. Four of them had been charged with war crimes committed in the Vukovar area, and the fifth in the Pakrac area.

64. As required under Croatian law the five prisoners were visited and heard in the presence of a judge from the Zagreb District Court. Also present was a member of the Croatian Commission for War Crimes committed in the territory of Croatia. Police and

court files were made available. The judge assisting at the hearing provided copies of essential documents.

65. Several of the prisoners who had allegedly admitted to Croatian authorities committing very serious offences on a large scale modified these statements during the interviews, alleging that their original admissions had been extracted under duress. Some expressed fear of the consequences of speaking to the Commissioner. Assurances about the safety of these alleged perpetrators were received by the Commission from the Croatian authorities in writing.

66. In this connection, at its seventh session, the Commission decided to work out guidelines for future interviews of witnesses and for the hearing of testimonies of alleged war criminals.

6. Rape investigations

67. At its sixth session, the Commission decided that further planning for the rape investigation would be done on the basis of the study on systematic sexual assault,[16] which has since been provided by the Rapporteur on the gathering and analysis of facts. In the meantime, the Commission will proceed with the formation of female investigative teams. The Commission will also determine the most effective way for carrying out such investigation, depending on the location of victims.

68. It is important to note that rape has been reported to have been committed by all sides to the conflict. However, out of 330 reported cases reviewed in the study, the largest number of victims have been Bosnian Muslims and the largest number of alleged perpetrators have been Bosnian Serbs. These alleged perpetrators include military personnel, special forces (some of whom are from outside Bosnia and Herzegovina), local police and civilians.

69. Some of the rape cases are clearly the result of individual or small group conduct without evidence of command direction or of it being part of an overall policy. Others may be a part of an overall pattern. Because of a variety of factors, such a pattern may lead to the conclusion that a systematic rape policy existed but this remains to be proved. Among these factors is the coincidence in time between military action designed to displace civilian populations and widespread rape of the same populations. Group involvement of the members of the same military units in rape suggests command responsibility by commission or omission; in this respect, the manner in which this type of rape was conducted in multiple locations and within a fairly close period of time (mostly between May and December 1992) is also a significant factor. Another factor in this connection is the contemporaneous existence of other violations of international humanitarian law in a given region occurring simultaneously in prison camps, in the battlefield and in the civilian regions of occupied areas.

70. If further investigations prove that a nexus exists between these activities and the policy of "ethnic cleansing", then it could be argued that rape has been used as an instrument of war and carried out in a manner designed to instill terror, shame and other psychological consequences in a given population group to coerce their removal and prevent their return. However, the consequences and conclusions of such practices have yet to be determined more fully by comprehensive investigations.

II. NEXT PROJECTS TO BE UNDERTAKEN BY THE COMMISSION

71. In implementation of its programme of work and with due regard to the request from the Security Council that, pending the appointment of the Prosecutor of the International Tribunal established for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia, "the Commission should continue on an urgent basis the collection of information relating to evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law",[17] the plan of work of the Commission for the coming months includes the following:

A. Next stage of work on the database

72. The Commission will continue to analyse, catalogue and enter into the database the allegations of violations of international humanitarian law contained in reports from various sources.

73. As mentioned above,[18] the Commission is continuing several ongoing studies relating to detention centres, mass graves and mass killings, "ethnic cleansing", allegations of systematic rape and the military and political chronology of the siege of Sarajevo and a study of the activities of the special forces operating in the area.

B. Investigative missions to Sarajevo and some other regions of the former Yugoslavia

74. The Commission, at its sixth session, decided to send the two rapporteurs accompanied by the Assistant Secretary to the Commission and the Personal Assistant of the Chairman on another mission to Sarajevo from 1 to 10 September 1993. In addition to Sarajevo, the team also intends to visit Zagreb, Knin, Zadar, Pale, Zenica and Belgrade. The purpose of the mission is to collect data, to update the draft study on the battle and siege of Sarajevo, to develop further contacts with national war crimes commissions and to plan future selected on-site investigations/inspections of mass graves. The delegation will seek to confirm the pledge of cooperation from the local authorities with the Commission, primarily for the mass graves investigations.

75. The Commission will send missions to Vukovar and Dubrovnik to conduct battle studies in those areas, to investigate targeting practices, indiscriminate attacks against and mass killings of civilian population and damage to cultural property and to attempt to impute responsibility for prohibited acts. The Commission is also planning to send a mission to Ahmici-Vitez and other areas at a later stage.

C. Investigations of mass graves

76. The database study[19] contains allegations of over 200 mass graves in Bosnia and Herzegovina and Croatia. However, because of multiple-sources reporting, with duplication of information as a result, the database analysis suggests a lower figure, namely 98 mass graves as a more correct one at this stage. The number of persons reportedly buried in these graves ranges from 3 to as many as 4,000. Most of the reported graves contain either Serbian or Croatian victims. It should be noted, however, that the existence of a mass grave does not necessarily indicate the existence of violations of international humanitarian law, as the grave may have been created to bury those that died under legitimate circumstances.

77. The Commission has undertaken a more detailed analysis of the available information concerning two reported mass graves in Bratunac and Ovcara.[20] In Bratunac, a grave containing 39 Bosnian Serbs was reported to have been discovered after Bosnian Serbs recaptured the village from Bosnian-Muslim forces. Those buried in the grave were reported to be mostly women, children and the elderly, victims of a Bosnian-Muslim attack on 7 January 1993. A report alleged that some of the dead had limbs severed or were otherwise tortured before they died. The oldest victim was reported to be an 82-year-old man. However, the Commission has not been able to verify this information as yet.

78. The grave in Ovcara is thought to contain as many as 200 Croatian civilians and soldiers reportedly abducted from the Vukovar Hospital and then executed at the grave site by Yugoslav army and Serbian paramilitary units. A preliminary inspection of the area by the Commission revealed a 10-metre-by-30-metre area of recently disturbed earth; three young adult male skeletons lay partially exposed, one had an exit wound from a gunshot on the left temple. A surface survey yielded a large number of spent 7.62-millimetre cartridges in the bushes northwest of the grave site and bullet scoring on trees to the south-west of the grave site. A test trench was dug that exposed 9 corpses, which would indicate a grave containing as many as 200 persons.

79. For the time being, the Commission is proceeding with preparations of large-scale investigation of two mass graves—in Ovcara (Sector East), referred to above[21] and the other in sector West. The preconditions for the operation, which is tentatively scheduled to begin in October 1993, are that the Netherlands military engineering unit remains available, that the local authorities do not withdraw their support and that the security situation in both areas does not deteriorate.

80. While proceeding with the preparations for the exhumation of the remains from the two mass graves, the Commission is preparing at the same time a contingency plan in case any of the preconditions mentioned above are not met. In this case, one or more small investigative teams (three to five persons), including forensic experts and lawyers, will visit an area that would be selected on the basis of information available in the database and which would presumably contain a number of mass graves. These teams will go to sites of mass graves to make a determination of their existence and to observe and record whatever pertinent facts may be discoverable without a large-scale exhumation within a relatively short period of time.

D. Investigations of systematic rape

81. The Commission is working out the modalities for the purpose of carrying out investigations into systematic rape. In this regard, the assistance of a number of Member States is deemed indispensable.

82. Therefore, the secretariat is requesting those Member States that have received rape victims from the former Yugoslavia to communicate their whereabouts. The Commission has also established contacts with the local commissions on war crimes operating in Sarajevo, Belgrade, Zagreb and Zenica.

83. It is expected that the formation of female teams for the investigations will be completed in September. The final plan of action will be worked out on the basis of the study on systematic sexual assaults, mentioned above.[22]

E. Investigations of detention centres and prison camps

84. Reports from Governments, NGOs and individuals describe widespread abuses of human rights in detention facilities in the former Yugoslavia, and especially in Bosnia and Herzegovina. Torture, rape and other forms of physical and psychological mistreatment are reported to have taken place

on a large scale. The information catalogued to date[23] indicates the existence of 393 reported detention facilities, of which 158 are (or if closed, have been) controlled by Serb forces, 64 by Muslim forces and 30 by Croat forces. One hundred forty-one detention facilities alleged to exist have not yet been tied to a specific faction. For instance, a Bosnian government report alleging the existence of a large number of camps does not identify whether they are operated by Serbs or Croats.

85. Notwithstanding the greater reported number of Serb-operated camps, and a greater number of alleged violations there, the reports ascribe grave abuses to all factions. Mass killings, rapes, beatings and torture have reportedly been widespread. Beatings are the most commonly cited form of physical abuse, with many cases reported of prisoners being beaten to death or left to die from injuries sustained during beatings. Conditions of detention have been particularly bad in many camps, with crowded and unfit living quarters, an absence of medical treatment and in some cases the near-starvation of prisoners.

86. On the basis of information available, the Commission would identify those camps to which it would endeavour to send its representatives, and submit appropriate requests to the authorities under whose control the camps are. However, since the majority of camps and detention centres are now closed, and in case there are complications with visits to the existing camps, the Commission will endeavour to get in touch with witnesses who have been detained in the camps. Since those witnesses may now be either in refugee camps or have moved on to resettlement, the success of such investigations will to a great degree depend on the cooperation of the Governments of those countries that have provided refugee camps or resettlement for people from the former Yugoslavia.

III. RESOURCE AND BUDGETARY REQUIREMENTS

87. The resources available to the Commission are being provided from the regular budget to cover remuneration and travel of its members and the secretariat, and from the Trust Fund set up by the Secretary-General in February 1993 mostly to finance investigatory activities.

A. Regular budget

88. As mentioned in its first interim report, the Commission has been provided with a regular budget for a period of nine months as from 1 December 1992. At its seventh session, the Commission was informed that additional funds will be allocated to cover its activities until the end of 1993.

B. Trust Fund

89. As indicated in the Secretary-General's letter of 10 February 1993 to the President of the Security Council, pursuant to the request of the Commission[24] and in order to make available to the Commission adequate funds to allow it to implement its plan of work, the Secretary-General set in motion the necessary administrative steps for the establishment of a trust fund.

90. On 24 May 1993 the Secretary-General sent a letter to the heads of Permanent Mission in New York requesting their Governments to consider a contribution in terms of financial resources or personnel to assist the Commission in its investigative work.

91. As indicated in the letter, financial contributions should be made to account No. 015-004473, United Nations General Trust Fund Account, Chemical Bank, United Nations Branch, New York, N.Y. 10017.

92. In response to the Secretary-General's appeal, a number of Governments have transferred or pledged their contributions to the Trust Fund:[25]

	US$
Austria	20,000.00
Canada	237,868.70
Denmark	15,201.07
Federated States of Micronesia	300.00
Liechtenstein	3,184.00
Netherlands[1]	259,067.36
New Zealand	27,583.15
Norway	49,978.00
Sweden	99,132.00
Switzerland	50,000.00
United States[2]	500,000.00

[1] The contribution of the Netherlands was designated for systematic rape investigations.

[2] In addition to its financial contribution, the United States has also pledged to donate a significant part of the equipment needed for the mass grave investigations (see para. 62 above).

c. Human resources of the Commission: secretariat staff, investigative teams and support personnel

93. The Commission continues to be serviced by a small staff which includes three Professional staff members provided by the Office of Legal Affairs and two secretaries.

94. In addition to the secretariat staff funded from the regular budget, a number of legal, medical or other specialists provided by Governments or NGOs have been assisting the Commission in its work.

95. About 30 assistants work on the database under the supervision of the Commission's Rapporteur for gathering and analysis of facts in the International Human Rights Law Institute at DePaul University, Chicago, at no cost to the United Nations. They include four salaried attorneys, eight volunteer attorneys, seven paid student assistants, two computer programmers, one documentarian, a media source analyst, a researcher and five other volunteers. All of them have signed undertakings of confidentiality regarding their work on the database. The costs for the operation of the database from December 1992 to December 1993 ($480,000 in direct costs and $250,000 in indirect costs, total $730,000) are covered by a grant from the Souros Foundation and in-kind contributions of the Institute obtained by the Commission through its Rapporteur.

96. A team of forensic experts (up to 20 specialists) has been provided by Physicians for Human Rights to assist the Commission, at no cost to the United Nations, with investigations of mass graves. Physicians for Human Rights have been able to obtain grants and in-kind contributions for this operation from private sources. The team provides assistance to the Commission under the cooperation service agreement signed with the United Nations on 11 December 1992.

97. A team of military lawyers and police investigators (eight persons) has been provided to the Commission by the Government of Canada. With the exception of salaries, other mission-related expenses of the team are to be paid by the United Nations. The team provides assistance to the Commission under the cooperation service agreement signed on 16 June 1993.

98. The Government of Norway has pledged to provide the Commission with six specialists (forensic experts, military lawyers and police investigators). The specialists, who will assist the Commission under an agreement to be signed between the United Nations and the Government of Norway, will be provided at no cost to the United Nations.

99. The Government of Austria has also indicated that it is considering the possibility of providing three experts on forensic medicine and damage to cultural property and historic monuments to the Commission.

100. The Government of the Netherlands has decided to provide a self-sustaining military engineering unit (up to 50 persons) to assist the Commission with mass grave investigations. An appropriate agreement is to be signed between the United Nations and the Netherlands.

101. In addition, the Commission intends to use for its investigative missions the personal assistance of Mr. Kalshoven and Mr. Opsahl (at no cost to the United Nations) on the basis of agreements to be signed with the authorities of the Netherlands and Norway, respectively.

102. The Commission would like to put on record its appreciation to all Governments and organizations for providing financial and human resources to assist it in its work.

IV. CONCLUDING REMARKS

103. The Commission was mandated by the Security Council to examine and analyse the information submitted pursuant to resolutions 771 (1992) and 780 (1992), together with such further information as the Commission might obtain through its own investigations or efforts of other persons or bodies pursuant to resolution 771 (1992), with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia. In May 1993, the Security Council, in its resolution 827 (1993), encouraged the Commission to continue its activities on an urgent basis, pending the appointment of the Prosecutor of the International Tribunal established to prosecute persons responsible for above violations.

104. The activities undertaken by the Commission in the implementation of its mandate over the seven months that have elapsed since its first interim report was submitted, fall basically into two parts: (a) collecting, evaluating and analyzing information with the help of the database and (b) sending investigative missions to the former Yugoslavia to collect and verify the information, to investigate specific incidents as well as to obtain testimonies, to interview victims and witnesses and to hear alleged perpetrators.

105. So far as the database progress is concerned, thousands of pages of information have been gathered and processed and are being analyzed on the issues of mass killings and destruction of property, treatment of prisoners and detainees, systematic sexual assaults and "ethnic cleansing". The first preliminary studies, as indicated in note 2, accompany the present interim report. Notwithstanding the qualified evidentiary value of the information contained in the database as such, the database has already proved to be of great assistance to the Commission as a basis and support for its specific missions and investigations. It is also already obvious that, when completed, the results of the database information analysis will provide valuable help to the office of the Prosecutor of the International Tribunal established by the Security Council.

106. During the period under review the Commission has sent five investigative missions to the territory of the former Yugoslavia to collect and verify information on the issues mentioned above. The reports of one of these missions (Sarajevo) accompany the present interim report as indicated in note 2.

107. However, the Commission had to postpone or to limit the scale and scope of its investigative missions and major projects,

owing to both the volatile military and political situation in the former Yugoslavia and to the fact that the voluntary contributions of financial and human resources on which the investigative work of the commission is dependent did not start to come in on a sufficient scale until July-August 1993. However, the resources now at the disposal of the Commission should enable it to enter into a period of intensified verification work, provided that the overall military and political situation in the former Yugoslavia does not present new complications.

108. The programme of work of the Commission for the coming months includes the continuation of ongoing investigative missions to Zagreb, Sarajevo, Knin, Zadar, Pale, Zenica, Belgrade, Ahmici-Vitez, Dubrovnik, etc. The Commission also will send specialized teams of experts to investigate mass graves, systematic rape, detention centres and prison camps.

109. In light of the results of the Commission's work so far and of its projected plans and continued activities, the Commission remains ready and willing to proceed with its work in fulfillment of its broad mandate as set out by Security Council resolution 780 (1992) and in support of the International Tribunal and in particular of its Prosecutor.

NOTES

[1] S/25274, annex I.

[2] The present report is accompanied by the following documents: report on mass graves with analysis of Bratunac and Ovcara (Vukovar); report on camps and detention facilities; study of Sarajevo battle and siege and its appendices; draft preliminary summary and analysis of allegations of systematic rape in the former Yugoslavia; rape pilot study on Bosnia and Herzegovina; report on mortar shelling Dobrinja district of Sarajevo; report on the battle of Sarajevo and the law of armed conflict. Owing to the preliminary character of these reports, and to their volume, the Commission decided to transmit them to the Secretary-General for information.

[3] The Commission's mandate is to examine the analyse the information submitted pursuant to resolutions 771 (1992) and 780 (1992), together with such further information as the Commission may obtain through its own investigations or efforts of other persons or bodies pursuant to resolution 771 (1992), with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia.

[4] Professor Frits Kalshoven (Chairman), Professor Mr. Cherif Bassiouni, Mr. William Fenrick, Judge Kéba Mbaye and Professor Torkel Opsahl. The members of the Commission sit in their personal capacity. Mr. Bassiouni acts as Rapporteur on the gathering and analysis of facts, and Mr. Fenrick acts as Rapporteur for on-site investigations as well as Rapporteur on issues of law.

[5] *Official Records of the Economic and Social Council, 1993, Supplement No. 3* (E/1993/23-E/CN.4/1993/122).

[6] S/25274.

[7] The delegation as a whole visited Zagreb and Belgrade. Thereafter, the Chairman went to Ljubljana, while the two rapporteurs went to Sarajevo.

[8] See also para. 76 below.

[9] See also S/25274, annex I, para. 61 and 62.

[10] The original decision of the Commission at its fifth session was to send an investigative mission to the Ahmci-Vitez area (Bosnia and Herzegovina). However, owing to the rapidly deteriorating security situation in that area and on the advice of UNPROFOR, 10 days before the departure of the mission the Commission had to postpone it and to send the team to Sarajevo instead.

[11] The team also interviewed one rape victim, a 13-year-old girl who was kept captive for 10 days in July 1992 and was a victim of multiple rape.

[12] In addition to the information obtained during the missions to Sarajevo, a large amount of documentation from other sources has been examined by the Rapporteur on the gathering and analysis of facts, resulting in a comprehensive Study of Sarajevo battle and siege (see also para. 36 and note 2 above). This is a day-by-day chronological analysis of 17 months. It indicates that the battle and siege have taken a significant toll on the city and its inhabitants. It is estimated that close to 9,000 Sarajevo inhabitants, including 1,500 children were killed or are missing, and that approximately 53,000 people have been wounded, of whom 14,000 are children. Many of these casualties are the result of sniper fire. Nearly all mosques, Catholic churches and hospitals and numerous other protected targets as well as major commercial buildings and facilities in the centre of the city have been destroyed and, with them, a part of the city's cultural and historical heritage. Furthermore, the shelling has destroyed more than 10,000 and damaged over 100,000 apartments. The city now has fewer than 300,000 residents, down from 600,000 before the war.

[13] See paras. 40–44 above.

[14] See paras. 15 and 17 above. The Commission, however, intends to obtain a written confirmation of these promises before the investigations actually take place.

[15] S/26373 and S/26374.

[16] Draft preliminary summary and analysis of allegations of systematic rape in the former Yugoslavia (see note 2 above).

[17] S/25826.

[18] See paras. 35 and 36 above.

[19] *Report on mass graves with analysis of Bratunac and Ovcara (Vukovar) (see note 2 above).*

[20] See note 2 above.

[21] See also paras. 57–62 above.

[22] See para. 67 and note 2 above.

[23] The report on camps and detention facilities (see note 2) analyses more closely the available information on the following camps: Keraterm, Omarska, Trnopolje, Manjaca, Stajicevo, Foca Prison, Foca School and Partizan Sports Hall, Luka, Doboj, Zenica, Mostar and Lora.

[24] S/25274 and annex I, para. 71.

[25] Less the expenses already incurred, the balance of the Trust Fund, as of 31 August 1993, amounts to approximately $730,000 in cash and over $380,000 in pledges.

[From Belgrad Duga, Jan. 30–Feb. 12, 1993]

BIOGRAPHIC DATA ON SERBIAN FIGHTER ARKAN

(By Dada Vujasinovic)

For socialist and divine Serbia, no one is ever, under any circumstances, irrevocably lost. That is why at its most difficult moments the fatherland always has plenty of true sons who will fight and struggle, with self-sacrifice and without giving quarter, for its freedom, reputation, heritage, prosperity, and future in the world community of civilized nations.

The celebrated commander of the Serbian Volunteer Guard [SDG], former legend of the Belgrade underworld, pastry shop owner, and dealer, Zeljko Raznjatovic Arkan, by the will of the Serbian voters of Kosovo, has become a people's deputy. One of the 250 people's representatives to the Serbian parliament before which the reelected president of the republic, Slobodan Milosevic, will take his oath, among other things.

During the preelection campaign, Raznjatovic spent a few days strolling around Kosovo, where without exaggerated eloquence while addressing the popular masses, with the experience gained at Zvezda "North," he repeated the slogans about the "holy Serbian land" and the "heart of Serbia." As a hardened warrior for a United Serbian State, he came to the very place where he himself says that he first fell in love with Sloba, in order to repeat all the same promises already made to the local people by the current government, albeit with a somewhat more elevated tone and racy vocabulary. Milosevic promised the people that no one will be allowed to beat up on them, while Arkan announced that he would beat up on everyone who is disobedient.

Judging from the ambitious job that he has set out to do as deputy, including the absolute introduction of order to Kosovo and a definitive showdown with traitors to Serbhood of any color and shape, Arkan will certainly heat up the deputy's bench, firmly believing in his own authority, which he has demonstrated in the past as one of the leaders of the underworld, a fan leader, and a commander of volunteers. Unfortunately, if we are lucky and the sanctions are lifted. Raznjatovic will not have the opportunity to participate personally in a delegation of Serbian members of parliament visiting their foreign colleagues, because he could experience unpleasantries on the way due to mistakes made in his youth. But at least he has seen enough of the wide world not to be upset that he is now unable to represent his fatherland, in a way different from the way to which he was previously accustomed. After all, even from here he can be loud enough in replying to Lawrence Eagleburger, who considers him a war criminal, by saying that that pretentious American is "one of Tito's Pioneers," and to Clinton by saying that "he should not interfere in our elections, because we do not interfere in theirs."

No one has the right to be angry that times have arrived in which people like Arkan thrive. Today, his name is uttered in a semi-whisper, with awe. He was a legend with an inaccessible biography, and history teaches us that precisely this sort of person becomes very problematic when he begins dabbling in politics.

NEIGHBORHOOD LEADER IN GAME OF "COPS AND ROBBERS"

Zeljko Raznjatovic Arkan had all the predispositions for growing up to be a dangerous young man. A Montenegrin by origin, an only son, the fourth long-awaited child of an officer, he rebelled against conventional norms of conduct even in his early youth. He himself says that he was driven to the streets by the typically Montenegrin type of upbringing that his father tried to apply to him. So it was not long after he wrested free from his father's control that he was calling certain other people "dad," including Stanko Colak, a high-ranking official in the then-powerful federal SUP [Secretariat of Internal Affairs]. Like the thousands of petty Arkans whom the streets bring forth in every generation. Zeljko too began with theft and burglary, and in this way soon ended up at the juvenile delinquency division of the city SUP. The inspectors who had dealings with him at the time (and these are people who followed his entire developmental course by moving around within the service, only to witness his departure for the front as retirees) say that he was unusually strong for his age and as agile as a top, never dirty or slovenly, always clean and properly dressed. In their first encounters, he confused them. During one of the first arrests, at the age of 14 or 15, two inspectors found him in a Cubura pastry shop. Without enough experience, they thought that taking this boy in would be a routine matter. But the boy resisted stubbornly, slipped away, and deftly escaped until the policemen realized that in his case they would have to apply treatment intended for much older delinquents.

"If he had gone out for any sport, he certainly would have achieved extraordinary results. That was just the way he was—capable of anything," one of the doyens of the Belgrade police, a man who followed Arkan's course of development from childhood, said many years later.

Thus, early on Arkan ended up at the Krusevac house of correction, but soon thereafter he went abroad. First to London, and then one place after another. On the rare occasions when he has been willing to talk publicly about his past, about which he says that it is exclusively his own business and

that he is not ashamed of it, he has interpreted his leaving the country as the desire to expand his horizons, to escape the local stifling hellhole. From the dispatches that the local police began receiving very soon after his departure from Yugoslavia, it became clear that Arkan abroad was continuing to improve on what he had begun in Belgrade. Generally, the Belgrade police simply added these dispatches to his file, if necessary notifying foreign colleagues that this is a documented delinquent. When Arkan matured into an exceptional criminal, domestic prosecutor were simply glad that he was wandering around abroad and that they learned of his activities in a purely informational sense from those dispatches. The rule was that they dealt with what was happening on the streets of Belgrade, and as long as Raznjatovic was elsewhere, he was not their concern.

BANKS TREATED LIKE SELF-SERVICE STORES

Information on Arkan's record as a robber is incomplete. One of the few people to comment publicly on Zeljko's skill and to testify that Arkan robbed more European banks than any other Serb was Goran Vukovic, the murderer of Ljuba Zemunac, a man who thus far has escaped repeated murder attempts:

"Of all of us, Arkan robbed the most banks: He walked into them almost like they were self-service stores. No one can quarrel with that fact about him. I don't know about politics, but as far as robbery is concerned, he was really unsurpassed. That is all he has done his entire life. Banks were his specialty, as well as spectacular escapes from prison. He managed to escape from the same prison two or three times. He even escaped from the Germans. He liked to act like the boss, although there was no way he could measure up to Giska. If he is a killer, then a killer is what he is: skilled and competent. However, Giska was incomparably more intelligent, cultured, and honest. He did not allow any power to manipulate him, while Arkan was simply forced to accept many unpleasant things," Vukovic said.

Ever since Arkan emerged full force as a public figure, there have been many attempts to reliably reconstruct his past as recorded in numerous police files scattered all over the world. Plenty of Arkan's "biographers" have been taken in by intentionally distributed false information and facts. Some have unnecessarily added fabricated chapters to his already profuse career. It is utterly incontrovertible that several so-called red Interpol circulars have been posted for him, which expire only after twice as much time as the punishment provided for the committed criminal act has passed. As far as these circulars are concerned, Arkan is completely safe here, because no country is obligated to extradite its citizen to another on that basis. War crimes, however, are a different matter entirely, and in the meantime Arkan has acquired that reputation in the world as well.

INTERNATIONAL FAME FROM PERIOD OF TEMPORARY WORK ABROAD

What is utterly reliable in Arkan's "bibliography" can be read in Case XII K, No. 851/86, First Opstina Court of Belgrade, where Raznjatovic was last sentenced some seven years ago. That record states that "Zeljko Raznjatovic, aka 'Arkan,' father Veljko and mother Slavka nee Josifovic, born on 17 April 1952 in Brezice, SO Brezice, living at Ulica Ljutice Bogdana No. 3 in Belgrade, Montenegrin, citizen of the SFRY, worker, working under contract part-time at the 'Amadeus' club in Belgrade, married, the father of three underage children, completed Advanced Hotel and Catering School, did not serve in the military, listed in the VZ [Community Council of the Municipal Assembly] of SO Palilula, sentenced by verdict of the Fifth Opstina Court in Belgrade K. 1510/72 to a prison sentence of six months for the criminal act of theft based on Article 249, paragraph 1 of the Penal Code, also sentenced as a minor by verdict of the Okrug Court in Belgrade Kz. No. 135/69 to serve a three-year term in juvenile prison based on Article 69 of the Penal Code, sentenced by a court in Brussels, Belgium by a verdict of 18 December 1975 to 10 years in prison for armed robbery, and sentenced by a court in Amsterdam, the Netherlands by a verdict of 7 May 1980 to seven years in prison based on the criminal act of robbery in connection with banditry."

In the meantime, some of the cited facts from 1986 have changed, but the facts cited in the file are eternal and indelible. Also in circulation is information to the effect that Arkan moved around the world under pseudonyms and with forged identity papers. Reportedly his identity was concealed under the names Betega, Valentini, Djordje Rolovic, Marko Vukotic, and others. Aside from the noted robberies in Belgium and the Netherlands, there are also the burglaries in Sweden, where he and his group broke into banks and apartments. It is known that he was a smooth operator in escaping from prison. After robbing the "Lambert" bank in Brussels, he was sentenced to hard labor, but he very quickly granted himself a pardon by escaping. He reportedly spent some time in the Dubrovnik area, and then set out on new raids in Sweden, the Netherlands, and Germany. He was arrested while robbing a jeweler in downtown Frankfurt in 1981, and he ended up in the hospital because of an injury inflicted on him by a German agent through a blow to the head, which resulted in a brain concussion, but he soon escaped from there as well. Mention is also made of a spectacular showdown with Swedish police in 1984 and his accidental capture at the Austrian-German border a couple of months later at the end of 1986, which is notable as the year of Raznjatovic's final "retreat from temporary work abroad."

Stories of Arkan's spectacular escapes from the most secure prisons have been retold around Belgrade. It is known, however, that such a thing cannot be executed without outside help, regardless of how good a shape the prisoner is in. Reliable sources, former UDBA [State Security Administration] officials, told me that a working mechanism exists for springing their people once the news has come that one of them has "fallen." Most of all, money is essential.

MUSTAFA GOLUBIC AMONG SERBS FOR SECOND TIME

It is assumed that Raznjatovic began working for the SSUP [Federal Secretariat for Internal Affiars] early on. Stories have been circulated to the effect that his father got him that job by asking Stane Dolanc to "join" him in order that his unruly son expend his surplus of energy, skill, and intelligence usefully. However, insiders say that Veljko Raznjatovic, a retired air force colonel and veteran of the First Proletarian, gave up on Zeljko early on, and that he even divorced his wife because of his son's mischief. Nevertheless, Arkan had close relations with certain of Tito's generals, including Jovo Popovic, with whose son Misko he was good friends. Many people believe that the then-powerful Gen. Jovo Popovic is largely responsible for Arkan's physical and mental condition.

Whatever the case, Arkan turned up in Belgrade at some point with much more self-confidence than he had when he had crossed the border as a boy. He wore a white suit, was a passionate frequenter of gambling houses, disco clubs, and night spots, trying to present himself as a new Mustafa Golubic. One could only speculate about his merits. But he also behaved like a responsible citizen of Belgrade. He was the terror of gambling houses of that time. When he won, he demanded that the money be paid to him. When he lost, he showed the croupiers his pistol instead of his chips. With time, thanks to him, a complete ritual in relations between the Belgrade and federal police emerged, consisting of the following: When the Belgrade police took Arkan in, they counted the minutes that went by until the SSUP intervened, and guessed at who would come "get" him this time. Most often it was Srdan Andrejevic and Stanko Colak. It is known, however, that Stane Dolanc himself did not shun this task either.

TWO PARKING TICKETS AND VISIONARY PROPHESY

This happened in the early 1980's. Arkan was once taken in by the city SUP because he had arrogantly parked his car right in front of the entrance to the used-car market at Bubanj Potok. He sat in the car and did not pay the least bit of attention to the warning by traffic policemen to move the car. Instead, the patrol was attacked by two companions who were with him in the car, who used their pistols. They fled, but Raznjatovic was taken to the SUP, although he showed identification from Montenegrin DB [State Security], for the purpose of determining the identity of the assailants. The Belgrade police say that Arkan was the epitome of civility whenever he was taken in. He always willingly agreed to this game, only occasionally warning that "dad" would bring charges against them, although there was no need for that, because "dad" always found out about everything in time. Morever, Arkan always responded to every invitation by inspectors to come in for an "information talk." During that time, the chief of the criminal investigation department was Tomislav Jeremic, while the chiefs of the operative divisions wee Mele Jovanovic, Spiro Otesevic, and Petko Zoric, with their also well-known colleagues, Nocovic, Bizic, Andjic, Rade Markovic, and others. All one had to do was to leave a message that he come to his mother's house, and he would obediently appear. The inspectors with whom he cooperated and who over the course of time developed a proper relationship with him say, however, that he was never really that useful to them. He never agreed to inform on anyone else, nor was he willing to recall to them events where he was present as a witness. That was the case this time as well. In vain the chief of the city SUP at the time, Merle Jovanovic, asked him to say who the two men were who had attacked the patrol. Very soon, the telephone rang and a policeman from the main entrance informed Jovanovic that Stane Dolanc, at the time the newly appointed federal secretary for internal affiars, had just entered the building. Jovanovic said something to him about getting better eyeglasses, accusing him of hallucinating. But then the phone rang again. This time it was the city secretary, informing him that Dolanc had come personally to take Arkan home. At that time, it was more than adequate for Dolanc to intervene by telephone. His personal appearance indicated major services or major sympathy, or perhaps both.

Another time, Arkan parked a car right at the entrance to the "Metropol" and left to gamble in the company of Gen. Kapicic. A security officer asked him to move the car, but Arkan scornfully chased him from the table. Then the chief of the city SUP firmly ordered that this be done immediately, because otherwise he would personally come and teach him a lesson. Arkan obeyed, but at the hotel exit he embraced the officer who had brought him the message and said, literally, "Why are you all so committed to that chief? Don't be surprised when I become a national hero one day." The dilemma remained—was Arkan clairvoyant, or was he thinking of his prior merits?

PROMOTION FROM FEDERAL TO CITY SUP

Among the hard-working people of the Belgrade underworld, he was renowned as the boss with a refined sense of justice. In their quarrels, it is said, he always passed judgment impartially. Aside from his occasional tendency to fleece some of them for money when he lost at gambling, after which it did not occur to him to return the debt, he liked to play the role of protector. In late 1981, for example, the police arrested Miroslav Djordjevic Bombona and Slobodan Kostovski at the Belgrade airport as they, accompanied by a UDBA agent, attempted to fly to Frankfurt. At the time, Bombona was wanted by the city SUP, so that a local search had been announced. After a couple of hours, the phone rang in the apartment of Chief Mele Jovanovic, who was resting after a sleepless night. From the other end of the line, the flustered voice of the officer on duty at the airport police station awoke the chief, explaining that a colleague was anxious to talk to him concerning an important matter. The chief was dressed down at the other end of the line by Arkan himself, who insisted that his two "colleagues" who had been taken in be released, because they had urgent and pressing business abroad. The on-duty policeman was severely rebuked, even though he justified his actions by saying that Arkan had shown him identity papers from the federal SUP. However, Arkan was then taken in as well.

Policemen from the city SUP at the time contend that despite the efforts that he made, Arkan clearly did not attain the type of position that he had at the federal SUP. "Dad" Stanko Colak went to then-city secretary Mile Rajkovic to complain about the chief and his service, who were "mistreating" his protege by repeatedly taking him in. The secretary rejected the charge at the time. All indications are that Arkan was taken in only by Miroslav Bizic, and it is also said that he was the only one who beat him. When Bizic was later forced out of the police and opened a private agency. Arkan slandered him all over town by saying that he [Bizic] himself was organizing car thefts in order to find them later and charge a hefty fee for the service. Lately however, rumor has it that customers with references from Arkan have been turning up at Bizic's agency, which indicates an unexpected turn of events. Unless there is no connection with the story that Bizic is returning to the police.

Much has changed since the period when Arkan was treated by the city SUP like all the others of his kind, because Belgrade policemen of that time contend that they were not very impressed by stories of their federal colleagues who openly admired him and loudly praised his loyalty, confidentiality, talent, and accuracy, judging from some indications. Eyewitnesses say that now Arkan enters the city SUP building as if it were his own pastry shop.

ACQUISITION OF NECESSARY SPOTS ON SSUP HOUSING LIST

Besides the noted cases of arrogant behavior on the streets of the city, Arkan committed only two major excesses in Belgrade. The first happened in early November 1983, when he wounded, in his apartment, two policemen who had come to take him in. Raznjatovic had moved into the apartment a year earlier. This was a three-room apartment that he got, according to Decision No. 46482/1 of 22 November 1982, on the basis of Article 40 of the regulation on Resolving the Housing Needs of SSUP Workers signed by then-assistant secretary Mirko Bunevski. The justification for the decision states that "in deciding on the allocation of housing to the person in question, consideration was given to all facts and circumstances affecting the allocation of housing, especially the republic that he represents and the personnel needs of the SSUP."

The two policemen set out to get Arkan in a manner that turned out later to be rather clumsy and naive for a criminal of his stature. Arkan contended that he had no idea that they were policemen and that from their faces it seemed to him that they might be Albanians,with whom he has a bad reputation. However, experienced policemen think that these two served only as practice for him, because if he had really suspected that that kind of danger awaited him, they would have had no chance of getting out of it alive. This time as well, the SSUP intervened. It was necessary to somehow convince the families of the wounded policemen not to press charges. One father agreed readily, but the other would not even consider not pressing charges against the assailant who had crippled his son. When everything got to court, the verdict was putative self-defense.

When Arkan and his family moved to a house near the "Zvezda" stadium in mid-1985 that was bought in his wife's name under unusually accessible conditions, thanks to a favorable loan from Beobank, it became clear that Arkan's price was rising. The liquidation of Stjepan Djurekovic is attributed to Arkan, and this untrue rumor provided Raznajatovic with a cover for a large number of things. Foreign police files could only state that there is a well-founded suspicion that he, under orders from the then-powerful Yugoslav UDBA, did this or that, but not that this is clearly established. Whatever Arkan has done around the world, it is a fact that he has received much more credit than others have.

1986 HOUSE INVENTORY

In early 1986, Arkan beat up a certain Predrag Djajic in an elevator. It turned out that he was nervous because he had lost a lot of money gambling that evening. Once again the federal SUP did everything it could to clear Arkan of responsibility, while the city police tried to get as harsh a punishment as possible for Raznjatovic. The court decided on a middle variation: He was given nine months in Padinska Skela prison. After appeal, the sentence was reduced to eight months, but the court denied a demand for special mitigation of the sentence in which it was alleged that Arkan was taking care of his seriously ill father and that his wife had fallen into a deep depression following his arrest. The court ruled that "the social danger of the criminal act" did not allow mitigation of the sentence that was handed down. During a search of his house, an entire arsenal of weapons was found—hunting rifles, automatic rifles with sniper-copes, two Magnums, hand grenades, ammunition, and gun licenses issued by the Cetinje SUP. Also found were various identification cards issued in France and Italy, foreign driver's licenses, 11 passports from nearly every European country, including a U.S. one, a diplomatic passport, and six press passes. Some gold and foreign exchange was found, as were seals with the signature "Casino Sveti Stefan, Raznjatovic Zeljko, director." At his trial, Raznjatovic said openly that he worked for the SSUP and that he had gotten the weapons for 13 May, Security Day, but that "the reason is not important." According to the Regulation on SUP Employment, however, a policeman cannot become a person sentenced for criminal acts, but Arkan did not fit into this category. He was simply an employee of the service. By definition, an employee is a person who performs the job assigned to him conscientiously, in accordance with the functions of the service, and on his own initiative.

The arrival of the multiparty system to the Serbian political scene divided the underworld as well. Criminals too were divided into position and opposition. Arkan leaned toward the former. In an analysis of his actions from Slobodan Milosevic's assumption of power to the present day, there is too much support of or loyalty to the regime, demonstrated in one way or another, for it to be a mere coincidence. He himself has acknowledged that he was a regular attendee of all of Sloba's rallies. He has said that he was even arrested at the big popular demonstration before the SFRY Assembly when Sloba promised that Vllasi would be arrested, because people from security thought he was suspicious. Arkan was also known early on as an ardent "Zvezda" fan, but as fate would have it, he became a real leader of troops a little before the first elections in Serbia. One day he appeared on the reserve players bench. Legend has it that here, under the "Zvezda" roof, he met then-Serbian police minister Radmilo Bogdanovic, who was a member of the club's management. Although the two of them disavowed any closer contact, it is known that Arkan quite openly and amicably offered to Bogdanovic his services in dispersing the first opposition demonstrations on television in June 1990. Bogdanovic reportedly thanked him for the offer, but Arkan is seen, together with members of the MUP [Ministry of Internal Affairs], attacking demonstrators. It is also known that the then-Serbian police minister complained openly during the 9 March demonstrations about how Arkan was "in a Croat prison."

Arkan performed his first assignment irreproachably: to dispel party leaders, especially Duke Voja, who was launching a serious assault in Marakan. It all began when Seselj, with a group of similarly minded people, tried to attend a "Zvezda" match, but was prevented from doing so by security. A number of fans then left the stands in protest. That was when loud calls such as "out with management" began, with special reference to Radmilo Bogdanovic, who was indirectly accused of expelling Seselj, but also to other national leaders. At the time, all the parties were very much interested in gaining the fans' sympathies, either because of the good advertising that would be heard from the stands or because of the considerable number of votes in the hands of soccer fans.

However, Arkan intervened resolutely, ostensibly justifying this by the fact that having politics at the stadium would divide the fans. Eyewitnesses say that during a meeting between him and Seselj at the "Ruski Car" cafe, the dialogue went as follows:

"Do you know who I am? Do you know how many people I have killed for the fatherland?" Arkan asked.

"No. I don't. I have not killed a single one, but I will begin with you. I will strangle you with my bare hands," Seselj responded.

The quarrel over fans left behind serious consequences for their interpersonal relations, although they later made up over the grave of a dead soldier. As things stand now, Arkan—because of pangs of conscience due to his previous wrong assessment—has presumably taken the initiative in the game of ingratiating himself with Seselj, taking advantage of every opportunity to express his admiration for this confirmed "patriot" and to set some ministerial post aside for him, while Seselj, when asked about Arkan, remains rather reserved and at a distance. Eyewitnesses even say that the duke is not the least bit enthusiastic when the commander visits him. The duke is probably very vengeful.

FIRST PATRIOTIC IMPRISONMENT

After successfully performing his test job and establishing order at Zvezda "North," Arkan was given more serious assignments. Suddenly, in late August 1990, Zeljko Raznjatovic, together with five friends or acquaintances, was arrested in Dvor na Uni. They had the "honor" of being condemned as a terrorist group for attempting to overthrow the SFRY, and especially the newly enthroned, young Croatian democracy under the freshly written Croatian criminal code. Initially characterized as the main terrorist and organizer, Arkan was treated in the indictment as the number four defendant. After six months' imprisonment in "Remetinac," Artukovic's former prison, following a ruling in which he was sentenced to 20 months in prison, Arkan was released. He was personally escorted from the prison by the warden, even though it was his day off and Arkan was to return to Belgrade in a private, rented airplane accompanied by friends. It is said in Belgrade that he was freed from prison by Mossad.

Arkan said nothing in his defense at the trial, because that is what his lawyers advised. At the inquiry, however, he said that he met the first defendant, Milos Bandic, in Belgrade at his bar, where the latter was gathering aid for TV Knin. According to Arkan's admission, Bandic bragged about how he was a Chetnik duke, and Arkan agreed to go with him purely for the adventure. Afterwards, Bandic informed him that one could not get to Knin unarmed, and that Vuk's and Seselj's people had previously threatened to kill him because of the clash over the soccer fans, so for that reason he bought a pistol and submachine gun from an unknown person for 3,500 marks. Arkan also said that Bandic had told him that they were going to Knin for a meeting of some sort of war council, that he had offered his traveling companions black knit caps with some sort of emblems, and that in the car he wanted to hear Chetnik songs, which Raznjatovic would not allow. Arkan also described the meeting of the war council and the discussion concerning lifting the barricades at Dvor na Uni, denied that he was asked to take his "troops" to those barricades, and explained that up to the time when they were arrested, he had not been involved in any of the first defendant's business. Upon release from prison, he said that everyone treated him decently there. He then promised publicly to withdraw to a peaceful life, to his family and business. That was mid-1991.

It was not long before Arkan was at the front in eastern Slavonia, in the role of commander of the Serbian Volunteer Guard. Referring to his days in prison in Zagreb, he asserted that the Croats released him because they had no idea whom they had their hands on, because even at that time he had a sizable guard force and was unselfishly helping the people at Krajina. Intelligence officers who have returned from Croatia in the meantime have testified, however, that the local authorities knew very well who Arkan was. Prior to Arkan's volunteers, the first to show up at the eastern Slavonian front were Jovic's fighters from the former "Dusan the Great" detachment. Then Giska and his guard tried to cross the Danube, but they were turned back by Serbian police. Arkan was released, but afterwards he bad-mouthed Giska for waging war around Kosutnjak. Arkan was in Tenja for a short time, on the front line toward Osijek, only to transfer to the former territorial defense headquarters in Erdut, which at the beginning of the war had been used by members of the ZNG [Croatian National Guard Corps] until the JNA [Yugoslav People's Army] drove them out in early August. Unlike the majority of the fighters, typical chubby Slavonians who melted away at the front, it appears that being in fresh air and in war suited Arkan so much that he gained quite a bit of weight. Running headquarters at Erdut together with him was Radovan Stojcic, aka Badza, who is now the deputy republican minister of internal affairs. Unlike Badza, who always stayed on the sidelines, Arkan beat the drum for every campaign and move. However, eyewitnesses say that the two of them were often in the office of the then-commander of the Novi Sad Corps, the late Gen. Bratic, and that they acted submissive toward him.

His fighters were irreproachable in posing for the numerous journalists hanging around. Arkan did not even shrink from organizing the delivery of cakes from his pastry shop to the front in order to brag to everyone about how much the people in Slavonia love them, and thus to plot against them. Everyone was very pleased by his joke that he would open a pastry shop on Jelacic Square in Zagreb, and it was quoted ad nauseam. Suddenly realizing that he was no longer obligated to hide and remain silent about the new types of patriotic undertakings, Arkan talked, explained, threatened, and bragged like a mute man who gains the power of speech over night. He explained that Serbia is not some sort of Santa Claus with presents to give anyone, that Zadar, Split, and Sibenik are Serbian cities that were forcibly settled with a Catholic population. . . . Not waiting for court directors to come film new versions of "Sutjeska" and "Neretva," Arkan shot a propaganda film about himself after only a few months at the front, alleging that it was an authentic combat film. Those better informed about military skills assert, however, that it contains plenty of staged celebrating and posing. Nevertheless, they are full of understanding for this need of Arkan for self-praise. Only a few people, if any, knew about his services for the former homeland, and one of the main witnesses is now a citizen of a foreign state, and is moreover somewhat senile. Arkan has never dared whisper a word about these exploits, but it is certain that he has wanted to on countless occasions. No matter what the cost, he was not willing to miss the opportunity offered to him this time to publicly depict all his fearlessness and bravery, to get it through everyone's head even before it found its way into the history books.

ATANASIJE'S VOICE IN THE WILDERNESS

Arkan did well with the job entrusted to him in Slavonia. He simply had to play the honest, well-groomed and perfumed, brave, clever, and courageous Serbian fighter, who will constantly tweak the nose of the unreliable and clumsy JNA, but all for the purpose of improving the combat morale of the same. He drove crazy ideas out of their heads, to the effect that they "were not ready for civil war" and "did not know how to fight part of their own misguided people," while his continuous name-calling and insults regarding their incompetence finally roused enough vanity among the officers for them to suddenly begin fighting like men. As Gen Vasiljevic has testified, Raznjatovic arrogantly entered the SSNO [Federal Secretariat for National Defense] building, armed to the teeth. All the officers, including even the head of the KOS [Counterintelligence Service] were obligated to show their pass and weapon to the on-duty officer at the entrance, but that did not apply to Arkan. Only once did the on-duty officer try to stop him, whereupon Raznjatovic showed him his fist and explained that that was his pass. When visiting some Syrmian cities, he traveled by military helicopter, setting down in the very center of town.

Even before he achieved wartime glory, Arkan was trying to influence public opinion about himself. Thus, on one occasion he stormed into the editorial office of NIN, which had published some article about him that was not to his liking, and severely warned those present not to repeat that sort of thing. The alibi that he acquired at the front, however, allowed him to do much more later on. Last year, on a special Studio B broadcast "From Gossip to the Truth," some "nonpatriot" asked whether it was true that the police had closed off the street in front of Arkan's house for security reasons. It did not take long for Arkan to call in from Erdut. He was not interested in hearing any explanation; he simply said that his mother had told him that he was being spat at on Studio B. "If my mother tells me one more time that you are teasing me, then you will have me to deal with. Have you no shame? While I am bleeding at the front, you are fabricating lies."

Trying to adopt the image of the ideal Serb—a patriarchal family father, successful businessman, patriot, and purebred Orthodox, Arkan launched a merciless assault on the Patriarchate. Aggressively flirting with religion, he first conquered the Slavonian eparchy and became the great protector of Bishop Lukijan of Osijek-Baranja. Last year on Christmas Eve, he appeared in the role of bodyguard for Amfilohije in Cetinje. Amfilohije later explained that the church is obligated to receive anyone who comes to Christmas Eve, and that Arkan is a native of Cetinje. As the self-proclaimed protector of Orthodoxy, however, Arkan went even further, and on 9 March of last year appeared before the Patriarchate with the intention of becoming the personal bodyguard of the patriarch himself. Atanasije's reaction was resolute: He asked Arkan to leave, explaining that the latter "cannot be the emblem under which the Serbian patriarch goes to St. Sava's Church." After a big stink was raised about this, Atanasije repeated his position in a later clarification of his reaction: "My remark was clear—Arkan cannot be the patriarch's patron and his emblem. I never questioned the fact that Arkan is defending Serbs, but he is not the only one. Arkan is a fighter where that is needed, but Stanoje Glavas was also a hero, and when they wanted to elect him leader of the rebellion he said, 'Not me, I am a guerrilla fighter.' And they elected Karadjordje."

FROM BLACK LEGEND TO PARLIAMENTARY IMMUNITY

In fact, Arkan is only seeking his rehabilitation, and his desire to push the past aside and create for himself a new image is so insatiable that it cannot be moderated. It is not easy for him. He used to get money for the job he did, but now he wants respect and admiration. If not by grace, then by force. He thinks that if he succeeded in establishing order at Zvezda "North," then he can do the same with the disobedient Serbian people. With patriots he will personally pin the Obilic Medal to their chests, while with traitors he will whip their behinds.

In early April 1992, Arkan and all his fighters were in Bijeljina, and immediately thereafter all leading world newspapers published a photograph of soldiers with the SDG emblem killing and kicking the corpses, and the whole world raised an outcry about how Serbian para-military units were carrying out aggression against Bosnia-Hercegovina. The Serbian leadership justified itself, and Dragoslav Bokan, the leader of the "White Eagles," was arrested, but Arkan disappeared from public view for a certain time.

Indeed, the "cleansing" campaign, which is the SDG specialty, presupposes "combing through" every house in an inhabited place, whereby it is not unusual for innocent civilians to suffer as well. The rule, more or less, is to shoot first and then see who is who, whether they are armed and, whose uniform they are wearing.

Be that as it may, after a certain time Arkan, with a boyishly innocent face, turned up at an auction in the "Metropol" hotel, organized to help the families of all fallen fighters. On that occasion, he acknowledged that he has no intention of justifying himself to anyone, nor does he fear anything, with the exception of his wife, who is his only boss. With the people, things are reversed. Many serious and influential people asked me not to link them with Arkan in any context, generally explaining that they have children, a family, and that they do not want any problems. Especially now that he has become a respected member of the establishment. He has a pastry shop, he has opened a currency exchange office, a private detective agency * * *

A pity, I think. He had the chance to become a legend. He readily agreed to trade in the image of a fearless robber of extraordinary caliber, the terror of every police force in the world, the big boss of the underworld who always knew how to take as much as he needed, honorably, with a revolver in his hand, in favor of the image of sycophant to figures under whose patronage he can flourish without risk. In this exchange, he has lost out twice.

[From Belgrade Vecernje Novosti, Nov. 22, 1993]

ARKAN VIEWS PRESENT SITUATION, OPTIONS IN PROVINCE

(By M. Kikovic)

"The people cannot stand the growing gap between them and the war profiteers any longer. They are getting impatient, and this is the last chance for political institutions to avoid their disappointment. Fraud has to be stamped out, otherwise everyone will take up arms." This is how Zeljko Raznjatovic Arkan, a member of the Serbian parliament, representing a group of citizens from Kosmet [Kosovo and Metohije], characterizes the present situation in Kosmet. He says that up to now only tolerance and incapability have been shown toward Kosmet.

He has also made the following statement: "Temporarily the Albanians do not have the right to govern Kosmet because they almost seized it and proclaimed its independence, but this has not thwarted their intentions concerning their independence and a greater—Albania. Having foreign support, they are now creating their own state in our presence, under our wing, and we are still behaving helplessly. We are still courting the hostile international community in order not to be condemned by it. At the same time its spies and warmongers, assuming the form of delegations, keep on visiting Kosmet, thus undermining the country. In contrast to the past, enemy services can now easily perform their tasks, for which they had to pay a lot of money before. We must not behave masochistically any longer, the defense system has to start functioning. According to the plans of mighty international factors Kosmet is coming next, but we shall not allow the scenario from Bosnia to be repeated."

According to Arkan's opinion the system of parallel leadership can be controlled by a strong policy, judiciary and financial institutions, which will enable the constitutional state to function. One has to be especially careful with Albanians, who not only disrespect the country, but are also trying to destroy it.

"They have to comprehend that their future is Serbia, in which they will have all civil rights. They have to comprehend that Rugova and other Albanian political leaders are pushing them toward disaster. The Serbs do not want a war, but they are forced to be ready for it. Rugova does not even deny that he is an Albanian citizen. Therefore the Yugoslav passport should be taken away from him. It is better for us all to direct our eyes to Belgrade than to Tirana. If there are people who do not share this opinion, we shall open the borders, and they can look for their future in Albania," Arkan says.

Arkan maintains that paramilitary forces are active in Kosmet. They consist of Albanians trained in Albania and Germany. They are sent to Croatian battlefields, they even get help from Turkey and Bulgaria. In this way their morale for the first strike on "the southern front" is being raised.

"A large number of Albanians are being trained now to be sent to the war [in former Yugoslavia]. These people should be forbidden to come back to Kosovo. We have to reinforce the police force in Kosmet, especially along the borders, they should be given wider powers. * * * The Serbian people have to be prepared to defend their homes. A large number of Serbian volunteers from Kosovo have participated in the war already, more and more young people are registering for military training at the Serbian Volunteer Guard Center. They do not want a war, but they want to be organized and prepared to defend their homes. Foreign and domestic enemies should be aware of this fact. There are no teeth, no backbone, and no tank treads that would not break in Kosovo. The people are on the alert, they have been trained to fight, every Serbian place is a defense center," the commander of the Serbian Volunteer Guard says.

Arkan thinks that the army should be transformed quickly and efficiently. He supports the creation of a strong professional Serbian army that would be a guarantee of peace. That is why he is proposing that military units be transferred to critical points, to secure the borders, to locate a part of the military industry to Kosmet.

"The Serbs must grow wiser. There must be no treason, beginning from the parliament down to the smallest village. Things must no longer be kept under the veil in the parliament. We gained the confidence of the people, but we can also lose it if we betray their expectations. It is my task to enable the children in Kosmet to live as peacefully as other children in Serbia," Arkan says.

Mr. DECONCINI. Mr. President, United States policy for the past 3 years has been to let European leaders set the terms of our response to the conflict. I will not go into my views on that policy now, but I do wish to say emphatically that we can have no justifiable excuse for hiding behind the Europeans when it comes to the war crimes issue. We must take the lead. We must be willing to demand that those responsible for war crimes be held accountable.

I urge President Clinton to begin speaking out persistently on this matter. The Europeans would like to delay action on this matter but, for the sake of justice, for the sake of peace and stability, America cannot and must not let the issue die.

THE CONTINUING CONFLICT IN NAGORNO-KARABAKH

Mr. DECONCINI. Mr. President, the Nagorno-Karabakh conflict continues, though it receives little press coverage these days. Those praying for a cease-fire and the beginning of serious negotiations are deeply disappointed by the ongoing hostilities and the lack of progress. This past summer, the prospects for peace seemed better. For the first time, a cease-fire was arranged by agreement between the Nagorno-Karabakh Armenians and representatives of the Government of Azerbaijan. The cease-fire was extended several times in this manner, though small-scale fighting persists. These contacts between Baku and Stepanakert offered grounds to hope that direct talks might begin on issues larger than a cessation of hostilities.

Unfortunately, these hopes have not been realized. Apart from the launching of direct contacts between Karabakh Armenians and Azerbaijan's Government, there have been no basic changes or advances in the conflict or in mediation efforts. The most important development in the last half year has been the outcome of the fighting on the ground, in which Armenian forces have been extremely successful. Today they not only control Nagorno-Karabakh itself, but a substantial swath of surrounding territory. The Armenian capture of these areas has resulted in scores of thousands of new Azerbaijani refugees, many of whom have fled—or tried to flee—to Iran. According to newswire reports, many have died in the effort. Official Azerbaijani figures now estimate that 1.1 million of Azerbaijan's population of over 7 million are refugees. Camps have been set up for those made refugees

most recently, but probably not enough to meet the need, and with winter coming on, these people face death from illness and exposure.

Armenia itself is in deep trouble, even though Karabakh military forces have been triumphant. Azerbaijan continues to keep fuel and other commodities from reaching Armenia, and pipelines through Georgia are unreliable because of the chaos in that country. Without steady access to energy supplies, Armenia's inhabitants—which include hundreds of thousands of Armenian refugees from Azerbaijan and people still homeless since the December 1988, earthquake—confront another terrible, freezing, and dark winter.

Clearly, a political solution is urgently needed. With thousands of Azerbaijani refugees trying to reach Iran, Teheran—to judge by official statements—is growing increasingly concerned about the conflict on its borders and now frequently issues warnings about the possible consequences. Russia and Turkey, of course, also have interests in the conflict and the region, and the danger of larger regional hostilities persists.

In the meantime, Mr. President, the sanctions imposed on Azerbaijan by the Freedom Support Act of last year prevent any United States Government assistance to Azerbaijan through government channels, including humanitarian aid. But in view of the humanitarian needs of the large numbers of Azerbaijani refugees, we should consider whether this course—which I initially supported—is the wisest and fairest course of action. The Nagorno-Karabakh conflict has created hundreds of thousands of refugees on both sides, and refugees are deserving of humanitarian assistance, whether they are Armenian or Azerbaijani.

All the parties to the conflict are supposed to respond to the latest CSCE plan for a ceasefire timetable by November 22. Until now, the Azerbaijani side has been demanding that Armenian forces withdraw from captured territories, while the Karabakh Armenians insist on security guarantees. Perhaps this time, they will agree that enough blood has been shed, and meaningful talks about a peaceful resolution can begin. We must continue to urge all the sides to go to the negotiating table and launch the process of normalizing relations between peoples whom fate and geography have made neighbors.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

Mr. CHAFEE. I thank the Chair.

(The remarks of Mr. CHAFEE, Mr. BOND, Mr. COHEN, Mr. HATFIELD, Mr. PACKWOOD, and Mr. DOMENICI, pertaining to the introduction of S. 1770 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

CRISIS ON THE KOREAN PENINSULA

Mr. BOND. Mr. President, I want to turn to a totally different subject, a very serious crisis that I think is something we should be concerned about and that every American should be concerned about. I refer to the simmering crisis on the Korean Peninsula. I do not believe it has yet received adequate attention from the news media or from the administration until the past few days when the APEC conference in Seattle focused the spotlight on it.

North Korea's effort to design and build nuclear weapons is a threat not only to South Korea and the tens of thousands of United States troops defending that country; it is also a threat to international stability. I, for one, am concerned that the Clinton administration has failed to respond adequately to this threat and that, by its actions, is setting the stage for a much more dangerous confrontation down the road.

Rather than taking a tough stand against the North Koreans, this administration seems determined to be manipulated by that country. Instead of taking a tough stand, assembling an international coalition to oppose North Korea, and forcing them to submit to international inspection of their nuclear facilities, the administration is offering great concessions in exchange for mere promises. It appears, I am afraid, that the administration is looking to get an agreement—even a bad one—simply for the sake of agreement.

According to this morning's press accounts, the administration is ready to offer a deal in which we will cancel our annual Team Spirit exercise next year and offer future concessions in exchange for a resumption of regular IAEA inspections and a resumption of North-South talks on nuclear disarmament.

In my view, such a deal would be worthwhile only if it were coupled with a nonnegotiable, short-term deadline under which the North Koreans agree to allow special inspections—inspections on a random basis—of all nuclear facilities.

Short of that, the deal will amount to nothing more than an opportunity for the North Koreans to talk endlessly while they finish building their nuclear weapons. If the offer does not carry a term requiring the North to accept special inspection within a matter of weeks, then it will do no good. We should not make significant concessions, such as cancellation of Team Spirit exercises or promises of recognition in exchange for mere promises. North Korea is not a country that has a good record of keeping its promises, and we have no reason to believe that they have changed in this case.

Nothing short of unrestricted international inspection will ensure that the North Koreans are keeping their word. The President needs to take a strong stand to ensure that outcome.

The dangers posed by North Korea's threat to withdraw from the Nuclear Non-Proliferation Treaty and to go forward with the development of nuclear weapons are many.

The most obvious danger is to South Korea whose capital, Seoul, lies less than 30 miles from the million-man army deployed on the northern border. Conventional artillery alone is a huge threat to the South. The addition of ballistic missiles topped with nuclear warheads would make that threat skyrocket. Just as important, 36,000 Americans stand between the border and Seoul.

Second, we know that the North Koreans have tested ballistic missiles with significant ranges, including the Nodong I, which has the ability to hit several countries, including most of Japan. These countries have to feel threatened already. Knowing that North Korea possessed nuclear weapons, as well as missiles, would likely force them to respond by developing their own nuclear weapons.

There is no doubt that the Japanese have the technology to develop nuclear warheads in short order, and there is little doubt that South Korea could quickly follow. Such a nuclearization of Southeast Asia could only raise tensions among neighboring countries, including China and Russia, which already possess nuclear weapons. The result would be that an area of the world that is about to explode with the greatest spurt of economic growth in history could instead explode into deadly nuclear warfare.

A third threat we face from a decision to allow North Korea to get away with its attempt to blackmail the world into allowing it to have nuclear weapons is the precedent it would set. A decision by the Clinton administration and the rest of the world to allow the North to get away with its noncompliance with the Nuclear Non-Proliferation Treaty would say to other nations on the brink of nuclearization: "Go for it. If you want something from the United States, simply threaten to develop nuclear weapons and we'll open this door for you."

Mr. President, we would face that scenario again and again. I urge that we abandon the effort to coddle the North Koreans and instead start negotiating like the superpower that we are. The President should go to our allies in the region who face the most direct threat from a nuclear North—Japan, South Korea, Russia and, yes, even China—and get them to sign up to

the concept of international economic sanctions should the North Koreans refuse to back down. Although economic sanctions in many cases do not work, they can in this case because the North is so completely isolated from the rest of the world. Cutting off their oil supply, for example, could effectively curtail their military mobility and is a strategy that we definitely should consider unless they change their ways.

Certainly such a strategy carries a risk. There is great danger in backing into a corner an isolated country, led by an aging dictator and his reportedly unstable son. The threat of inaction, however, is even greater. A nuclear North able to threaten nations throughout Asia, a new nuclear arms race which would threaten not only the stability of the region but the rest of the world as well, and most important, a message to all future Kim Il Sungs around the world that the way to get what you want from the United States is to build nuclear weapons so you can hold us hostage.

I am encouraged that the administration finally appears to be taking this matter seriously, late as it may be. I encourage the President to make this issue a major topic of discussion in his talks with South Korean President Kim Young-sam tomorrow, and I urge him in the strongest terms to ensure that any offer we make to the North Koreans contains real teeth. This is not a time for continued talk. This is a time for strong action if we are to avoid the dangers that I have listed above.

Mr. President, I yield the floor.

Mr. BUMPERS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

MEMORIALS

Mr. BUMPERS. Mr. President, I rise to discuss a bill which I assume is going to shortly receive unanimous-consent approval to be passed through the Senate. The bill is S. 1672, which has been reported out of the Foreign Relations Committee. It repeals several laws that were passed back during the height of the cold war, but it also provides for a memorial. The memorial would be authorized to be built someplace in the District of Columbia. The bill sets out that an organization called the National Captive Nations Committee, Inc., would be authorized to construct, maintain, and operate an appropriate international memorial to honor the victims of communism.

Mr. President, I rise today to voice two concerns: the propriety of such a memorial and, more importantly, the proliferation of memorials in general. As the chairman of the Subcommittee on Public Lands, National Parks and Forests of the Energy Committee—I have held hundreds of hearings on memorials that have been proposed for construction in the District. One of the most controversial was the memorial for the women who served in Vietnam, not because just of the propriety of separating men and women in combat, but because of the design and the location, and so on. I think everybody generally agreed that that was an appropriate memorial.

But one of the reasons it is essential that the authorizing committee pass on these things is because not only do we have original jurisdiction over memorials in the District but space on the Mall and other places on Federal lands owned by the National Park Service and the General Services Administration is running out.

In the past few years, there has been a headlong dash, almost willy-nilly, to build more and more memorials in the District and we are about to run out of land. As far as I am concerned, some memorials ought to take precedence over others.

In 1986, Congress passed a law that was called the Commemorative Works Act. The Commemorative Works Act sets up a National Capital Memorial Commission. The way the law reads, if you want a memorial, you first have to get it authorized by law. Then once you name the corporation or the person in charge of that memorial, they must consult with the National Capital Memorial Commission and they must also submit a site and design after consulting with this Commission to the Commission of Fine Arts and the National Capital Planning Commission.

Then once all of this is done, presumably those organizations will sign off on it and it can go forward. It has been fairly customary in the past for those organizations to come in and testify before our committee before we authorize it.

What we are doing in this bill is authorizing a memorial to the victims of communism before anybody has held a hearing on it, before the National Capital Memorial Commission knows anything about it, before the Commission on Fine Arts knows anything about it, before the Capital Planning Commission knows anything about it. None of them have a clue as to what this is all about and are in no position at this point to come in and testify before my subcommittee as to the site, the design, or even the desirability of such a monument.

If we are going to allow every Member of Congress the right to put an amendment in any bill coming through here to put a memorial in for any old purpose he chooses, we are going to run out of space on the Mall in a hurry. I have a few I would like to establish.

If you are especially going to start building memorials to the victims of this, that and the other, do not stop with communism. Include fascism, include the victims of apartheid, include the victims of the Khmer Rouge, include the victims in this country of 300 years of racism. You might even want to include people who have died of cancer from smoking, victims of smoking.

There is an ad infinitum list of victims that we might want to memorialize. I am not saying that all of this should not be done. I am just simply saying we have a procedure for these things.

Mr. President, the White House called me about a week ago, and they did not think much of this memorial. They want the bill passed because President Clinton wants to go to Moscow in January and the bill repeals a lot of the old cold war relic statutes that we put on the books back when the cold war was at its height.

That is fine. But then the administration wanted the bill so badly they were willing to even take the monument in order to get it. I do not want to cause the President any problems. I do not want to cause anybody over there any problems. I said I am going to go ahead and hold a hearing after we come back in January, February, somewhere along in there, on this particular memorial, and if the Capital Planning Commission and the Commission on Fine Arts and the National Capital Memorial Commission think this is a good idea and they approve the site and design, and so on, then that is the time to authorize it and we can do that. But we are getting the cart before the horse.

Now, the other night, Saturday evening, when we were here, some people brought in some compromise language to me. I looked at it, and I thought probably this is better than just letting the bill go through with no comment being made on it. But my staff, after reviewing the compromise language, decided that it was worse than the original language. So I have asked the majority leader to forget the compromise and just let the bill go through here if that is the only way it can go through. I do not like sending a bill through here with a memorial like that on it that has had no consideration whatever from the committee of jurisdiction.

Now, I am not one of those people who runs over here every time somebody mentions a national park or a national forest or public lands over which we have jurisdiction. But I am just simply saying, if we start down this road, there is not going to be any end to it.

Mr. President, listen to this. Here are the memorials we already have authorized, some of which have not been fully signed off on, or at least construction has not begun on, and some of them I do not think have sites selected yet: The FDR Memorial, American Armed Forces Armored Units Memorial, Black Revolutionary War Patriots Memorial, Francis Scott Key Memorial, George

Mason Memorial, Korean War Veterans Memorial, Peace Garden, Vietnam Women's Memorial, Women in the Armed Forces Memorial, African-American Civil War Soldiers Memorial, Thomas Payne Memorial, World War II Memorial, Japanese-American War Veterans Memorial, and the Air Force Memorial.

Every memorial we build provokes an idea in somebody else's mind on another memorial.

Mr. President, I would be remiss if I did not say this memorial business and building memorials on sites on Park Service lands or general service land in this city is getting out of control. I am willing to provide a fair hearing and allow everybody who wants to come in and testify on this. I am willing to take my hold off this bill to accommodate the President so he can go to Moscow and say to the President of Russia that we have repealed all those old, cold war relic laws. I would not think this memorial being in there would necessarily warm the cockles of Boris Yeltsin's heart, but if the administration wants it, it is OK. But I am here to serve warning today. If I can help it, we are not going to go down this road with this memorial or any other until a hearing has been held in the appropriate committee of jurisdiction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Chair.

HEALTH CARE REFORM

Mr. BREAUX. Mr. President, earlier this afternoon, our colleague from Rhode Island, Senator CHAFEE, was in the Chamber to introduce his version of a health care reform bill, which is sponsored by a number of his Republican colleagues.

I wish to start by congratulating Senator CHAFEE and his colleagues for the good work they have done and are continuing to do to bring about a consensus on the issue of health reform, which I think is the most important issue all of us as Senators are going to face in this Congress. It is an issue that is important to every American because it affects every American, unlike many of the other things we do in Congress.

I think Senator CHAFEE has done a good job in bringing forth a proposal to the Senate for consideration. I want all of our colleagues to know we have been working with Senator CHAFEE in a bipartisan fashion, including Members of the House as well as the Senate, both Republicans and Democrats, to try to get a grip on this very difficult subject of how we solve the health care problems facing our country.

Some may say, "Why is the President and Congress so worried about health care reform?" It is simply a question we must deal with. In 1970, Mr. President, we spent about the same amount of money on health care in America as we spent on all of education. In 1992, just a relatively short 22 years later, we spent on health care what we spent on all of education, plus all of national defense, plus running all of the prisons in America, plus all of the foreign aid programs, plus all of the food stamp costs in America, plus all of the foreign aid costs.

In a relatively short period of time, we have increased annual health care spending to a total of about $900 billion each year. Yet, we still have large numbers of Americans who do not have any health insurance at all and many others who have less than adequate health insurance.

So the question is not whether we should address the question of health reform, but really why it has taken so long for the issue to become a priority, and how we are going to solve the problem in this Congress.

So I congratulate our colleague, Senator CHAFEE, for the work that he and his colleagues have done in bringing their bill to the floor.

In many ways, Mr. President, the Chafee approach is very similar to the bill that has been introduced and is now pending before the Senate Finance Committee known as the Breaux-Durenberger approach, which referred to as the concept of managed competition.

I would also point out that the Clinton proposal is also very similar to the Breaux-Durenberger approach, and I think also to the Chafee approach. While we have a lot of argument and debate going on in this country now about the different approaches to health care, the similarity of the various proposals is something that I think has gone unnoticed.

If you look at the proposal that I have introduced, that of Senator CHAFEE, and the proposal by the administration, I think you will find that there are more similarities than there are differences. Essentially the bills use the same type of approach toward reaching the goal of health reform, which is to provide secure, affordable insurance to all Americans.

The approach that I have introduced known as managed competition would reform the way the private sector delivers health care as opposed to increasing the Government's role in running the health care system.

Our approach says that we are for markets, not mandates. Our approach says that we are for competition, not more government. Our approach says that we are for incentives and not more regulation.

I think if you look at the things that all of these proposals have in common, you will find that there is a great deal of similarity. All of the bills that are out there that I am aware of, for instance, establish purchasing pools where individuals can group together to buy health insurance in larger numbers. It is clear that an individual who buys insurance by themselves or for a small office or firm of three, four, five employees is at a real economic disadvantage because they do not have the same purchasing power as if they were General Motors or Xerox or IBM or some other large multinational company or corporation.

So the concept of creating purchase pools so that people can buy health insurance as part of a large group would give each person greater purchasing clout and therefore allows that purchaser to get a better deal. Forcing insurance companies to compete for individuals through purchasing cooperatives will also bring about large savings.

The three major proposals also all provide for essential insurance reform which I think is so important. All three versions of health reform would guarantee open enrollment. They would bar any discrimination on the basis of preexisting conditions, which is so very important because too many people cannot buy health insurance because they have an existing medical condition. Also, all these plans would prevent anyone from having their insurance canceled because they got sick, which is the purpose of having insurance in the first place. This is called "guaranteed renewability." Finally, all three plans would institute some version of community rating. All of these common provisions really should be part of the final package.

All of the bills also would address existing inequities in the Tax Code for employer-provided health benefits especially for individual purchases and the self-employed. The Breaux-Durenberger bill encourages employers, in addition, to buy the least costly plans by limiting the amount of deduction that an employer can take to an average of at least the cost of the plan, as opposed to allowing an employer to deduct 100 percent of the premium costs for any plan the Nation buys no matter how costly it is. We think competition and wiser shopping on behalf of the insurance purchasers is essential, and that this feature in fact would encourage that.

All of the plans also would require that health plans publish essential information on price and quality of the outcomes and consumer satisfaction as to the type of plans they use.

It is very important that any reform help consumers to be smarter purchasers. It is clear that today many people who purchase health insurance do not have much of an informed choice. They do not have all of the information on the success of the plans that they are shopping among, and all of the reforms that I am aware of

would, in fact, provide this type of information and thereby make consumers wiser purchasers of health insurance than they have been in the past.

In addition, the major plans also would expand support for low-income families. Our legislation, as an example, would provide assistance for people who are at 100 percent of the poverty line by paying 100 percent of their premiums and by subsidizing insurance premiums for people with incomes up to 200 percent of the poverty line. So no one in America would have to say "I am too poor to provide health insurance for myself and my family." That is a feature in the Clinton plan. It is in the Breaux-Durenberger plan. It is also in the plan that was introduced today by Senator CHAFEE.

In addition, all of the plans address the question of medical malpractice reform in a way that continues to protect individuals' rights to seek judicial assistance for injuries that they may have received through malpractice. At the same time all attempt to reform the system so that doctors would not be practicing defensive medicine and doing eight tests when only two are necessary to properly diagnose a patient's illness.

I think malpractice reform can be done in a way that is fair, and that protects the rights of everyone involved, yet bring some real reform to this very difficult issue. All bills would also provide for reform of antitrust laws that might hamper hospitals and providers from being able to talk to each other where appropriate.

In many small towns around this country, we see two or three hospitals in a community all trying to do the same type of work, all trying to specialize in open heart surgery, all trying to specialize with CAT scans, MRI equipment, all trying to specialize in kidney dialysis or some other exotic type of medical procedure or equipment that costs a great deal of money, when in truth it may be that only one hospital in the community needs to specialize in one particular area. But because of existing law, hospitals and suppliers cannot be sure if they can even talk to each other about, "we will specialize in this area if you specialize in this area."

If they were able to do that, Mr. President, I think that we could reduce costs by eliminating duplication of efforts and overlapping services which are not necessary and this would be a major improvement if the reform, in fact, were to be adopted.

Mr. President, the point I am making in commending my colleague from Rhode Island for the work that he has done is to point out that all three of the plans that I have mentioned are really very close. We are much more similar than we are different. I think this is good. I think the coalition of the various sponsors can come together sometime in the early part of next year to bring about a health reform bill that really meets the requirements of the American people.

We talk about universal coverage for all Americans. I certainly share the goal that all Americans should have health insurance coverage. I do not think anyone would have any problem with that. My concern right now is that the administration bill tries to provide that type of coverage before we reform the system.

I think it is wrong to mandate something before we reform the package. Therefore, I think we should have more time to try to allow managed competition to allow the marketplace to work, to try to bring down the costs, and bring in greater competition among the suppliers of health care services so that we will have a system that everybody can participate in. We will not solve the health problem in this country merely by mandating that everybody has to have insurance unless we first reform the product. Let us put in the reforms. Let us reform the marketplace. Let us get rid of those impediments to real competition that currently exist, and then we can talk about achieving universal coverage for everybody with a product that has truly been reformed and is truly working in a way that would make all of this sustainable.

It does not do us any good to adopt a program or a plan that does not include the reforms that we all agree are so essential. I think that we are much more similar than we are different, and I think today's introduction by Senator CHAFEE, joining the Breaux-Durenberger approach, is a very good start toward coming together with a package that we can use to sit down with the administration and negotiate a compromise on that would truly meet the goals that we all share.

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

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

Mr. BUMPERS. Mr. President, I ask unanimous consent that Senator STEVENS and Senator KEMPTHORNE be added as conferees to H.R. 1025, the Brady bill, in lieu of Senators HATCH and CRAIG.

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

Mr. BUMPERS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GRAHAM. Mr. President, I ask unanimous consent to speak as though in morning business for up to 10 minutes.

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

JEAN-BERTRAND ARISTIDE

Mr. GRAHAM. Mr. President, 23 days have passed since Jean-Bertrand Aristide was to have returned to Haiti as President under the Governor's Island Accord. Over 2 years have passed since President Aristide's democratically elected Government was overthrown in September 1991.

Those in Haiti who continue to block President Aristide's return may be confident today that they have prevailed.

That President Aristide will never return. That the international community will back down. That a return to the days of Duvalier and the terrorist tactics of Ton Ton Macoute is within reach.

That they can continue to intimidate the overwhelming number of Haitians who support democracy, back President Aristide and simply want to live in freedom and peace.

Mr. President, the thugs now roaming the street of Port au Prince would be wrong to think so. Tragically wrong.

We are not going to turn our back on Haiti. We can't. Morality and national interests won't let us.

We cannot—will not—forget the hundreds perhaps thousands of Haitians who have been shot down in cold blood since the 1991 coup.

Nor can we overlook our obvious national interest in a democratically stable Haiti.

Absent democracy's restoration, we face the potential for a growing wave of refugees and increased drug trafficking. We also signal that we are unwilling to defend democratic government. This at the very time when emerging civilian-controlled democratic governments in this Hemisphere are working hard to consolidate their positions and the very time when the elements of reactionaries in the hemisphere are attempting to roll the clock back to the era that was.

President Aristide is the legitimate leader of Haiti, freely, fairly, and overwhelmingly elected. Those who would criticize him should concentrate more on the growing body count in the streets of Port au Prince and rural Haiti, more on the increase in drugs flowing through Haiti to the streets of America, and more on the consequences of a ravaging of democracy in Haiti to all of the Americas.

Our policy toward Haiti should include the following:

Strong support for Prime Minister Robert Malval, who represents in every way the democratic center in Haiti.

Continued sanctions. These sanctions are the most effective option available to convince the military of our seriousness in supporting democracy.

Continued support for an international aid package once democracy is restored to Haiti.

Maintaining the option to use force.

Mr. President, the Congress will recess within the next few hours. Let us all hope that between now and the end of the year, cooler heads in the Haitian military will prevail.

Let us hope that those elements of the military who truly care about the future of their country—and there are those elements—will recommit themselves to agreements already made to restore democracy to Haiti.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as of the close of business on Friday, November 19, the Federal debt stood at $4,469,104,230,006.99, meaning that on a per capita basis, every man, woman, and child in America owes $17,399.06 as his or her share of that debt.

MANAGED COMPETITION WORKS

Mr. DURENBERGER. Mr. President, during a Senate Labor and Human Resources Committee hearing last month entitled "The Health Security Act: American Businesses and Workers Respond," my colleagues on the committee were extremely fortunate to hear how managed competition can work and, indeed, is working in parts of Minnesota.

Michael Peel, senior vice president of personnel for General Mills in Minneapolis, MN told the committee about General Mills' success in Minnesota and Florida in holding down health care costs and making quality health care available to its employees through managed competition.

As a result of innovative and aggressive management of health care costs, General Mills is currently spending only 5.6 percent of payroll in its consumer foods business and 4.3 percent of payroll in its restaurant business on health coverage. The company's per capita health expense grew only 1.6 percent from 1991 to 1992, and actually fell from 1992 to 1993. As a result, General Mills is able to make health coverage available to all of its 126,000 plus employees—both full and part-time.

General Mills has been successful in containing health care costs largely through its heavy use of managed care networks and its emphasis on wellness and preventive care. One of the major reasons for General Mills' success in Minnesota is the company's leadership in establishing the Business Health Care Action Group—perhaps the most developed model of managed competition in the country.

The success of General Mills and other companies doesn't mean that our Nation's current health care system is free from problems. It is not. But the experience of these companies in making markets work in Minnesota points the way toward real national reform.

Mr. President, I ask unanimous consent that a copy of Mr. Peel's testimony be placed in the RECORD. I hope all my colleagues benefit from this eloquent description of how managed competition can restore the market forces necessary to control health care costs and speed delivery of health care coverage to all Americans.

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

TESTIMONY OF MICHAEL A. PEEL

I appreciate the opportunity to testify today. My testimony will cover the two key issues in the health care debate: universal access and cost containment.

Our views on this subject are formed by our experience as a large and rapidly growing corporation headquartered in Minneapolis, which as you know, has long been a center of innovative approaches to health care.

UNIVERSAL ACCESS

We believe that health care should be available to every American. Furthermore, no American should lose their coverage when they change or lose their jobs, divorce, or become sick. Pre-existing conditions should not prevent any American from getting health care coverage at the same cost as other Americans in their geographic area.

There are, obviously, a number of different ways that the objective of universal access to health care can be met. While legislation is needed to provide universal access to health care, common benefits, portability, and assistance for low income families, we must avoid mandates which will eliminate incentives for corporations and individuals to control health care costs.

The Administration has been most articulate on the problems of lack of health care access. All of these issues can be addressed with very straightforward legislation. Universal access does not require a highly regulatory and mandate-oriented program.

MANDATES DESTROY INCENTIVES

Unfortunately, the Administration's plan achieves universal access to health care via a mandated approach that sets health care costs at a flat percentage of payroll, thereby eliminating all incentives for corporations and individuals to reduce health care costs. Furthermore, the Administration's plan, with its state and federal regulators, global budgets, and payroll taxes on employers will drive health care costs to unprecedented levels or result in rationed care. Mandates are the major problem with the Administration's plan.

COST CONTAINMENT

By contrast, the current market-oriented approaches are beginning to result in substantial cost containment. for instance, CalPERS has told 18 managed care companies that it expects 5% roll-back in health care premiums next year.

At General Mills, we are having excellent cost experience in managing health care. We obviously have a major incentive to deal with this problem since success directly affects our productivity and competitiveness. Here is some background on the company and our approach to health care. With more than 126,000 employees, General Mills is one of the 25 largest employers in the United States. Unlike many major U.S. corporations, our employment is growing sharply as we added 19,000 new jobs in the past year alone and more than 60,000 new jobs since 1988.

Approximately two-thirds of our sales are in the consumer foods business, while the other one-third is in the sit-down restaurant business. Thus, we are both a major manufacturer as well as a significant participant in the rapidly growing service economy.

As a result of innovative and aggressive management of health care costs, health care is currently costing 5.6% of payroll in our consumer foods business and 4.3% of payroll in our restaurant business. Our per capita health expense grew only 1.6% from 1991 to 1992 and actually fell from 1992 to 1993.

The strategies we have employed to contain our health care costs have emphasized heavy use of managed care networks and a strong emphasis on wellness and preventive care.

In Minnesota, where our consumer foods operations are headquartered, we helped found the Business Health Care Action Group which is perhaps the most-developed model of managed competition currently operating in the nation.

In Florida, where our restaurant business is headquartered, we helped establish the Employers Purchasing Alliance with other larger purchasers of care. This Alliance has actually led to health care cost reductions for the entire community in the Orlando area in each of the last two years.

General Mills employees also have a range of financial incentives to help control health plan expenses. The amount of money that employees contribute for their medical coverage is based upon their fitness and lifestyle, as well as their actual year-to-year utilization of the medical programs.

We believe that similar competitive pressures for productivity improvement will drive most American companies to do an increasingly better job of managing their health care costs.

Our "hands-on" health care reform experience in Minnesota and Florida have led us to have fairly strong opinions about what actually works and what won't.

REGULATION INSTEAD OF COMPETITION

One of the major problems with the Administration proposal is that it has the potential to reduce competition among health care providers, not increase it. Each of the 50 states has the option of creating a single payer plan. This would resulting in no competition and either a dramatic escalation in cost or health care rationing.

Furthermore, we believe most corporations will not form corporate alliances.

Despite claims to the contrary, the plan prescribes a government-run, regulation-based system instead of relying on competition and market forces. Long-term, this plan would result in a single payer system in each state.

The plan relies on the existence of corporate alliances to provide competition for the regional health alliances, yet the plan's various provisions, taken together, make it unlikely that many large employers will set up corporate alliances. The potential costs and restrictions the plan imposes for doing so make that a poor economic choice. Without corporate alliances, there is not competition—only large government-run regional alliances with dubious prospects for hope of controlling the costs of a huge new government entitlement program.

Our current analysis is that we would not form a corporate alliance at General Mills. Many large companies, service and industrial, are reaching similar conclusions as they absorb the full implications of the Administration's plan. Let me list the reasons why.

First, the Administration would impose a new tax, rumored to be at least 1% of payroll, on any corporate alliance. This tax would likely consume much of the "savings" a corporate alliance might generate. And, because the revenue is being counted on to fund the remaining portions of the Administration plan, there is a strong likelihood the "price of the privilege" will only increase over time.

Second, states are also granted unrestricted authority to tax corporate alliances further to pay for providing coverage. Since states are financially strapped, yet bear the responsibility under the plan for assuring universal coverage, it would be naive to think that corporate alliances would not be hit with additional state taxes for the privilege of remaining independent.

Third, the Administration plan would eliminate the ability of an employer to join with other employers to manage costs. The driving force behind the best efforts to reform our health care delivery system, initiatives like the Business Health Care Action Group in Minnesota and the Employers Purchasing Alliance in Florida, would be outlawed.

Fourth, because any individual employer would be small in comparison to the regional health alliance, costs could be "shifted" from the alliance to that employer, particularly when health alliance premiums are "capped."

Fifth, employers would be forced to deal with various rules and regulations in each state in which they operate. States could even compel employers to join mandatory single-payer systems. It will inevitably be easier and cheaper administratively to just send off a payroll-based premium to the health alliance.

Finally, employers opting for corporate alliances would forego the government guarantee of a fixed percentage of payroll for health care costs. Moreover, large employers with part-time workers, whom the plan requires to be covered by regional alliances, will forfeit the right to cap those premium expenses at 7.9% of payroll if they opt to cover their other workers in a corporate alliance. This means that for low-income employees, employers could easily pay 90% of wages in the case of a part-time worker receiving family coverage from a regional alliance.

WINNERS AND LOSERS

Fixing health care costs at a certain percentage of payroll for all employers would change the relative cost structures of every employer in the country. It would also create winners and losers within and among industries.

Large manufacturers, rust-belt industries, companies with aging workforces, Fortune 500 companies offering very generous benefit plans—would likely benefit inordinately as the government assumes significant portions of their huge health care liabilities.

Many manufacturers, with older, skilled or unionized employees, pay 15% or more of payroll for health care benefits today. Under the Administration plan, that employer would see its costs reduced and capped at 7.9% of payroll annually. Who would pay the difference between the current cost and the new maximum payroll percentage? Other companies who have done a good job of health care cost containment and taxpayers.

Other industries would lose. They include almost every low-wage sector of the economy, like domestic workers, child care providers and semi-skilled laborers. The entire service sector, the only part of the economy still reliably creating new jobs, could stall.

Industries in which low-wage, seasonal, or part-time jobs are common—agriculture, forestry, fisheries, foodservice, hospitality, amusement parks, construction, retail trade, business and personal services, have higher-than-average numbers of uninsured workers. They would be hit hard.

Those who should benefit from health care reform may pay the ultimate price for universal coverage—they could lose their job. While those who should benefit the least—large manufacturers and employees with overly generous benefit plans—will receive sizable, guaranteed, government hand-outs.

PART-TIME EMPLOYEES

Large employers of part-time workers are seriously disadvantaged by the Clinton Plan. Part-timers are 19% of the U.S. workforce—a significant segment. Most part-timers want part-time work. They are students, young parents, second earners or older workers who want or need flexible schedules.

Part-time jobs also offer opportunity and upward mobility. In the restaurant industry, 30% of restaurant management comes from the ranks of hourly employees, 70% of restaurant supervisors are women, and 20% are African American or Hispanic. One of General Mills' Vice Chairmen started as an hourly worker in one of our restaurants, as did the president of our Olive Garden chain, a $1 billion business.

A part-time job is the first exposure to the workplace for many Americans. Such positions offer entry-level employment and training to those whose education and skill levels do not qualify them for other work. The food service sector alone employs over 9 million people.

Service businesses employing part-time labor have low margins, and profits per employee are also low. The problem from a business perspective is weighing the economic value of a job to an enterprise versus the cost of providing that job. If the cost exceeds the value, the job is no longer sustainable.

Restaurant sales per full-time equivalent are only $47,300 per year, while manufacturing sales per full-time employee are $157,000 per year. Profits per service sector job are $500 versus $3500 in manufacturing.

Lowering direct wages to offset increased benefit costs in order to preserve the cost/value relationship is not an option with workers whose wages are already low. Price advances, which is the other option for covering increased costs, are difficult in today's economic climate and, under the Clinton Plan, virtually impossible because of the lower cost structure the plan gives smaller competitors.

PREMIUM CAPS

We also have serious doubts that the premium caps—which, we might add, do not take full effect for 8 years and are not available to us if we maintain a corporate alliance—can remain at the level that has been proposed for very long and may even be breached immediately by the states. If Germans pay a 13% payroll tax to finance a health care system that consumes 8% of their GDP, it defies logic that premium caps at 3.5%-7.9% of wages can pay for a U.S. system that consumes 14% of GDP.

Our major recourse for dealing with the business economics that the plan dictates is to eliminate or consolidate jobs. Here's an example from a business perspective.

The proposed plan requires businesses to pay for part-time workers on a pro-rated basis. At ten hours per week, businesses would pay one-third of the 80% share. At 20 hours per week, businesses would pay two-thirds of the cost. At 30 hours or more per week, the employer would pay the full 80% share of premium costs.

An employer with two employees working 20 hours per week, would pay two-thirds of the 80% employer-mandate for each employee—or four-thirds. Common sense tells you that the employer will try to eliminate both part-time jobs and create one 40 hour per week job and cut his health care costs by 25%.

Estimates of job loss in the service sector range from the high hundreds of thousands to 3.1 million. Studies are studies, and people will disagree about their conclusions, so I suggest you look at it this way: There are 375,000 eating and dining establishments in the U.S. and about another million retail establishments. If each one of them eliminated just one job, that would mean that 1.4 million jobs would be lost.

HOW TO ACHIEVE FULL ACCESS AND COST CONTAINMENT

Every American should have access to high-quality, affordable health care coverage. To achieve that goal, we favor careful reform of our health care system.

Universal access and cost containment do not require public price setting or excessive government intervention. With the right incentives to encourage competition on quality and value, the marketplace is much more likely than government budgets, caps or controls to deliver the highest quality health care at the lowest possible price.

Bureaucratic mechanisms that set prices and allocate resources are simply not effective in regulating dynamic markets. If they were, Medicare—already a price-controlled system—would have controlled health care costs in the Medicare system. It has not.

The formation of cooperative, actively-managed, member-controlled, nongovernment purchasing pools, or health alliances, should restore legitimate market forces in health care. These purchasing cooperatives should ensure open enrollment, measure quality, streamline administration and maintain consumer choice.

The purchasing cooperatives would negotiate with health plans to offer clear, understandable, competitive choices for consumers, who would retain the power to choose their own health plan.

The formerly uninsured and all government-subsidized purchasers should be required to join, with risk-adjustment mechanisms developed to balance any negative selection. Individual purchasers and most small groups would probably join immediately. They won't need to be coerced.

Each member of the HIPC would receive the same comprehensive benefit package, making it easier to compare price and value, with consumers, not employers, choosing annually among competing plans.

Employer contributions toward that premium would be tax-exempt to the employee, and tax-deductible for the employer, up to the level of the lowest-cost plan in the HIPC.

Premium payments should be 100% deductible for all individuals, including the self-employed, up to that same amount.

Health benefits or premium payments above that amount would be neither tax-exempt, nor tax-deductible.

Consumers who choose high-cost plans over cheaper ones should be willing to pay

the difference with their own money—without tax subsidies. Eliminating the tax subsidy for overly generous health care benefits will help fund coverage for the uninsured, while creating cost-consciousness to hold down the cost of health care.

Statutes should outlaw pre-existing condition exclusions and other discriminatory rating practices. Portability and renewability should be guaranteed. Each of us is only an illness away from being sick instead of well. Health alliances should be community-rated, with some variations for age and utilization.

Subsidies should be directed to individuals, based on income, not to employers based on size or wage-rates, with full subsidies for those below 100% of federal poverty guidelines and sliding scale subsidies for those below 200%.

If additional subsidies are necessary on grounds of equity, access and social responsibility, tax revenues—not mandated employer financing—should be raised to fund them.

Managed competition would restore a functioning health care marketplace, weed out low-value health care spending, restore responsibility, and establish competition based on the cost and value of care consumed.

CONCLUSION

A regulatory, government-dominated approach is neither the best nor the only approach. Managed competition, in our opinion, would effectively restore the market forces necessary to control health care costs—and should form the basis for an emerging, workable, bipartisan approach to health care reform.

Mr. PRESSLER. Mr. President, I wish to clarify my vote in support of the Stevens amendment to strike the side agreements from the implementing legislation for NAFTA. I continue to have serious reservations regarding the impact of the side agreements to NAFTA and the commissions and committees that the side agreements will create. These commissions and committees will have broad authority and not be answerable to the American public. I also am concerned over the money that may be required to fund these entities. While I supported efforts to delete the side agreements from the implementing legislation, their being part of this bill should not have defeated the agreement.

I applaud the administration in vigorously pursuing passage of NAFTA this year. Approval of NAFTA, and having it operative next year, opens the door to further gains in world-trade negotiations for a new GATT. The defeat of NAFTA would have placed unnecessary roadblocks to completing the Uruguay round. Enactment of NAFTA implementing legislation should prevent this from happening.

I look forward to NAFTA becoming operative. I intend to work with the administration to pursue even more trade opportunities for the United States under a new GATT Agreement.

Why do I take such strong interest in NAFTA and GATT? Because agriculture is my State's No. 1 industry, contributing nearly $14 billion to its economy. Growth in the agricultural sector is essential to South Dakota's future. Exports are crucial to that growth. In 1992, South Dakota's agricultural exports totaled nearly $900 million. Many of these exports are going to our foreign neighbors to the north and south. As much as 65 percent of South Dakota's wheat production is exported overseas. Maintaining and expanding foreign market opportunities are vital to the economic growth of South Dakota farmers and ranchers.

Many small businesses in South Dakota also stand to make significant gains from NAFTA. These range from mining operations, clothiers, manufacturers, electronics, bakeries, financial institutions, computers, service industries—almost all of whom support NAFTA.

A bright economic future for South Dakota depends on first, increasing exports of U.S. agricultural and small business products; second, eliminating nontariff trade barriers and significantly reducing the use of unfair export subsidies; and third, a level playing field in the world-trade arena.

History has taught us that economic growth is attained through freer trade. The United States stands to gain significantly from NAFTA.

THE LIBERTY SHIPS MEMORIAL ACT OF 1993

Ms. MIKULSKI. Mr. President, I rise today on behalf of myself and Senators FEINSTEIN and BOXER from California, to commend the Senate for its action in passing S. 1763, the Liberty Ships Memorial Act on Saturday. This bill will assist in the refurbishment of two merchant marine Liberty ships and one Victory ship so they can serve as the centerpiece of America's contribution to the ceremonies commemorating the 50th anniversary of the invasion of Normandy on June 6, 1994.

The bill requires the Secretary of Transportation to transfer six vessels in the National Defense Reserve Fleet to three nonprofit organizations. The organizations will scrap these vessels and use the proceeds to refurbish three merchant marine memorial ships. One of these ships, the *John W. Brown*, is docked in my neighborhood of Fell's Point, Baltimore, a mile away from my house.

Merchant marine veterans and volunteers have already spent a significant amount of time and effort readying the *John W. Brown* and the other two ships, the *Jeremiah O'Brien* and the *Lane Victory* for the trip to Normandy. We now have the opportunity to help ensure these efforts will not be wasted.

I feel it is extremely fitting that the merchant marine be included and duly recognized in this memorial ceremony. During World War II, it was the men of the merchant marine going on Liberty ships across the cruel waters of the North Atlantic, the Japanese submarine-laden waters of the South Pacific, carrying the kinds of supplies needed so that we could win the war. President Roosevelt called our merchant marine then the heroes in dungarees for their courage and their valiant service during the Second World War.

Most recently, whether it has been in Korea, Vietnam, and now most recently in Desert Storm, one of the most important backups that our American military had was the merchant marine.

Mr. President, the 50th anniversary of the invasion of Normandy is just 7 months away. The three ships to be repaired must be drydocked as soon as possible to allow for the required repairs. I urge my colleagues to pass this piece of legislation in an expeditious manner.

Mr. President, I ask unanimous consent that the text of the legislation appear in the RECORD at the conclusion of my remarks.

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

S. 1763

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 "Liberty Ships Memorial Act of 1993."

SEC. 2. CONVEYANCE OF VESSELS.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey without consideration all right, title, and interest of the United States in 2 vessels described in subsection (b) to any nonprofit organization which operates and maintains a Liberty Ship or Victory Ship as a memorial to merchant mariners.

(b) VESSELS DESCRIBED.—Vessels which may be conveyed under subsection (a) are vessels which—

(1) are in the National Defense Reserve Fleet on the date of the enactment of this Act;

(2) are not less than 4,000 displacement tons;

(3) have no usefulness to the Government; and

(4) are scheduled to be scrapped.

(c) CONDITIONS OF CONVEYANCE.—As a condition of conveying any vessel to an organization under subsection (a), the Secretary shall require that before the date of the conveyance the organization enter into an agreement under which the organization shall—

(1) sell the vessel for scrap purposes;

(2) use the proceeds of that scrapping for the purpose of refurbishing and making seaworthy a Liberty Ship or Victory Ship which the organization maintains as a memorial to merchant mariners, to enable the ship to participate in 1994 in commemorative activities in conjunction with the 50th anniversary of the Normandy invasion; and

(3) return to the United States any proceeds of scrapping carried out pursuant to paragraph (1) which are not used in accordance with paragraph (2).

(d) DEPOSIT OF AMOUNTS RETURNED.—Amounts returned to the United States pursuant to subsection (c)(3) shall be deposited in the Vessel Operations Revolving Fund created by the Act of June 2, 1951 (65 Stat. 59; 46 App. U.S.C. 1241a).

(e) DELIVERY OF VESSELS.—The Secretary shall deliver each vessel conveyed under this section—

(1) at the place where the vessel is located on the date of the approval of the conveyance by the Secretary;

(2) in its condition on that date; and

(3) without cost to the Government.

(f) EXPIRATION OF AUTHORITY TO CONVEY.—The authority of the Secretary under this section to convey vessels shall expire on the date that is 2 years after the date of the enactment of this Act.

THE FUTURE OF HELICOPTER PROCUREMENT FOR THE DEPARTMENT OF DEFENSE

Mr. DODD. Mr. President, I rise today to express my deep concern about the lack of a long-term strategy for helicopter acquisition by the Department of Defense. The reality of reduced defense spending is upon us, and yet I fear that rapid decisions to terminate entire programs may well endanger the future of helicopter production in this country.

The issue here is how best to proceed with long-term acquisition of rotary aircraft for the Department of Defense, while recognizing the budget reality of reduced procurement. On the surface, the answer would seem rather simple: Cut current procurement funding and wait until later budgets permit a return to production. With an adequate number of prime contractors and a diversified supplier base, that option might be possible. Unfortunately, that simply is not the case.

Of the four remaining contractors now producing rotary aircraft in the United States, only one remains as the lead design and production center for U.S. Army helicopter airframes. To further complicate this situation, that contractor is also the lead designer of the next generation aircraft for the U.S. Army—the Comanche. With that level of investment at risk, does it really make sense to completely eliminate future funding for helicopter production?

The U.S. Army has a standing commitment for more than 200 UH-60 Black Hawk helicopters under the terms of a 5-year, multiyear contract. As a direct result of cost savings incurred from this contract, the Department of Defense is able to seek other contracts for modified airframes for the Navy, the Marines, and the Coast Guard. In essence, the economies of scale help benefit multiple service needs while keeping overall costs to a minimum. Unfortunately, that situation may come to an end.

It would appear that the U.S. Army is preparing to forego funding for the standing requirement of all UH-60 Black Hawk helicopters in the forthcoming 5-year defense plan [FYDP]. While cost concerns are clearly driving this decision, it must be made absolutely clear that a decision made by one service—the Army—will have grave implications for the future production rates and costs of airframes for the other services.

Of even greater concern is the long-term implication of this type of action. With the termination of the Black Hawk production line, all investment in the next generation Army airframe will be lost. Considering this airframe has been touted as the Army's most important modernization program by the Chief of Staff of the Army, it makes absolutely no sense to abandon the very production line that will produce that airframe.

Difficult budget decisions must be made. A decreasing defense budget is fiscal reality. Each service must examine the best possible course to reach levels of readiness to perform their missions. However, the complete nonfunding of a weapon system by a single service does not seem prudent without congressional review or input. Furthermore, the multiservice implications of such an action would seem to require—if not demand—some sort of review by the Secretary of Defense. This must be the case to ensure the decision does not cripple the needs of the other services.

The Department of Defense should review the 1995 Army budget submission and scrutinize the Black Hawk funding decision. Without serious review today, the helicopter procurement needs of tomorrow may never become reality. The Army budget submission must be carefully weighed against the future needs of all services and should take into account the repercussions to the helicopter industrial base.

Without some sort of rational plan for noninterrupted helicopter production, the tooling, suppliers, and the skilled craftsmen to bring about the next generation of Army aviation may no longer be in existence. That is a situation that must not occur. The Black Hawk decision clearly demands further review.

TRIBUTE TO B'NAI B'RITH

Mrs. MURRAY. Mr. President, this year marks the 150th anniversary of B'nai B'rith. I would like to join in saluting this organization for its years of service to the international community. The oldest organization of its kind in the United States, B'nai B'rith transcends economic spheres, national borders, and religious diversities in its commitment to helping others.

I am especially proud to join in this tribute to B'nai B'rith, because it gives me an opportunity to honor Mr. Jack Spitzer of Seattle for his outstanding leadership as a past international president of B'nai B'rith and as the general chairman of B'nai B'rith's 150th anniversary committee. Jack Spitzer's many achievements are inspiring, and I congratulate him for all that he has accomplished in his lifetime of service to others, here in the United States and throughout the world.

Originally established in 1843 to address the needs of the Jewish people, B'nai B'rith has expanded its agenda to include education, social service, and countless other projects which benefit the community at large. Through the Senior Citizens Housing Program, B'nai B'rith has helped provide affordable housing and social services for the elderly and their families. Through their efforts, more than 3,000 apartments have been established across this country.

While never losing sight of its original purpose, B'nai B'rith has played and continues to play a pivotal role in fighting religious persecution, intolerance and discrimination. Since its establishment, B'nai B'rith has always held an open door to the disadvantaged and downrodden. In response to the floods of new immigrants to this country in the late 19th century, B'nai B'rith opened the first free employment bureau, as well as manual and technical schools. After World War I, B'nai B'rith fed, clothed, and educated 600 orphaned European children until they were able to support themselves.

Through a century and a half of service, B'nai B'rith has repeatedly shown its ability to respond to the needs of the community—both in the United States and abroad. In 1868, B'nai B'rith successfully organized the first disaster relief campaign in the United States for victims of a Baltimore flood. More recently, B'nai B'rith provided relief for victims of Hurricane Andrew and those caught in the crossfire in the former Yugoslavia.

As a pioneer in the field of youth services, B'nai B'rith addresses the needs of our world's teenagers and college students. The B'nai B'rith Youth Organization offers teens throughout the world opportunities to cultivate leadership skills, a positive Jewish identity, and a solid commitment to community service. The B'nai B'rith Hillel Foundation has chapters in over 400 universities around the world. Hillel focuses much of its energy on addressing social ills, promoting Holocaust awareness, and expanding interfaith dialog.

B'nai B'rith has raised awareness and pride in the Jewish heritage, while making a real difference in the lives of countless numbers of people—Jews and non-Jews alike. I congratulate them on their accomplishments.

UNITED STATES RANGERS IN SOMALIA

Mr. HATCH. Mr. President, I wish to take a moment today to honor some valiant men who fought for the United States as part of the Rangers and other special operations forces in Somalia.

There has been a great deal of criticism of the conduct of United States

policy in Somalia, and I believe that at the political level our policy there was tragically flawed. However, my differences with the political direction of our policy in Somalia does not imply any criticism of the way our troops carried out the mission they were given.

In this respect, I would like to quote briefly from a statement by Gen. William F. Garrison, commanding general of Joint Special Operations at Fort Bragg, that highlights the courage with which the Rangers and other special operations forces undertook their difficult operation on October 3, when their units were caught in a deadly ambush:

> We accomplished our mission on October 3. We captured 20 of these people that had been killing U.N. troops, their leadership * * *. We got them out of there, and we tried to defend our men that were trapped in that helicopter. We simply got ourselves in a hell of a firefight, and we won, too. About 400 Somalis learned that Americans know how to defend themselves, even when they are trapped, pinned down, and you are sniping at them.

I do not wish to debate anew the wisdom of the policy that led to the loss of American lives in Somalia. But I do wish to take a moment to honor our fallen troops. They were put into an impossible and dangerous situation. Yet, they never abandoned their comrades and never abandoned the mission. As always, U.S. Rangers and other special operations forces acquitted themselves with unquestioned courage and dignity. They have the heartfelt gratitude of this Senator and, I believe, all the American people.

HEALTH CARE REFORM

Mr. PACKWOOD. Mr. President, I rise today to congratulate Senator CHAFEE on the introduction of the Health Equity and Access Reform Today Act of 1993. Senator CHAFEE has demonstrated exceptional leadership on this complex issue. More than 3 years ago he began leading a Republican task force on health care reform. Under his capable direction, the Republican health task force has been studying the health care system in this country, analyzing its strengths and its weaknesses. The bill that is being introduced is a culmination of these efforts and represents a cautious and sensible approach to reforming our health care system.

Health care reform will be one of the most important issues that we will debate next year. It is an issue of monumental importance to every citizen of this country. I am confident that with the continued leadership of people with the abilities and knowledge of Senator CHAFEE we will succeed in this most difficult task.

TAIWAN'S DESIRE FOR U.N. MEMBERSHIP

Mr. SASSER. Mr. President, I rise today to bring to the attention of Senators an important contribution to the ongoing debate regarding Taiwan's desire to be represented in the United Nations. President Lee Teng-hui of the Republic of China on Taiwan has recently written an article, entitled "The ROC's Right to Participate in the United Nations," in which he details the case for representation, noting Taiwan's formidable economic power and her progress in human rights and democracy. President Lee's argument for international support in Taiwan's bid for membership in the United Nations is worthy of our careful attention. I, therefore, ask permission that President Lee's article in the October 18, 1993, issue of Forbes magazine be printed in full in the RECORD.

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

THE ROC'S RIGHT TO PARTICIPATE IN THE UNITED NATIONS

(By H.E. Lee Teng-hui, President, Republic of China)

Twenty-two years have passed since the Republic of China (ROC) on Taiwan was deprived of its membership in the United Nations in 1971. Since then, many people have claimed that the issue of "China representation" has been resolved. But what about the 21 million Chinese of the Republic of China on Taiwan? Have they been abandoned by the United Nations? Though the Chinese Communist regime now controls the mainland and rules the 1.1 billion people there, it cannot represent the Chinese living in the islands of Taiwan, Penghu, Kinmen, and Matsu because it has never ruled these places. Neglecting this population and its government is a gross violation of the human rights and universality of membership principles which the United Nations upholds.

The current population and economic power of the Republic of China on Taiwan clearly qualify us for a place within the global context. Demographically, our population of 21 million is greater than that of two-thirds of the current U.N. member nations. In terms of economic performance and financial capability, the ROC has the second largest foreign exchange reserve holdings in the world, is the 14th largest trading nation, and ranks ninth in total overseas investment. These statistics represent an economic power to be reckoned with in the international economic system. Moreover, the ROC is fact approaching the world's advanced nations in the field of political democratization and also plays a constructive role in the promotion of humanitarian, economic and technical assistance to developing nations. Such activities contribute significantly to world peace and prosperity.

Formerly, East Germany and West Germany were both members of the United Nations; today, both North Korea and South Korea are seated in the world body. Now that Germany has become whole again, no one can say that parallel representation for a divided nation will hinder its reunification. If the United Nations can accommodate the wishes of the people in these two divided nations, why should it turn a deaf ear to the aspirations of the 21 million residents of the Republic of China on Taiwan? Until the Republic of China on Taiwan is given a seat, the U.N. cannot claim to be abiding by the principle of universality of membership enshrined in its charter.

Western nations have long praised the ROC's progress in human rights and democracy. Today, the people of the Republic of China on Taiwan have expressed, through the process of democratization, their strong longing for fair and just treatment on the world scene, including an equal opportunity of joining in international activities to reciprocate for the assistance she has received from other countries. We earnestly hope that all countries that cherish human rights, freedom, and democracy will support the Republic of China on Taiwan in her bid for membership in the United Nations. Let's work together for the cause of world peace and prosperity.

TIME FOR HEALING

Mr. ROCKEFELLER. Mr. President, I want to take just a couple of minutes of my colleagues' time to share some observations that come from my concern about the disagreement over the North American Free-Trade Agreement.

I want to urge NAFTA's supporters and opponents to put this battle behind us, mend the wounds, and get back on the field to fight for the numerous and pressing goals we have in common.

Lane Kirkland, the president of the AFL-CIO, is a friend of mine—a leader of working people, including thousands in my State of West Virginia, and a man whom I respect and deeply admire. But with respect, I think we have to keep perspective on the President's motives for promoting NAFTA and his overall agenda for this country and its working people.

I happen to be someone who voted against NAFTA. That's because the President, and his side of this issue, and I had a difference of opinion—over whether this is the time to take this step, and what the results will be if we take it.

But it seems pretty obvious that President Clinton has an absolute, genuine belief that he led a fight for this country and American workers and their families. He looks into his crystal ball on NAFTA, and predicts more jobs for Americans. I also concede that he is right to point out that America's long-term economic interests lie in liberalizing trade and integrating our economy with our neighbors. Again, the difference is over when to do it and how to do it. My own view is we need do a lot more first to be sure we are creating good-paying jobs for Americans, so we have a stronger foundation on which to build the future of more open trade in this region.

I am convinced the scenarios painted by both sides on NAFTA were exaggerated ones—as though NAFTA could be today's Armageddon. It just isn't, and that leads me back to my point.

There is no reason for the fight over NAFTA to burn bridges that will hurt

all of us. I say this to everyone—to the Democrats who fought Democrats, to anyone who tried or may try to make this a partisan issue, to labor that fought against NAFTA and to the industries that supported NAFTA, to the President and his administration.

Reflect on President Clinton's commitment to working people and their families. Just think about this incredible first year of his Presidency, and the agenda that this President has put forward—and thrown all of his might into. Family leave for working parents signed into law. The ability of Federal employees to exercise more of their rights as citizens signed into law. A bold plan to reduce the deficit, asking those who have the most to once again do the most, signed into law. A historic, comprehensive plan to reform our broken health care system, and offer security to all Americans and their families—prepared and submitted with more commitment and energy than any other President has ever invested and will ever invest. An all-out effort to pass a stimulus package for job creation that was blocked by the other party. Consistent support for protecting the health benefits of retired coal miners. A promise to sign legislation to prohibit permanent striker replacements.

I want to be sure none of us lose perspective over NAFTA and incur damage that does not do anyone any good.

We are deeply fortunate to have a President who wants to put America on track. We are fortunate to have a labor movement that remains dedicated to protecting workers and their jobs. But there will be disagreements over how to reach the same goals. NAFTA is one of them. It is not an issue or fight that earns the right to divide us from what we have in common. We must not allow NAFTA to weaken our ability—and our ties—to go on. The American people are anxiously waiting for this Congress, this President, labor and industry to reform our health care system, free them of their terror over crime, get our schools in working order, and do what a great country must do to be economically strong and decent. Now that the NAFTA vote is behind us, as the dust clears, we must still stand together to move forward.

KASHMIR: THE TIME TO TALK IS NOW

Mr. DECONCINI. Mr. President, with the focus of the world's attention on the escalating tension between the two Korea's, the last thing that this administration, indeed the world, needs is to ignore the other potential nuclear flashpoint—the India-Pakistan border and the festering dispute over Kashmir.

As these two nations have already fought three wars since Pakistan obtained independence, there is always the likelihood of an additional bloody and senseless conflict. The situation in Kashmir flared anew when Kashmiri Islamic militants holed themselves up within the Hazaratbal mosque, thus directly confronting Indian military troops stationed in the capital of Kashmir, Srinagar.

The turbulent history of this region has been often reported on the floor of the Senate. I will not attempt, at this point, to recount the tortured history of relations between India and Pakistan. Instead, I shall speak briefly about the future opportunities which have presented themselves to the peoples of the Indian subcontinent.

With the standoff at the mosque finally ending this past week, there is now the opportunity for a confidence-building dialog among representatives of the Kashmiri people, and the Indian and Pakistani Governments. The successful conclusion of the freest elections yet held in Pakistan also could assist in producing some healthy movement toward listening to the varied concerns of the participants.

None of the parties come into these talks without sharing a portion of the blame for the continued violence. Pakistan has armed and encouraged Kashmiri militants as proxies to take often violent action against Indian troops. India has altered the basic rules under which it obtained control of Kashmir and many have argued that the tactics of Indian troops have only encouraged more violence in Srinagar and elsewhere. For their part, the Kashmiris have often changed their allegiances, maneuvering to obtain what they perceive to be the best deal for their side at any given moment.

As Sumit Ganguly succinctly argued in a commentary in the Christian Science Monitor last week, some basic steps could be taken "to defuse the insurgency in Kashmir," and smooth the path to a meaningful dialog. Now is the time to lay aside past differences and opposing interpretations of history and engage in talks—if not for the sake of individual national pride, then at least for the lives which will otherwise be lost if the cycle of violence is allowed to escalate.

I ask unanimous consent that the article by Mr. Ganguly be printed at this point in the RECORD.

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

ROUTE TO PEACE IN KASHMIR

(By Sumit Gauguly)

The standoff, finally ended, between India's security forces and certain Kashmiri Islamic militants at the Hazaratbal mosque in Srinagar, the capital of Kashmir, presents an interesting irony.

In December 1964 miscreants broke into the same mosque and stole the Mo-e-Mogdas, a relic of the Prophet Muhammad. Yet though riots followed in Srinagar and elsewhere in northern India in the wake of the theft, Kashmiris remained loyal Indian citizens. Pakistan's efforts to woo them failed miserably. Today, however, Islamic militants holed up in the mosque have significant support among Kashmiris; indeed autonomist and even separatist sentiments are widespread in the Kashmir Valley.

It is imperative that Indians, Pakistanis, and the Kashmiri militants open talks about fashioning medium- to long-term strategies to end seemingly endemic conflict. Failure to do so will result in the loss of more blood and treasure, perhaps leading to another Indo-Pakistani conflict over Kashmir.

The 1964 events at the Hazaratbal mosque contain lessons for the current crisis. Agents of the Indian Intelligence Bureau, in cooperation with the local Kashmiri police, were able to track down the perpetrators and restore the holy relic to the shrine. Meanwhile, riots broke out throughout the valley, as well as in a number of India's cities. On the other side of the Kashmir border, President Ayub Khan and other leaders of the Pakistani military mistakenly construed the disturbances in Kashmir as indicating support for Pakistani intervention. Accordingly, in the summer of 1965, they sent lightly armed Pakistani troops disguised as local tribesmen to wreak havoc in the valley.

Although some Kashmiris may have been disaffected with Indian rule, most remained loyal Indian citizens and turned in the infiltrators to the authorities. Despite the failure of this plan, war erupted between Indian and Pakistan in September 1965. The limitations of firepower, a US arms embargo, and Soviet mediation helped to end this conflict.

Today neither Indians nor Pakistani actively contemplate starting another war. Nevertheless, two factors increase the threat of conflict. First, segments of the Kashmiri militants, particularly the Hezb-ul-Mujahideen, have strong allegiance to Pakistan. Second, considerable uncertainty exists about military doctrines in India and Pakistan. Cut off from their cold-war patrons, the military machines of both sides are in a state of flux. The situation in the region is uncertain.

Before the larger issue of Indo-Pakistani relations can be addressed, certain steps need to be taken to defuse the insurgency in Kashmir.

The Indian government needs to significantly alter its current counter-insurgency operations. The harsh "mailed fist" strategy that it adopted in dealing with the militants in the Punjab is inapplicable to Kashmir. In Punjab, deep-seated disaffection with Indian rule and support for an independent state of Khalistan was limited to a minority of the Sikh population. In the Kashmir Valley, however, the vast majority of people have some grievances against the Indian state. Unbridled police brutality only adds to the reservoir of disenchantment.

Persistent charges of torture and other human rights violations on the part of security forces need to be investigated and acted upon.

The government should consider offering an unconditional amnesty to the militants in exchange for a cease-fire for a specified period of time. During the cease-fire, serious negotiations can be started with the militants.

The government should move to restore Article 370 of the Indian Constitution to its original strength. Among other matters, Article 370 prohibits non-Kashmiris from purchasing land in Kashmir. Any restoration effort will generate considerable hostility on the part of the militant Hindu Bharatiya Janata Party. Nevertheless, their claim that the Muslims of Kashmir have been "pampered" is essentially without merit.

India should offer to hold an election in Kashmir in the presence of international observers. Nongovernmental organizations from the United States and other nations can make a useful contribution to this end.

India needs to take advantage of the opportunity provided by the change in government in Islamabad to renew talks with Pakistan. In this regard, too, the US can play a useful role. It can continue its pressure on Pakistan to cease support to the insurgents. Simultaneously, it can prod India to investigate charges of human rights violations and begin a meaningful set of negotiations with the militants.

None of these actions will be easy or popular for the weak regime of Indian Prime Minister P.V. Narasimha Rao. But maintaining the current strategy in Kashmir will restore neither law nor order. Instead, at best, India will continue to lurch from one crisis to another. At worst, the subcontinent may witness yet another costly war over Kashmir.

THE NOMINATION OF MORTON HALPERIN

Mr. LEVIN. Mr. President, last Friday the Senate Armed Services Committee held a hearing on the nomination of Dr. Morton Halperin to be Assistant Secretary of Defense for Democracy and Peacekeeping. It was a long hearing, well into the evening, at which Dr. Halperin was able to address most of the attacks and distortions which have been made against him over the last year. Since this nomination has been the subject of so much attention, I thought my colleagues should be aware of the remarks made by our colleagues—Senators BOREN and BIDEN—who appeared at the hearing to introduce Mort Halperin, and of Senator MOYNIHAN, who was scheduled to appear but could not and submitted his statement for the record. I will also include Dr. Halperin's opening statement at the end of my remarks, and note that his nomination is strongly supported by a wide range of distinguished professionals in national security affairs, including five former Secretaries of State or Defense and two former Directors of the Central Intelligence Agency. Although there is not sufficient time for the committee or the Senate to act on this nomination before the end of the first session, I fully expect it to be high on our agenda for the second session.

I ask unanimous consent that Dr. Halperin's opening statement be printed in the RECORD.

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

TESTIMONY OF SENATOR DAVID L. BOREN

Mr. Chairman, I appear before you today on behalf of Dr. Morton H. Halperin, the President's nominee to be Assistant Secretary of Defense for Democracy and Peacekeeping.

Based on my experience with Dr. Halperin during my time as Chairman of the Senate Committee on Intelligence, I support his nomination.

I believe the creation of the new position of Assistant Secretary of Defense for Democracy and Peacekeeping was a wise initiative on the part of the Secretary of Defense. The end of the Cold War has brought great hope and opportunities, but it has also brought new dangers and risks. In my view, we need an official at the Assistant Secretary level who can carefully evaluate the policy risks and benefits of using our armed forces in the non-traditional roles that they are increasingly called on to perform, such as peacekeeping, provision of humanitarian assistance, refugee activities, and promotion of democracy and human rights.

During my tenure as Chairman of the Senate Intelligence Committee, Dr. Halperin worked closely with our Committee and its staff. We found him to be a dedicated individual who could solve challenging problems in a manner that was fair to all sides. He was always aware of the importance of individual liberty, but he carefully balanced these concerns with his understanding of the necessities of national security.

Dr. Halperin has worked with the intelligence oversight committees and with Republican and Democratic administrations in support of numerous critical pieces of intelligence legislation, including legislation aimed at making our counter-espionage programs more efficient and laws governing the use of covert operation to further our national security objectives. in every case, Dr. Halperin helped craft legislation that was ultimately supported by both the intelligence community and defenders of individual rights. His work earned him the respect of the members of the intelligence committee and of the many Executive branch officials with whom he worked.

In all of my dealings with Dr. Halperin, he worked with me in a constructive and straight-forward manner. I have never known him to seek to water down or reduce efforts to strengthen the nation's intelligence capabilities. Instead, he supported our efforts while also ensuring that our methods were consistent with the fundamental rights of American citizens. His suggestions were practical and realistic. They were never ideologically rigid.

Dr. Halperin's background has prepared him well to meet the demands of the important position of Assistant Secretary of Defense for Democracy and Peacekeeping.

Dr. Halperin is currently a senior associate at the Carnegie Endowment for International Peace. Formerly, he was an official at the Defense Department and the National Security Council. As you may know, Dr. Halperin served many years with the American Civil Liberties Union, working on national security matters that implicated civil liberties.

Dr. Halperin has had a distinguished career in academia. He has taught at Columbia College, Yale University, Harvard, MIT, and the George Washington University.

Mr. Chairman, despite the outstanding qualifications of Dr. Halperin, there have been many unfair accusations about Dr. Halperin's views and character. I commend the Chairman and this committee for providing an appropriate forum that will allow Dr. Halperin to directly respond to any questions and concerns members may have.

I have always believed that all nominees are entitled to a fair hearing. I have tried to follow this principle when judging controversial nominees in the past—whether they be conservatives, moderates, or liberals; and without regard to whether they have been nominated by Democratic or Republican Administrations. It is a matter of principle and a matter of fairness that people who are nominated be granted the right to defend themselves before the Senate—and I applaud this committee and its Chairman for holding this hearing.

Over the last 20 years, Dr. Halperin has taken some controversial stands, but I am confident that his motivation has never been hostile toward or a desire to weaken this country. In fact, the opposite is true. His motivation has been his patriotic devotion to our most basic and most cherished constitutional principles: protection of individual rights and preservation of democracy. It is these very principles that separated us from the Soviet Union in the Cold War. It is these very principles that have made this country the inspiration for people all over the world seeking to free themselves from tyranny.

Dr. Halperin's work has gained him the endorsement of a large number of distinguished individuals in the defense and foreign affairs community including two Secretaries of State, Cyrus Vance and Edmund Muskie; three Secretaries of Defense, Robert McNamara, Clark Clifford, and Elliot Richardson; and two Directors of Central Intelligence, William Colby and Stansfield Turner.

In fact, former Secretaries of Defense McNamara and Richardson recently published an op-ed piece in the Washington Post in support of Dr. Halperin's nomination. They defended him, stating that the "case" against Dr. Halperin is "nothing more than a collection of false rumors, misapprehensions and distorted quotations." They further wrote that "Dr. Halperin is a highly intelligent, capable and moral man," and that "he has served the national interest for more than 30 years in Democratic and Republican administrations * * *"

I believe this committee will find Dr. Halperin possesses the gift of a keen mind, while also possessing unwavering integrity. Based on my experience in working with Dr. Halperin, I believe he would be nonideological in his decision-making and bring new ideas to defense policy issues. I believe our nation would be fortunate to have Dr. Halperin as the Assistant Secretary of Defense for Democracy and Peacekeeping.

STATEMENT BY U.S. SENATOR JOSEPH R. BIDEN, JR.

Mr. Chairman, Senator Thurmond and Members of the Committee, at one time or another all of us have come before a committee of the Senate to endorse a presidential nomination of a person whom we believe to possess extraordinary qualifications, or of a person whom we believe to have rendered outstanding and appropriate prior service to the United States, or simply of a friend. It is my pleasure and my privilege today to recommend for your approval a man I would place in all three of those categories.

It would be hard, in my view, to imagine a nominee better qualified than Morton H. Halperin—my friend, Mort Halperin—to serve as Assistant Secretary of Defense for Democracy and Peacekeeping. Mort Halperin has dedicated his entire career to the causes of peace and democracy. He has served this country with great distinction for more than 30 years. He is widely and justly admired as a bright, principled and patriotic public official.

By ability, character, temperament and long experience, Mort Halperin is especially well suited to the new position to which he has been nominated, a position I believe essential to reformulating and managing the role of the United States and its armed forces in the post-Cold War world. Peacekeeping operations hold out promise for creating a more just and peaceful world, but the

risks and challenges are immense. The Continued expansion of democracy and human rights around the world can not be achieved without the contribution of a Department of Defense guided by policies carefully adapted to both the opportunities and the obstacles confronting those values. Mort Halperin, in my judgment, is uniquely qualified to take on such a task.

In making this nomination, President Clinton has joined both Democratic and Republican presidents in recognizing and taking significant advantage of Mort Halperin's energy and imagination. He was a Yale Ph.D. and a consultant to the Kennedy Administration at an age younger than many people when they graduate from college. He became a Harvard professor soon after that. He was a Deputy Assistant Secretary of Defense in the Johnson Administration at the age of 29. He was a senior staff member on the National Security Council in the Nixon Administration.

For 18 years, he served as an official of the American Civil Liberties Union, working with principled effectiveness on issues ranging from national security to the Constitutional rights of Americans. He won one of those MacArthur Foundation "Genius Grants" in recognition of his outstanding abilities and contributions. He is now a senior associate at the Carnegie endowment for International Peace and Baker Professor at the Elliot School of International Affairs at George Washington University.

Mr. Chairman, as we all know, time marches on and I understand that this one-time whiz kid is now, at the age of 55, a grandfather. But Mort Halperin hasn't run out of energy or of ideas. And, most importantly, he has never abandoned his principles, the principles that compelled him to, and have sustained him in, a life of public service, even though the talents that have made him so valuable in that realm would certainly have fetched a much higher price in the private sector. But mere personal gain has never motivated Mort Halperin.

That's why, in large measure, the growing roster of his supporters are a virtual Who's Who of distinguished Americans: Former Secretaries of Defense McNamara, Clifford, Brown and Richardson. Former Secretaries of State Vance and Muskie. Former Directors of Central Intelligence Colby and Turner. Paul Nitze, a top arms-control advisor and negotiator for President Reagan. McGeorge Bundy, who was President Kennedy's National Security Advisor. Arnold Kanter, who was Under Secretary of State under President Bush. And retired Admiral Bobby Inman, the widely respected former Deputy Director of Central Intelligence, who says that he does not endorse candidates, but that he has seen no basis to oppose Mort Halperin—and if you know Bobby Inman, you know that says a lot.

Why do these former officials, all men of great distinction themselves, Republicans as well as Democrats, think Mort Halperin should get this job? Because they have worked with the man. They know him, and they know him to be an extremely capable and conscientious man, a man who can make a strong contribution at the Department of Defense. They do not rely on rumors and innuendo, and neither, members of the Committee, should we.

I have said that Mr. Halperin's critics appear to be trying to settle old scores left over from the Cold War, that they refuse to acknowledge that the Cold War is over. But I think, Mr. Chairman, that it would be useful for me to revisit the Cold War for a few moments.

The Cold War was not just a stubborn and dangerous test of wills between two giant superpowers—it was about something. It was about the struggle between freedom and oppression. It was about the struggle between democracy and tyranny. The very principles that our country stands for—democracy, individual liberty, freedom of expression, and fundamental fairness—are precisely what separated the United States, starkly and irrevocably, from the Soviet Union. Protecting these principles, and the security of the nation that sustained them through the Cold War, was and still is the mission of our armed forces. And defining that mission, in many ways more complicated today in the chaotic wake of the Cold War, requires leadership familiar both with the capabilities of our defense establishment and with the means by which the principles of peace and democracy can best be sustained and extended.

I submit, Mr. Chairman, that the nominee before you today has done as much to support and advance those principles as any American of his generation. His record is clear and unimpeachable, and it is a terrible irony that some of his most patriotic acts—by which I mean the actions he took to defend these basic American values—have been distorted into charges against him.

Let me give you some examples. When Mort Halperin expressed grave concerns about covert action—the use of the CIA and other agencies to secretly influence events abroad—it was not because he disrespected the women and men of the CIA or their contributions to our security. It was because the revelations of the early 1970s showed what could be wrong when is hidden from the American people and from the Congress that represents them—attempts to assassinate foreign leaders, efforts to overthrow elected governments. And more recent history, the Iran-Contra scandal, has shown us again what disastrous consequences can occur when basic foreign-policy decisions are hidden from the people and from Congress.

We were faced with a choice during the Cold War. We could emulate our enemy and, like the Soviet Union, hide our policies and their consequences from our own people, or we could trust the rightness of our own principles. Mort Halperin, because of the responsibilities he bore, realized better than most of us that sometimes covert action had to be considered. But he worked for 15 years to see passage of a law that ensures that if we do engage in covert action, it will be consistent with our stated policies and Congress will be informed about it. As I know well from my years on the Senate Intelligence Committee, Mort Halperin worked to make sure we struck a proper balance between the needs of our national security and the right of the people in a democracy to know the facts and make informed decisions.

When Mort Halperin pressed for reform of our nation's intelligence activities, both at home and abroad, he was not trying to undermine our society, but to strengthen it. We know now what happened right here at home when our intelligence agencies ran unchecked—spying on lawful domestic political activity, opening citizens' mail and taps on their phones without court orders, testing the effects of dangerous drugs on unsuspecting citizens, even efforts to get Martin Luther King to commit suicide. Mort Halperin didn't invent these misdeeds—the Church Committee in the Senate, the Pike Committee in the House and a Commission under Vice President Rockefeller, in a bipartisan manner, exposed them. Dedicated men and women in the Department of Justice, the Department of Defense, the CIA and the Congress have worked ever since to create rules and regulations that allow effective intelligence collection while protecting the rights of Americans and defending American principles. And those involved in this effort will tell you who, so many times, developed workable compromises to resolve seemingly intractable clashes between national security and civil liberties—Mort Halperin.

Sure, Mort Halperin defended or testified as the trials of controversial figures accused of disclosing government information, but not because he thought the information should have been released. It was again because of his commitment to the basic Constitutional values that differentiate us from totalitarian societies: criminal laws, especially those that affect, speech may not be excessively vague; government restraints on publication of materials by private citizens must meet a heavy burden; an accused person is entitled to a fair trial. No doubt some of those he defended deserved condemnation; Mort Halperin himself said so. If you sacrifice basic freedoms for some, you threaten them for all; if you pick and choose who gets justice, you threaten injustice for all. Our Founding Fathers understood these verities and enshrined them timelessly in our Constitution and Bill of Rights. If we forget these values, if we criticize those among us who defend them, we dishonor a priceless heritage.

Mort Halperin has never failed to honor those values. Even when he later defended people like John Poindexter, Oliver North, Lyn Nofzinger and Dartmouth students accused of racist speech, it was not because he had shifted from left to right. It was, instead, because he was constant—constant, in his defense of Constitutional values like freedom of speech and due process of law; constant, even though he knew that voices on the left would criticize him, just as voices on the right have done and continue to do today. But still, constant, because he recognized and still recognizes that the fight for freedom can not be a popularity contest, that patriotism can never be reduced merely to a difference between "us" and "them."

It was after all, Mr. Chairman, our character as a nation, our ultimate fidelity to the principles Mort Halperin has defended throughout his public life, that enabled us to outlast the Soviet Union in the Cold War and that will enable us to lead the world toward peace and democracy. To depart from those principles today, to impeach our character as a Senate and as a nation, would pose a very real and present threat to the national security Mort Halperin's critics profess to defend.

Let me take a minute to two to examine some of the charges made against Mort Halperin in an ill-conceived, last-ditch effort to derail his nomination. Each collapses like a house of cards as soon as you touch it.

Critics have implied again and again that he is a security risk. Well, folks, we have a careful process for making such decisions; it's called the "security clearance process." And this very year, Mort Halperin received a very high security for his work as a Pentagon consultant—long before President Clinton nominated him for the Assistant Secretary job. Years ago, at a time when he knew plenty of classified information, the Nixon Administration illegally tapped his home telephone for 21 long months. Is there any evidence from the wiretap logs that he never made an unauthorized disclosure or otherwise behaved improperly? None—none

at all! In fact, his former boss, Henry Kissinger, apologized for the tap and said there was never anything that cast the slightest doubt on Mort Halperin's loyalty.

But his critics are not interested in evidence. They pass along a rumor that Mort Halperin rejected a general's request. But that is a falsehood. Secretary Aspin says Mr. Halperin did not participate in the decision, and a departmental investigation found that he didn't even know of the request for tanks.

The critics whisper that he attempted to order another general to halt a military exercise in Guatemala. Mort Halperin says he did no such thing. More to the point, the general says he doesn't remember even discussing this operation with Halperin. And think about that, my friends, in the light of your experience with military affairs—is it likely a general would forget a consultant who tried to give him an order? I don't think so!

Someone apparently claimed once seeing a secret document linking Mort Halperin to some sort of shady meetings in a foreign country. This matter got raised in public, as is too often the case, before the evidence was examined. When the CIA finally located the document and showed it to the accuser, guess what? That's the document, sure enough—but it doesn't have anything to do with Mort Halperin.

Critics also like to misquote and distort pieces of Mort Halperin's voluminous writings. Well, the record is out there, as a friend of mine says, "in front of God and everybody." Mort Halperin is not ashamed of what he has written, nor should he be. But those who have cut and pasted his words, outrageously, out of context, misleading Senators and others, should be ashamed.

Mr. Chairman, Mort Halperin's record of distinguished public service and scrupulous stewardship over our national security has been unblemished for three turbulent decades. He has remained true to his principles, to our principles as a people, and he has left the political air fresher everywhere he has passed.

That is the Mort Halperin I know, and I believe all the Senators who have worked with him over the years know the same Mort Halperin—a tireless worker, a principled advocate, a brilliant thinker, a genuine leader. He is also a decent, compassionate, highly moral man I am proud to call my friend.

Reject him, and you deprive our government of a valuable asset that answers to a critical need. Reject him, and you reject the very principles that keep our people free and make our country great. Reject him, and you will make any talented young person think twice before he or she takes a principled but perhaps controversial stand—precisely the kind of stand which our Constitution defends and on which our democracy depends—for fear that on some later day that person will be subjected to the kind of unwarranted attacks Mort Halperin has bravely shouldered for the past year.

Instead, I urge you to look at the facts. Look at the man. Search your own conscience and make your own judgment. Mort Halperin is a first-class nominee, an outstanding choice by President Clinton. I am honored to present him to you.

Thank you, Mr. Chairman.

STATEMENT OF SENATOR DANIEL PATRICK MOYNIHAN

Mr. Chairman and members of the Armed Services Committee, I am pleased to appear before you today to introduce a fellow New Yorker, Morton H. Halperin, who has been nominated by President Clinton to be Assistant Secretary of Defense for Democracy and Peacekeeping.

I congratulate you, Mr. Chairman, for holding this hearing so that Mr. Halperin can directly address concerns that have been raised by some members of the Committee. Mr. Halperin has had a varied career of outstanding public service. I am confident that a full and public hearing will demonstrate that he is a dedicated, energetic, intelligent public servant committed to promoting the security of the United States. And to doing so in a manner which is consistent with our own best traditions and the requirements of the constitution.

Mort Halperin has had a distinguished career in government, in academia and in service with non-profit organizations. He is a prolific author. But I would like to focus on a particular aspect of his work—his efforts to help adjust our policies and, importantly, our way of thinking, to the post-cold war would. I think it is fair to say that Mort Halperin has been at the forefront of the effort to keep the United States from drifting from the cold war era into the next without thoroughly examining our way of doing business. The losers have no choice but to radically change their behavior. For the victors, however, the need is less obvious. But no less important. The cold war changed us. We came to accept behavior and strictures that would have been unthinkable to earlier generations of Americans. Mort Halperin has worked—not to sweep aside our institutions wholesale—but to carefully and thoughtfully examine each of our foreign policy institutions and practices to see whether or not they are truly suited to pursuing the best interests of the American people in a new era. In this, he has performed an important service to the nation.

Make no mistake. Mr. Halperin is not one who spins elegant theories that bear little relation to the real world. He has government experience. He knows that the world is a dangerous place. And believes that it is the quintessential obligation of the United States Government to maintain the security of the people of the United States. I believe that this will be apparent from his testimony.

In the course of a varied and energetic career, Mr. Halperin has made statements with which some senators strongly disagree. That, I think, is the inevitable result of holding strong views and expressing them vigorously. I believe that he will welcome the opportunity to address these issues directly.

But I would simply add that no member of the Senate need accept every view Mr. Halperin has ever adopted—nor every opinion of any other nominee for that matter—to be fully convinced that President Clinton is entitled to have the Senate confirm Mr. Halperin as his choice for Assistant Secretary of Defense. Moreover, I am not aware of any statement or position taken by Mr. Halperin which would disqualify him from serving this President with distinction. I am confident that this hearing will make that abundantly clear.

OPENING STATEMENT OF MORTON H. HALPERIN

Mr. Chairman, I welcome the opportunity to appear here today and to be able at last to describe in my own words who I am, what I believe, and what I would hope to accomplish if confirmed as the Assistant Secretary of Defense for Democracy and Peacekeeping. I also welcome the opportunity to respond to questions from all members of the Committee.

Mr. Chairman, some of my earliest memories are of my desire to serve the nation abroad as a foreign service officer. I remember thinking how lucky I was to be an American so that I could represent the only nation in the world whose diplomats were not sent abroad to lie. My patriotism stemmed from my confidence that the United States was different, that we had no desire to conquer or to exploit others, and that we wanted only to live in a world in which all peoples shared our right to liberty and opportunity.

I still believe that. I still believe that there is no higher calling than to serve this nation, to defend its interests, and to promote its ideals.

I believe, as Lincoln said, that this nation is the last great hope of humankind. I believe that the values embodied in our great documents—the Declaration of Independence, the Constitution, and the Bill of Rights—reflect and embody universal norms to which all people aspire.

The wise leaders who founded our nation understood that to remain free a nation had to be ready to use force in its defense. But they also understood that efforts to protect the nation from threats from abroad could undermine the very liberty at home that our military forces were designed to protect.

They left us the great legacy of our Constitution. The founders carefully crafted a system based on the separation of powers. Their goal was to insure that the nation, led by the President, could react with secrecy, vigor and dispatch when that was necessary, but also to insure that the nation did not lightly send its young to war.

It is not an act of patriotism to suggest that the requirements of the Constitution must give way when the talisman of national security is invoked. The genius of the Constitution is that its provisions ensure that we as a nation can pursue our interests abroad while protecting our values at home.

The collapse of the Soviet empire was a great triumph for those ideals. It opened new possibilities for us to help others to establish and nurture democratic regimes. We have an interest in doing so not only because we feel better if others are free, but because, as the founders of this nation recognized, our security is more easily protected if our nation resides in a sea of democratic states.

The end of the cold war was not, however, the end of history or of international politics. The new world is full of dangers as well as opportunities to advance our interests.

Force will still be the ultimate arbiter of international disputes. The United States must be ready to use force—alone if we must, in concert with others if we can—when our interests are threatened.

Before we commit ourselves to using force, we must be sure that the problem can be solved by armed force. We must be sure that our military goals are clear. We must deploy forces sufficient to insure quick and decisive victory. We must have a plan to terminate the use of force and then to involve our diplomats.

Over the past several years, with the end of the cold war, the Congress and our Presidents have begun to turn to the armed forces to perform new tasks, or, rather, to devote significant additional resources to activities which previously had been no more than incidental. These tasks include: participation in the effort against illegal drugs; provision of assistance to those who are the victims of natural disasters; provision of humanitarian assistance to those facing starvation and other deprivations, the result of manmade disasters; efforts to moderate or end ethnic

or other civil strife; and efforts to assist nations struggling to create military forces and structures suitable for a democracy.

When this administration came into office it found the armed forces deeply involved in many of these tasks ranging from the war on drugs, to assistance to victims of natural disasters, to a peace enforcement operation in Somalia, to Operation Provide Comfort in Iraq to support for the UNPROFOR effort in the former Yugoslavia, to military contact efforts in Eastern Europe.

Some of these activities were mandated by Congress. Others were the result of Presidential directives, but they were taking up a growing portion of a shrinking budget and lacked any single focus within the Office of the Under Secretary of Defense for Policy. Believing that these activities would need careful monitoring from a policy perspective, Secretary Aspin decided to use his existing authority to create the new office of the Assistant Secretary of Defense for Democracy and Peacekeeping. Upon the Secretary's recommendation, the President did me the great honor of nominating me for that new position.

Let me try to explain why the Secretary thought the office was needed by discussing with you the challenges I believe I will face if confirmed.

The primary mission of our armed forces is, and must remain, the conduct of combat operations. We must seek to deter aggression and be ready to fight and win wars. We cannot assume that events like Pearl Harbor, Korea, or the Iraqi invasion of Kuwait will not occur again. We size and equip our forces to fight such wars and we must not permit new functions to detract us from that goal.

As the members of this Committee know, Secretary Aspin dedicated himself and the Department of Defense to doing whatever needs to be done to insure the readiness of our forces for combat. The greatest and most important challenge of the Office of Democracy and Peacekeeping is to advise the Secretary as to what needs to be done to ensure that as our armed forces perform these new missions, they do so in a way, and only to the extent, that they do not adversely affect our readiness for armed combat.

This objective requires that we make sure that only a small portion of our forces are at any time committed to these new missions. Training and exercises for these purposes must complement and support our training for war. We also need budget mechanisms to ensure that our services and commands are not forced to absorb the cost of conducting new missions from Operations and Maintenance funds needed to maintain readiness.

Another challenge for the office of the Assistant Secretary of Defense for Democracy and Peacekeeping is to guard against the tendency to see our armed forces as the solution to every problem and every crisis of the post-Cold War world. Because the armed forces exist, because they have highly skilled and capable people and because the Department of Defense is perceived as having a large budget, there is a tendency to want to send in the Marines or the Army to deal with every problem. We must resist that.

I do not see this office as being a cheerleader for peacekeeping or any of the other new missions. On the contrary, I see a key part of the job to be warning of the dangers and resisting an easy resort to the armed forces of the United States for these purposes. We must insist that the Joint Staff, the relevant command, and others in the Executive Branch make a careful evaluation of any proposal to perform such missions. We must know precisely what the military task is and be confident that we can perform it. We must know how we will get out as well as how we plan to go in.

As the authorization bill just approved by the Conference Committee makes clear, Congress is likely to continue to authorize funds and programs for these new missions. Presidents will direct the Department to act. Thus, another challenge of the job is to make recommendations to the Secretary of Defense on how to get ready to perform these tasks in a more efficient and effective way.

This means hard thinking about doctrine and strategy. It means thinking about what training and equipment our forces should have for these missions. It means developing better methods of interagency coordination.

These are the tasks of the new office of the Assistant Secretary of Defense for Democracy and Peacekeeping. They are tasks that must be performed within the Department of Defense. The office would not usurp the authority of the Secretary of State or perform functions that belong in the State Department.

Having spent more than 30 years thinking, teaching and writing about the use of force, having thought hard and written about the security threats of the post-Cold War period, having worked to reconcile claims of national security and civil liberties in our nation, I believe that I have the qualifications and experience to do this job in a way that will enhance our security and advance our ideals. I am greatly honored that the President and the Secretary believe that I am the right person for this position. I hope that when the committee completes its consideration of my nomination it will agree that I am qualified to fill it.

Mr. Chairman, over the past several months, in an effort to suggest that I am not the right person for this position, a number of charges have been made about my beliefs and activities which are simply false. They are, in some cases, made up out of whole cloth; in others, they result from wrenching sentences out of context and building tales around them. I would be pleased to respond to questions about each of these and to provide more details, but I felt that I should, in my opening statement, briefly try to set the record straight:

I have been accused of advising the Secretary of Defense not to send armor to Somalia. That is false. I had no knowledge of any request for armor until I read about it in the newspaper after the fact.

I have been accused of ordering a regional Commander to terminate an exercise. That is false. I called General Joulwan only to obtain information, not to intrude into the chain of command.

I have been accused of believing that the United States should subordinate its interest to the United Nations, never using force without its consent, and putting American forces at its disposal. That is false. I have never advocated these positions.

I have been accused of believing that government officials have the right to disclose classified information. That is false. I have consistently stated that the government has the right to fire anyone who does and to impose criminal penalties for the disclosure of such information.

I have been accused of opposing all counter-intelligence operations. That is false. I have supported effective counter-intelligence measures designed to protect sensitive information.

I have been accused of aiding Daniel Ellsberg in the disclosure of the Pentagon Paper. That is false. I did not assist in, and had no knowledge of, his disclosure of the Pentagon Papers.

I have been accused of aiding Philip Agee in the disclosure of the identities of intelligence agents and advocating the disclosure of such identities. That is false. I never assisted Philip Agee in those efforts, and I have condemned such action by him and others. (I did testify at his deportation hearing in England—a matter I would be glad to discuss with the Committee.)

Most recently, I have been accused of traveling abroad for secret meetings with terrorists. That is false. I have had no such meetings, and to my knowledge there are no CIA documents suggesting that I have.

Mr. Chairman, I have also been accused of undergoing a "confirmation conversion". That is also false. I have changed none of my views since I was nominated, indeed, since President Clinton was elected, and I stand by my recent statements and writings.

If the charge against me is espousing pointed and provocative views, I have no quarrel with that description. But I resist any suggestion that I have done anything which compromises our nation's security or weakens our defenses. Indeed, the goal of my work has always been to strengthen our national security and to strengthen the freedoms of all Americans.

It is true, that on some subjects my views have matured over time. In particular, I expect to be asked about a number of statements I made in the first half of the 1970s about American intelligence operations. I regret making certain of those statements. Some of the views I expressed then I have long since abandoned. Others have become irrelevant as the government, with my strong support and active involvement, has altered the process by which intelligence agencies function and are monitored to bring them under effective control.

In order to put those statements into context, Mr. Chairman, I would like to recall for the committee the situation we were in at that time. We had learned of serious abuses of our intelligence agencies. There were reports—and eventually solid evidence—of unlawful surveillance of Americans, or manipulation of our political process. The CIA had tried to assassinate foreign leaders and to overthrow democratically elected governments. These are the facts.

Many thoughtful Americans had to comfort the question of what to do. The new President appointed a special commission to study the activities of the CIA in the United States. The Senate established a special committee to investigate intelligence abuses, as did the House.

I was surprised, anguished, and angered by these revelations as were so many others. I began to think, and perhaps too soon to write, about what I thought should be done. I believed that we had tarnished the image of the United States and damaged the ideals for which we stood in the world. We had learned that institutions set up to protect our liberties could undermine freedom at home and hinder our efforts abroad.

One of the suggestions I put forward in 1974—to abolish the covert operations side of the CIA—I abandoned in 1976. I advocated then, and consistently since 1976, that the CIA be divided into two organizations—an analytic agency to prepare intelligence analysis, and an operations agency to conduct clandestine intelligence collection and operations. In other respects my views have evolved over time as the intelligence agencies have come to operate under a regime of law and effective congressional oversight.

Finally, Mr. Chairman, I wanted to make a statement about my activities in the Department of Defense over the past months. As the committee knows, during the first months of the administration, I and my colleagues in the Office of Policy, engaged in practices which we later learned were inappropriate.

As my colleagues have done, I want to apologize to the committee for my actions. I can only assure you that it was not done with any intention of presuming on the Senate's right to confirm nominees. We were all eager to begin to do what the Secretary of Defense wanted done, and we failed to brief ourselves fully about the committee's expectations.

Since May, I have been scrupulous in following the expanded guidelines provided by the General Counsel of the Department. I have great respect for the Senate and its constitutional powers over confirmation and for this committee. Nothing that I did was intended in any way to express disrespect for those rights and expectations. I regret that my behavior did not in the early months live up to the standard that it should.

Mr. Chairman, I appreciate the indulgence of the committee in permitting me to present this somewhat lengthy statement. I felt that the committee would want to hear my responses to some of the issues that have been raised. I am sure that I have not answered all of them and look forward to responding to your questions.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

GUN AMMUNITION

Mr. MOYNIHAN. Mr. President, I rise to announce to the Senate the important development that the Winchester Ammunition Co. has withdrawn the Black Talon handgun ammunition from sale to the public.

This comes in the aftermath of hearings by the Finance Committee in which we described this particular round which has as its function a ripping activity within the body once it has entered. The round splits open into six prongs which spin and which are specifically destructive of organs in the area of the body that they will have entered.

I would like to say that the Winchester Co. has shown good judgment and good grace in this regard and ought to be commended.

We have been talking now on this subject for a number of years, and we have been legislating. In 1982, I believe, I introduced legislation to ban the so-called cop-killer bullet, the Teflon-coated round of greenish hue, what is known as the green hornet, which being designed as a penetrating round would have the capacity to penetrate the body armor that police officers were beginning to wear, the cloth armor from the waist to the shoulders which is now standard issue in most metropolitan police departments, if not indeed all, such being the state of handgun violence on our streets.

It took 4 years to enact that, but we did. President Reagan signed the bill. Senator THURMOND from South Carolina was very active in supporting it, and it became the first round of ammunition to be outlawed.

On Saturday in the crime bill we outlawed yet another round, in this case a new class of thick, steel-jacketed handgun ammunition, the M39B Parabellum—bellum is Latin for war—developed in Sweden, which again has the armor-piercing qualities. We had the definition of the Teflon-coated round in statute. We simply described the new round on Saturday in the crime bill. We made a generic description of a round which we will not have manufactured, sold, or imported into the United States.

Can I say that at the time we outlawed the cop-killer bullet, as it has come to be called, no American firm was manufacturing it. They were made in Czechoslovakia and brought into the United States. They were not being manufactured because their purpose could be nothing more than activities such as killing police officers.

Now on the question of continuing this sequence of statutes, I proposed outlawing the manufacture or sale of .25-caliber and .32-caliber rounds. These are rounds that only are used in what is called Saturday night specials, but those small, cheap handguns are no longer anything like the consequence they were. What we now have are 9-millimeter clip-loaded rounds which in the 9-millimeter mode of the Black Talon could be devastatingly destructive if a schoolyard were sprayed, or simply in the kind of general use we see regularly or currently on our streets.

I would make the point, Mr. President, that we have been trying to bring the analytic technique of public health to this subject. We have been trying to say now, how would an epidemiologist look at this epidemic? And one of the first things that leaped out at you is the fact that, to use the paraphrase, guns don't kill people; bullets do.

Some 15 years ago in the North Carolina Medical Journal a small article appeared. The bullet is the weak link in the epidemiological triad, as it is called, in which you have the host, the agent, and the environment. The agent is the bullet. The host is the individual. The environment is wherever guns are being fired.

It happens that this same approach was used with respect to the problem of automobile crashes. Automobile mortality and morbidity became a great national issue in the 1950's. After World War II, the number of automobiles manufactured grew enormously. The driving population grew enormously, and so did the deaths and injuries associated with crashes.

It was observed that the automobile crashes then were the largest cause of death from persons aged 1 to about age 37 in the United States in the 1950's. And we began the effort to introduce epidemiological models. We would say when a car hits a tree, no one is injured. It is not until a person inside the car hits the car. Therefore, you think of restraining techniques. Seatbelts were an obvious transfer from aviation, cleaning up dashboards, and putting padding on, and now air bags, and generally using passive devices. It was clear with respect to the automobile design that it was much easier to influence the behavior of 5 automobile companies, 3 major ones, than 90 million drivers.

The automobile industry had a very great difficulty understanding this. They resisted it. They did not really understand what was being said, were not certain of the motives of those who were saying it even though they were eminently respected and respectable physicians.

In the end it took national legislation. We had to establish the National Highway Safety Transportation Administration. Dr. William Haddon was its first head, who had helped to begin this work in Albany, in the administration of Averill Harriman in which I was also involved.

Today it is commonplace to watch advertising for new cars. I believe it is the case, I have read it, that in advertising the judgment is that the first thing you sell is the style of the vehicle, and the second thing is the safety. We are used to now seeing facsimile collisions with airbags opening, the designs of scenes of dummies in collisions, and how they behave. And often it is quite different than we would expect such physics, travel of speed, and collision and such like.

I think it was costly to the automobile companies that they resisted this so. I think it put them in a state of mind that it was not alert to other possibilities, other needs, and we went through a very difficult time with the automobile industry itself.

I would hope we might be seeing here understanding on the part of ammunition makers that they can cooperate in this public health problem, the problem the President of the United States addresses regularly.

We start with the fact that since 1918, we have taxed the manufacturers of ammunition. The Revenue Act of 1918 was in response to the costs of World War I. Since 1938 the Bureau of Alcohol, Tobacco and Firearms in the Treasury Department of the U.S. Government has required a license to manufacture.

There are a fair number of these licenses out. They cost $10 a year. But the actual quantity manufacture of ammunition is concentrated in about 10 firms, Winchester possibly being the largest and being a branch of the Olin Corp.

I have said I think the case could be made that we have a 2-century supply of handguns, but only a 4-year supply of ammunition; so again, obviously, we should move in the direction of ammunition, the only function of which is to kill or injure a human being.

A Senate version of the case in point might be made that in the Brady bill there is some concern that antique weapons have been redefined as up to the year of manufacture of the year 1918. I simply note that those who are concerned have a point, since one of the most widely available and widely used handguns in our country is the Colt Model 1911.A1 .45-caliber clip-loaded pistol. It was first rated in 1911, and it is the standard handgun of the armed services. Almost 50 years ago in the Navy, I remember carrying one of those handguns, as the officer of the deck has a handgun. And they are still being used today.

The armed services are moving over to the 9-millimeter caliber Baretta, I believe, but the 1911.A1 service pistol is entirely serviceable, perfectly functional, as long as you have ammunition to use that side arm, making the point that the life of a handgun seems to be measured in decades, generations, even centuries. Ammunition is a different matter. As we begin to think of it in these terms, I hope we will have a better outcome than the necessary efforts to control the access to handguns, but realizing that we have 50 million in the United States. Police Commissioner Raymond Kelly of New York City, one of our distinguished police officers, when the issue of the Black Talon was raised 3 weeks ago, commented that in the city of New York there are somewhere between 1 million and 1.7 million handguns, and they are not going to go away.

So that addressing the question of the ammunition they use is possibly a rewarding one. I think it is, and I think that the action of Winchester Ammunition in withdrawing the Black Talon handgun ammunition from sale to the general public is, again, an act of good judgment and good grace. I make the point that they will continue to be available to the police. We have no intention in any way of restricting that kind of availability.

I ask unanimous consent that the press release regarding Winchester be printed in the RECORD.

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

[Winchester Ammunition Press Release, Nov. 22, 1993]

WINCHESTER WITHDRAWS BLACK TALON HANDGUN AMMUNITION FROM SALE TO PUBLIC

EAST ALTON, IL.—Winchester Ammunition today announced it is withdrawing Black Talon handgun ammunition from sale to the general public.

"This action is being taken because Black Talon ammunition is becoming a focal point for broader issues that are well beyond the control of Winchester Ammunition. The controversy also threatens the good name of Winchester, which has stood for the safe and responsible use of ammunition and firearms for 125 years; and our reputation as the leading supplier of quality ammunition for the sporting public, law enforcement agencies, the United States military, and private citizens who believe as firmly as we do that there is a place for the safe, legal and responsible use of firearms," according to company spokesman Mike Jordan.

Distribution of the ammunition will now be limited strictly to law enforcement agencies, the company said. The superior ballistics performance of Black Talon has made it the standard issue for more than 400 law enforcement agencies across the United States.

Winchester will continue to offer a full line of ammunition to meet the needs of the military, law enforcement, recreational marksmen and the hunting community.

Mr. MOYNIHAN. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. I will yield for a moment to the majority leader before I speak.

STAR PRINT—S. 1757

Mr. MITCHELL. I ask unanimous consent that S. 1757 be star printed to reflect the changes now at the desk.

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

The Senator from Alaska is recognized.

HEALTH EQUITY AND ACCESS REFORM TODAY ACT OF 1993

Mr. STEVENS. Mr. President, the Health Equity and Access Reform Today Act of 1993 is the culmination of a great deal of hard work and effort on the part of a number of Republican Senators who have worked together almost weekly for 3 years to examine the issues related to health reform.

Senator CHAFEE deserves a great deal of credit for being responsive to the needs of rural populations and those States with low population density, and in promoting a maximum of State flexibility. He has been our leader in holding these meetings over these past 3 years.

I would like to see a consensus position develop and, therefore, I have cosponsored this bill today with Senator CHAFEE and also Senator NICKLES' consumer choice bill in hopes that we will see the best parts of each of these bill figure in a final bill on health care reform.

The Health Equity and Access Today Act, which is known as the HEART Act, promotes development of health infrastructure where there is none today. We often see high costs of health care being portrayed as too much infrastructure and not enough money to pay for that infrastructure.

In Alaska, most communities are not accessible easily by road, and in many cases not accessible by water, but only by air, year-round. That is a situation where meaningful access is not a provision in an insurance policy.

Access, to us, means getting patients living in remote areas to health care providers in the cities and regional hubs.

Alaska, like many States, has much to do to prepare for health care reform. I have worked on this bill, both of these bills, to maintain Alaska's ability to make choices among a wide range of options, because there is not yet a consensus in our State on which model of reform might work best in Alaska.

Alaska's health care needs require development of an infrastructure of training and extension of preventive care to inaccessible areas. It is my judgment that this HEART bill Senator CHAFEE introduced could do this, through the development of rural health networks, and by allowing our State to design our own approach to health care reform.

Alaska needs a maximum of State flexibility because our issues in the north country are different. We are, after all, one-fifth the size of the United States. We have half the coast line of the United States, and over 176 of our villages and cities can be reached only by air. While long-term care is a priority for Alaskans, we are also interested in improving our sanitation conditions, where there is no running water and in obtaining treatment for alcohol and drug abuse where alcoholism is very high—probably the highest rates in the world occur in our State.

Alaska has a relatively young population. It has a high birth rate. We want the flexibility to use our resources in the prevention of infant mortality and in the expansion of telehealth networks. This HEART bill of Senator CHAFEE's offers us this flexibility.

We may want to try mobile prevention centers that would be involved in the use of aircraft or even on our State ferries, so that mammography or eye care services could be extended everywhere, even into the remote Eskimo villages, or to the most distant islands of the Aleutian chain.

It is my belief that Alaska's small businessmen and women are better served by an approach that gives them the assistance to obtain health coverage through small business purchasing groups, without taking from the funds they need to expand their companies and create their jobs. This bill does not include an employer mandate.

I yield the floor.

KASHMIR

Mr. WALLOP. Mr. President, today, the standoff at the Hazratbal Mosque in Kashmir has ended but the tensions between India and Pakistan remain high. India and Pakistan have had disputes over Kashmir since 1947 when British colonial rule ended. During this time two wars have been waged, costing thousands of lives and dividing the two countries even more.

Another war between these governments would be devastating, especially since it is believed that both Pakistan and India can produce and deliver nuclear weapons. Measures must be taken to mediate these countries in this time of uncertainty before our worst nightmare comes true.

With the end of the cold war, the time is ripe for talks to begin. It has become the official U.S. view that outside involvement in this matter will only disrupt the hopes of a peaceful settlement. This is unfortunate.

Reports of widespread human rights violations by the Indian Government will make the path to peace a difficult one. The tensions in Kashmir remain at perhaps their highest level ever due to those human rights abuses. As long as injustices like these persist there can be no hopes to ending the conflict between India and her people, much less India and Pakistan.

There have been statements given on the floor by my esteemed colleagues previous to this one concerning Kashmir. I ask, much like those proceeding me, that the Indian Government take steps to settle the situation. There can be no lasting peace in the region and no hopes of diplomatic relations between our two countries until these violations are resolved.

DR. SEYMOUR LACHMAN CELEBRATES HIS 60TH BIRTHDAY

Mr. LAUTENBERG. Mr. President, I rise to pay tribute to Dr. Seymour Lachman who will be celebrating his 60th birthday on December 12, 1993. Dr. Lachman is an eminent author and scholar, prominent educator, and a forceful advocate of humanitarian causes. He is currently serving with distinction as dean for community development, City University of New York and as a professor of history at the Baruch Graduate School.

Dr. Lachman served as president of the New York City Board of Education during a turbulent period of change in the 1970's. He led one of the world's largest school systems through difficult adjustments related to decentralization. Dr. Lachman's unstinting and creative efforts on behalf of all of New York City's children are a credit to his energy and idealism. These efforts shall long be remembered by the people of New York.

Nothing reveals Dr. Lachman's commitment to humanitarian causes more than his commitment to the cause of Soviet Jewry, during a period when they suffered severe discrimination. As chairman of the Greater New York Conference on Soviet Jewry, he not only fought tenaciously against Soviet mistreatment of Jews and to allow unrestricted emigration of Soviet Jewry, but also worked arduously to smooth the adjustment of life in the United States for the many Soviet Jews who emigrated to the New York area.

Dr. Lachman recently coauthored "One Nation Under God," a seminal and imaginative study of American attitudes toward religion. The book has already received wide acclaim. It is a perceptive analysis and well-researched work based on extensive polling throughout the United States. Dr. Lachman is a talented American historian and teacher who has done excellent scholarly work both in the fields of education and religion.

As he commemorates this significant milestone it is indeed an honor for me to join with Dr. Lachman's family, many friends and colleagues in conveying my warmest birthday wishes to a remarkable and distinguished American. Seymour has my heartiest personal congratulations. May he have good health, success and happiness in the coming years.

REGARDING S. 1607, THE CRIME BILL

Mr. CHAFEE. Mr. President, I would like to take a moment to express my concerns about the direction that this crime bill has taken in recent days. In our zeal to prove just how tough on crime we are, we have approved amendments which simply do not stand up to careful scrutiny, and, in my view, will be terribly damaging to our Federal justice system if enacted into law.

I would point to two amendments approved yesterday by substantial margins. Each represents a sweeping change in the way we fight crime in this country and a radical departure from our long-accepted understanding of the appropriate duties of the Federal and State governments.

The first amendment was presented as a tough anti-gang amendment. That sounds very appealing. Who could possibly oppose an amendment intended to deal with gangs and the terror which they inflict upon our society? But listen for a moment to what this amendment does. It makes it a Federal criminal offense to commit a predicate gang crime, with the intent to promote or further a criminal street gang. It makes it a Federal crime to participate in, or conspire to participate in a criminal street gang or to induce others to join the gang. Furthermore, it establishes mandatory minimum sentences for the commission of gang crimes.

The second amendment attempts to deal primarily with the terrible problem of gun violence. Simply put, this amendment federalizes and establishes mandatory minimum sentences for all violent crimes committed with a firearm. Let me repeat—all violent crimes committed with a firearm; not just those which occur within Federal jurisdiction. In addition, the amendment sets forth the following mandatory minimum sentences—10 years for possessing a firearm during the commission of the crime, 20 years if the criminal discharges the firearm, 30 years if a machinegun or a silencer is used, and the death penalty if a death results.

I have no objection to exacting swift and certain punishment on violent criminals. As has been pointed out numerous times during this debate, in some of our states, the sentences actually served by convicted violent offenders make a mockery of our criminal justice system. Murderers are sometimes paroled from prison in a few years which is nothing short of a travesty. Understandably, we are all terribly frustrated by this sad state of affairs and want desperately to do something about it.

But I think it is time that we in the Senate step back and reflect upon what our appropriate role should be and what the limits are of the Federal Government's jurisdiction. Do we really want the U.S. Department of Justice to have jurisdiction over all gang-related offenses and every violent crime involving a firearm? We are talking about hundreds of thousands, if not millions of crimes. Not only would this place an enormous burden upon our Federal courts, but it makes no sense from a public policy point of view. It is the local and State law enforcement agencies that are best equipped to address the crime in our streets. But listening to the debate on this bill, you would think that they don't exist. Clearly, those agencies are having a difficult time. They need help, and that is precisely what we are providing in this bill—$21 billion and 100,000 new police officers to walk the streets. But it is one thing to help the States do their job better and quite another to do their job for them.

I do not think that most members would favor the establishment of a centralized, national police department anymore than they would support the Federal Government usurping local control of our Nation's schools. But if

we continue down this path of federalizing crime after crime, I feel that that is exactly where we are headed.

One of the supposed virtues of the Senate is that through thoughtful, careful deliberation, we are able to set aside the passions which surround emotional issues like crime control and arrive at sensible, reasonable solutions. Regrettably, as in years past, this debate often has been devoid of any rational discussion.

Rather than continue to allow this debate to focus solely upon who is tough and who is not, I think we need to start asking ourselves some basic questions when we are asked to vote on these amendments: "Does this really make sense? Do we fully understand the implications of this proposal?" It seems to me that by ignoring these questions and looking only at which is politically attractive, we do a real disservice to this body and run the risk of doing very serious harm.

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate on November 22, 1993, received message from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

The nominations received on November 22, 1993 are shown in today's RECORD at the end of the Senate proceedings.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate on November 22, 1993, during the adjournment of the Senate, received message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 3225. An act to support the transition to nonracial democracy in South Africa.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE U.S. RAILROAD RETIREMENT BOARD FOR FISCAL YEAR 1992—MESSAGE FROM THE PRESIDENT—PM 75

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I hereby submit to the Congress the Annual Report of the Railroad Retirement Board for Fiscal Year 1992, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 22, 1993.*

MESSAGES FROM THE HOUSE

At 4:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1645. An act to amend title 13, United States Code, to require that the Secretary of Commerce produce and publish, at least every 2 years, current data relating to the incidence of poverty in the United States.

H.R. 1926. An act to amend the National Narcotics Leadership Act of 1988 to extend and authorize appropriations for the Office of National Drug Control Policy, and for other purposes.

H.R. 2178. An act to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997, and for other purposes.

H.R. 2960. An act to amend the Competitiveness Policy Council Act to provide for reauthorization, to rename the Council, and for other purposes.

H.R. 3216. An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes.

H.R. 3474. An act to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes.

H.R. 3548. An act to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson, Americans who have been prisoners of war, the Vietnam Veterans Memorial on the occasion of the 10th anniversary of the Memorial, and the Women in Military Service for America Memorial, and for other purposes.

H.J. Res. 272. Joint resolution designating December 15, 1993, as "National Firefighters Day."

The message also announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 3. An act entitled the "Congressional Spending Limit and Election Reform Act of 1993".

S. 1284. An act to amend the Developmental Disabilities Assistance and Bill of Rights Act to expand or modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 698) to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1025) to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm, and agrees to the conference asked by the Senate on the disagreeing votes to the two House amendments thereon; and it appoints Mr. BROOKS, Mr. HUGHES, Mr. SCHUMER, Mr. SENSENBRENNER, and Mr. GEKAS, as managers of the conference on the part of the House.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1944) to provide for additional development at War in the Pacific National Historical Park, and for other purposes, with an amendment.

The message also announced that the House agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202) to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2535) to amend title 38, United States Code, to provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of the Persian Gulf war.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 131. Concurrent resolution expressing the sense of the Congress with respect to the situation in Sudan.

The message further announced that the House has agreed to the following concurrent resolution:

S. Con. Res. 50. Concurrent resolution concerning the Arab League boycott of Israel.

The message also announced that the House has passed the following bills and joint resolution, without amendment:

S. 717. An act to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment,

to expand the exemption of egg producers from such act, and for other purposes.

S. 778. An act to amend the Watermelon Research and Promotion Act to expand operation of the act to the entire United States, to authorize the revocation of the refund provision of the act, to modify the referendum procedures of the act, and for other purposes.

S. 994. An act to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes.

S. 1716. An act to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the lime board, and for other purposes.

S.J. Res. 154. Joint resolution designating January 16, 1994, as "Religious Freedom Day".

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 1268. An act to assist the development of tribal judicial systems, and for other purposes.

MEASURES REFERRED

The following measures were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1133. An act to combat violence and crimes against women; to the Committee on the Judiciary.

H.R. 3098. An act to amend title 18, United States Code, to prohibit the possession of a handgun or handgun ammunition by, or the private transfer of handgun or handgun ammunition to, a juvenile; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

S. 1757. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

H.R. 881. An act to prohibit smoking in Federal buildings.

H.R. 334. An act to provide for the recognition of the Limbee Tribe of Cheraw Indians of North Carolina, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 798. A bill to amend the Federal Fire Prevention and Control Act of 1974 to establish a program of grants to States for arson research, prevention, and control, and for other purposes (Rept. No. 103-204).

By Mr. MCCAIN, from the Committee on Indian Affairs, with an amendment:

S. 1618. A bill to establish Tribal Self-Governance, and for other purposes (Rept. No. 103-205).

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. JOHNSTON (for himself and Mr. BREAUX):

S. 1769. A bill to make a technical correction, and for other purposes; considered and passed.

By Mr. CHAFEE (for himself, Mr. DOLE, Mr. BOND, Mr. HATFIELD, Mr. BENNETT, Mr. HATCH, Mr. DANFORTH, Mr. BROWN, Mr. GORTON, Mr. SIMPSON, Mr. STEVENS, Mr. COHEN, Mrs. KASSEBAUM, Mr. WARNER, Mr. SPECTER, Mr. FAIRCLOTH, Mr. DOMENICI, Mr. LUGAR, Mr. GRASSLEY, and Mr. DURENBERGER):

S. 1770. A bill to provide comprehensive reform of the health care system of the United States, and for other purposes; read the first time.

By Mr. DECONCINI:

S. 1771. A bill to amend provisions of title 28, United States Code, to provide for the payment of attorney fees to a prevailing defendant in civil actions, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAMM:

S. 1772. A bill to reduce Federal employment to the levels proposed in the Vice President's Report of the National Performance Review; to the Committee on Governmental Affairs.

By Mr. SIMON (for himself, Mr. WOFFORD, Mr. ROBB, and Mr. ROCKEFELLER):

S. 1773. A bill to make improvements in the Black Lung Benefits Act, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mrs. KASSEBAUM):

S. 1774. A bill to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes; considered and passed.

By Mr. MOYNIHAN:

S. 1775. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care for all Americans; read the first time.

By Mr. METZENBAUM (for himself, Mr. FEINGOLD, Mr. WOFFORD, Mrs. MURRAY, and Mr. SIMON):

S. 1776. A bill to amend the Revised Statutes to restore standards for proving intentional discrimination; to the Committee on Labor and Human Resources.

By Mr. PRESSLER:

S. 1777. A bill to extend the suspended implementation of certain requirements of the food stamp program on Indian reservations, to suspend certain eligibility requirements for the participation of retail food stores in the food stamp program, and for other purposes; considered and passed.

By Mr. MOYNIHAN:

S. 1778. A bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of cooperative housing corporations; to the Committee on Finance.

By Mr. KENNEDY:

S. 1779. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; read the first time.

By Mr. DODD (for himself, Mr. COATS, and Mr. DURENBERGER):

S.J. Res. 159. A joint resolution to designate the period commencing on February 14, 1994, and ending on February 20, 1994, as "Children of Alcoholics Week"; to the Committee on the Judiciary.

By Mr. RIEGLE:

S.J. Res. 160. A joint resolution to designate the month of April 1994, as "National Sudden Infant Death Syndrome Awareness Month", and for other purposes; 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. BROWN:

S. Res. 174. A resolution to express the sense of the Senate concerning the expeditious resolution of the dispute concerning sales of commercial grade uranium between the United States and Russia; to the Committee on Foreign Relations.

By Mr. MOYNIHAN:

S. Res. 175. A resolution to authorize the termination of the 1903 lease on Guantanamo Bay, as a gesture of good will, at such time as democracy is achieved in Cuba; to the Committee on Armed Services.

By Mr. LEAHY:

S. Con. Res. 56. A concurrent resolution to authorize corrections in the enrollment of S. 1766; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself, Mr. DOLE, Mr. BOND, Mr. HATFIELD, Mr. BENNETT, Mr. HATCH, Mr. DANFORTH, Mr. BROWN, Mr. GORTON, Mr. SIMPSON, Mr. STEVENS, Mr. COHEN, Mrs. KASSEBAUM, Mr. WARNER, Mr. SPECTER, Mr. FAIRCLOTH, Mr. DOMENICI, Mr. LUGAR, Mr. GRASSLEY, and Mr. DURENBERGER):

S. 1770. A bill to provide comprehensive reform of the health care system of the United States, and for other purposes.

HEALTH EQUITY AND ACCESS REFORM TODAY ACT OF 1993

Mr. CHAFEE. Mr. President, I am very pleased today to join with 19 of my colleagues in introducing the Health Equity and Access Reform Today Act of 1993.

This is our health care bill, Mr. President, presented on behalf of the Republican Senators' health care task force. The cosponsors of this legislation are Senators DOLE, BOND, HATFIELD, BENNETT, HATCH, DANFORTH, BROWN, GORTON, SIMPSON, STEVENS, COHEN, KASSEBAUM, WARNER, SPECTER, FAIRCLOTH, DOMENICI, LUGAR, GRASSLEY, and DURENBERGER.

Mr. President, Representative BILL THOMAS is introducing the HEART plan companion bill in the House of Representatives and has made a solid contribution to the development of this proposal, for which I am very grateful.

I also want to thank Representative NANCY JOHNSON, of Connecticut, for her help in developing the provisions dealing with voluntary purchasing groups.

To start with, Mr. President, I want to thank the distinguished Republican leader, Senator DOLE, for his vision in directing the establishment of a Senate Republican health care task force in 1990. Think of it: Over 3 years ago, Senator DOLE set up this Republican health care task force. His support and encouragement of our efforts have brought us here today. I am particularly indebted to him for that.

In addition, I personally want to thank and commend the cosponsors of this proposal for their commitment to the task force effort and for their many fine contributions. As I say, these are the individuals that I previously listed as cosponsors.

Mr. President, as we set about the difficult task of developing this health care task force proposal, named HEART, we had three objectives. I do not suggest that these three objectives are unique to us, but they were extremely important as our goals went.

First, we wanted to ensure coverage of affordable health insurance for all our citizens. That was the first goal.

Second, we wanted to bring down the explosive increase in health care costs.

So, first, we wanted coverage for everybody. Second, we wanted to deal with the explosive increase in cost.

Third, we wanted to preserve the choice and quality that have distinguished American health care.

Now, while this bill is not perfect, I believe it satisfies these important goals.

Let me briefly give an overview.

First, HEART will guarantee universal coverage by making health care insurance more accessible and affordable, and by helping low-income Americans purchase coverage through a Federal voucher program. The voucher will be financed through reductions in the rate of growth in Federal health care entitlement programs, Medicare and Medicaid. We believe we can restrain the rate of growth of these programs. The voucher program for low-income Americans is going to be phased in under our proposal, starting in 1997, at 90 percent of the poverty level, reaching 240 percent of the poverty level by the year 2005.

Now, that does not mean, at 240 percent of the poverty level the entire cost of the health premium will be paid for by the taxpayers. No, we have a phaseout schedule starting at, as I recall, 100 percent of poverty and then scaling down, reaching total elimination at 240 percent of poverty.

This is done, as I say, on a sliding scale, so that those at or below 100 percent of poverty would have the full cost of their insurance paid with a phaseout, as I mentioned, going on upward. As we wrestled with the options, this pay-as-you-save approach was the most responsible way to proceed, in our judgment.

HEART will guarantee health security for all Americans by fundamentally reforming the standards governing the health insurance industry. In order for health plans to be qualified for tax-favored treatment, they will have to guarantee eligibility for all applicants. In other words, no more of this cherry picking. And the insurance companies will be prohibited from discriminating based upon the health of the applicant or from denying coverage because of a preexisting condition. If somebody comes with a preexisting condition—heart problems, whatever it might be—they still have to be covered.

HEART will also improve competition in the marketplace, ensuring the best service, quality, and price for consumers. By facilitating the establishment of voluntary purchasing groups, it gives small businesses and individuals the same leverage that is currently enjoyed by large employers. Members will be able to pick from a wide range of qualified health plans which compete for their business, such as fee-for-service, health maintenance organizations, or preferred provider plans.

Under HEART, qualified health plans will be required to offer a standard or catastrophic benefit package. These benefits will emphasize primary and preventive care, and will be adjusted periodically by a Benefits Commission. The Congress will consider submissions from the commission on an up or down basis. The commission will come forward with a suggestion dealing with the basic benefits package, for example. That can be approved and accepted by Congress or it can be rejected, but it cannot be amended. The vote will be yes or no, similar to the base closure package We do this in order to prevent the politicizing of the benefits package.

HEART provides significant reforms for the tax treatment of health care premiums to encourage cost control, and to help make more affordable. Premiums paid by employers, as well as individuals, would be fully deductible up to an amount equal to the average of the lowest one-half of the plan premiums offered in a health care coverage area.

Employer premiums in excess of the cap would become taxable income to the employee. We also make long-term care insurance premiums deductible, payments from such plans nontaxable to the recipients, and other reforms to encourage long-term care insurance.

HEART also provides for a number of other critical reforms, including antitrust reforms to provide safe harbors for medical providers to share expensive medical equipment without fear of prosecution. We encourage cooperation among hospitals; medical malpractice reforms to encourage mediation before litigation, and to limit attorneys' fees; administrative reforms to establish a health care data interchange system and to reduce paperwork costs—now estimated at 17 cents on the health care dollar.

I particularly want to pay tribute to Senator BOND for his work in connection with administrative reforms. He has worked very hard in this area, and very effectively, and made a wonderful contribution to the final legislation we produced.

We have incentives to encourage doctors, nurses, and other health care professionals to practice in rural and inner-city areas, and increased Federal assistance to train more primary care physicians, nurse practitioners, and physician assistants.

Capitation of Medicaid payments to States, and added state flexibility to move Medicaid beneficiaries into managed care programs.

The option for Medicare and Medicaid beneficiaries to receive the standard benefit package—including prescription drug coverage—if they enroll in a qualified health plan.

In summary, Mr. President, the cosponsors of the HEART bill stand ready to work toward the enactment of responsible health care reform legislation next year. Several of us have already begun a dialogue with Congressmen COOPER and GRANDY, and with Senators BREAUX, BOREN, NUNN, and others aimed at forging a solid centrist coalition. Our bills and principles are quite similar, and there is a strong interest in both camps to forge ahead.

We have also begun to work with the administration, and I wish to commend President and Mrs. Clinton for the tremendous effort they have made in developing their bill. While we have clear differences over the degree of regulation, the employer mandate, the structure of the regional alliances, and the potential costs of the Clinton legislation—there is also much common ground from which to begin the process early next year.

Christine Ferguson of my staff and Sheila Burke of Senator DOLE's staff have been absolutely essential in preparing this legislation. Without their knowledge and drive and energy, we would not have this bill today.

In addition, I want to thank my entire personal staff for ably assisting me in putting together this proposal, and note the specific contributions of Bob Greenawalt, David Sloane, Katherine Hayes, Doug Guerdat, Catherine Taylor, and Kathy Bell. Also, the help of Ann LaBelle of the Ways and Means

Committee staff was instrumental in getting this proposal drafted.

Finally, I want to thank the staff from other Senate and House offices who assisted in putting this bill together, including: Bill Hoagland, Priscilla Hanley, Peter Leibold, Laura Steeves, Susan Foote, Jim Capretta, Mark Hayes, Andrew Patzman, Julie James, Ed Mihalski, Lindy Paull, Roy Ramthun, Susan Nestor, Peg Walker-Brown, Jane Rosenquist, Sue Pihlstrom, Karen Mattson, Elise Gemeinhardt, Sharon Helfant, Tim Hanford, Vicki Hart, Nina Ovieda, Remmel Dickinson, and Patricia Knight.

You might say that is a lot of people. This bill is 600 pages long and it took the administration with everything it had, the entire administration behind it, 9 months to produce their bill. We just had this staff that I mentioned to produce this 600 pages.

In addition, we had the help of Mark Mathiesen, Ed Grossman, and William Baird and Julie Simon of Senate Legislative Counsel and House Legislative Counsel as well were wonderful in helping to put this complex proposal together, as were their colleagues: Susan Fauver, Susan Fleishman, Lawrence Johnston, Noah Wofsy, and James Fransen.

So, it is with considerable pride, representing all the Senators on the task force and of course especially those who joined as cosponsors, that we submit this legislation today. I thank the Chair and I thank the others for letting me proceed.

I ask unanimous consent a summary of the bill be printed in the RECORD.

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

SUMMARY OF THE HEALTH EQUITY AND ACCESS REFORM TODAY ACT OF 1993 [HEART]

The "Health Equity and Access Reform Today Act of 1993" guarantees every individual access to affordable and secure health coverage through substantial health insurance market reforms. Low income individuals will receive government vouchers to help purchase insurance. The vouchers are phased in through 2005 as savings in current government health programs are realized. The legislation will constrain the growth of health care costs through structural reforms and other savings.

HEART makes important changes in the tax treatment of health insurance that will make it easier to obtain coverage. The proposal also creates equity in the tax code. Individuals and the self-employed will be able to deduct all of their reasonable health insurance expenses. Tax code clarification will also help make long-term care insurance more affordable.

In addition, special assistance is provided for medically underserved, frontier, rural, and inner-city areas. "HEART" also contains important administrative, antitrust, medical fraud, malpractice, and quality assurance initiatives.

SECURE AND EQUITABLE HEALTH INSURANCE COVERAGE

Insurance and consumer protection reforms

To be fully tax deductible, an insurance plan must be certified by the state as a "qualified health plan" following federal benefit and other standards. All qualified health insurance plans must meet the following requirements:

Guarantee eligibility to all applicants;

Prohibit discrimination based on illness or preexisting conditions;

Guarantee renewal;

Ensure delivery of services throughout the entire geographic area (or Health Care Coverage Area) in which they are offered;

Offer either a standard or catastrophic/medical savings account benefit package (or both);

Encourage formation of purchasing groups for individuals and small businesses (100 or fewer employees);

Comply with administrative reforms, meet quality assurance and solvency standards, participate in risk-adjustment programs among insurers, and implement requirements to reach the medically underserved.

Individual and small business purchasing groups

To provide some of the same market advantages large businesses enjoy, and to disseminate better consumer information, purchasing groups may be established through which individuals and small businesses may choose from among several qualified health plans. States will establish geographic areas called Health Care Coverage Areas (HCCAs) in which one or more purchasing groups may compete for members. An HCCA may also be formed by interstate agreement to cover more than one state.

Vouchers to assist low income purchasers

Starting in 1997, those with incomes below 905 of the poverty level (and who are not eligible for Medicaid) will receive vouchers to buy insurance through purchasing groups. Voucher assistance will expand annually up to 240% of the poverty line in the year 2005.

Uniform benefits package

The standard benefit package includes medical and surgical services and equipment, prescription drugs, preventive services, rehabilitation home health services for acute care, hospice care, and some mental health services—all of which are based on a medically necessary or appropriate standard. Copayments and deductibles may apply to all but preventive services. An alternative catastrophic benefit plan can also serve as qualified coverage.

A Benefits Commission, appointed by the President and Congressional leadership, will report to Congress on any needed clarifications of the benefit plan. Annually, the Commission may recommend benefit changes for the approval of the Congress and President.

UNIVERSAL COVERAGE: INDIVIDUAL AND EMPLOYER RESPONSIBILITIES

Individual Responsibility for Health Care Coverage

All individuals must obtain health insurance coverage by 2005. The requirement is phased in based upon an individual's ability to purchase the standard plan and will be tied to the gradual expansion of federal assistance for low-income uninsured individuals. Individuals who enter the health care system uninsured will pay a penalty equal to the average yearly premium of the local area plus 20%.

Employer responsibility for health care coverage

Small Employers (those with 100 employees or less) must offer (but need not pay for) a standard benefit package or alternative catastrophic insurance obtained from a qualified health plan. Employees of small businesses may choose not to join any of the plans offered by their employer. They may, instead, purchase insurance through a different group or qualified health plan.

Large Employers (those with more than 100 employees) must offer both a standard and catastrophic benefit package to all employees. The employer may form a purchasing group, purchase from a qualified health plan, or self-insure for the purpose of providing insurance; however, its plan must comply with all consumer protection and insurance reforms.

TAX TREATMENT OF HEALTH CARE COVERAGE

Individual and employer tax provisions

All purchasers of qualified health plans will receive favorable tax treatment up to the "applicable dollar limit." Employees with employer paid insurance will not count the premium payments as income when the premiums do not exceed this amount; premiums in excess of the cap will be taxable to the employee as income. The health insurance deduction for self-employed persons is extended permanently and increased to cover 100% of the cost of qualified health plans, up to the "applicable dollar limit." The medical expense deduction for health insurance premiums of other taxpayers would be expanded to permit the deduction of 100% of the cost of qualified health plans (up to the amount discussed above), even for individuals who do not itemize deductions.

MEDICAL SAVINGS ACCOUNTS (MSA'S)

Medical Savings Accounts can be part of any qualified catastrophic benefit plan. Contributions to an MSA will be fully deductible up to the applicable dollar limit. If the employer makes the contribution, the amount contributed is excluded from the employee's income. These accounts are available to pay the cost sharing requirement of the catastrophic health plan and may also be used to purchase long-term care.

FEATURES TO IMPROVE THE CURRENT HEALTH CARE SYSTEM

ADMINISTRATIVE REFORMS

Standard information and means for communicating information on health insurance claims for filing, processing, and payment will be established. Privacy and confidentiality for health information will be protected by strong penalties for unauthorized access.

Quality assurance and medical research

All health plans must have a quality assurance program consistent with federal guidelines. Federal research on effectiveness outcomes will be expanded, and a clearinghouse and other registries on clinical trials research will be developed. A Medical Research Trust Fund is established to guarantee funding for research.

Assistance to underserved areas and provider incentives

Health plans may be required to provide additional benefits to special needs populations in defined geographic regions. Plans will be compensated for such care through grants or enhanced reimbursement.

In order to increase the number of primary care providers, the National Health Service Corps and other health profession funding would be increased. States may apply for Medicare graduate medical education demonstration authority to experiment with methods of changing physician specialties.

JUDICIAL REFORMS

Malpractice reforms

To lower health care costs, parties in malpractice suits must participate in alternative dispute resolution systems before entering regular litigation procedures. Noneconomic damages are capped at $250,000, and liability for such damages shall be based on proportion of fault. Providers following practice guidelines approved by the Agency for Health Care Policy and Research (AHCPR) shall have a presumptive defense against malpractice claims.

Anti-fraud and abuse control program

The bill establishes a national health care fraud prevention program. It increases and applies civil penalties for Medicare and Medicaid fraud to all health care programs. Providers convicted of fraud will be excluded from the Medicare program.

Antitrust reforms

The Attorney General, along with HHS and FTC, shall establish competition guidelines for approved providers, health care plans, and purchasing groups. Justice, HHS and the FTC will establish expedited waiver procedures from antitrust laws. Cooperative ventures shall be subject to the "rule of reason analysis."

"HEART" FINANCING GUARANTEES NO INCREASE IN FEDERAL HEALTH COSTS

Reductions in Medicare/Medicaid programs

Savings in Medicare and Medicaid finance fully the low income voucher program. Savings arise from means testing the Medicare Part B premiums, phasing out payments to hospitals for uncompensated care and for enrollee bad debt, and instituting a managed care program in Medicaid.

Budget procedures to protect against cost overruns

The voucher program expansion proceeds only after certification by OMB that savings are occurring as scheduled. In the event that savings occur more rapidly, the phase-in will be accelerated. In the case of a savings shortfall, it will be decelerated. The Benefits Commission may make recommendations to Congress to reduce the deficit amount by restructuring benefits or restructuring health care entitlements. If Congress enacts such recommendations, the deceleration in voucher coverage will be appropriately adjusted.

Mr. BOND. Mr. President, first, I am here to commend Senator CHAFEE and his very able staff for the excellent leadership that they have given the Republican Health Care Task Force for the more than 3 years we have labored on the questions of health care. As I had told many groups to whom I have spoken, it took us the first 9 months just to figure out all the questions involved in health care. It was under JOHN CHAFEE's able leadership we were able to dissect those problems and I think come up with a workable solution.

We have made a great deal of effort to talk with people in our own States. I have had the privilege to visit other States—to share our concerns about health care and to hear what others have suggested to us. We have talked to consumers who have suffered outrageous examples of loss of insurance when they became sick. We talked with people who have been concerned about the administrative headache. We have talked with experts who said we could do so much more in health care if we had a good electronic information system that would enable us to collect information on health care treatment and the effect of it. All of these matters are addressed in this measure that we have presented today.

We presented it today knowing full well with the coming months there will be opportunity for every interested citizen, everyone who has knowledge and interest and a commitment to health care reform to give us their views, to help us develop what we think can and must be a good mainstream bipartisan coalition to pass health care reform.

We have the finest health care system in the world today, as I have stated many times before on this floor, but there are some problems. We need to deal with the problems but we also believe, "If it ain't broke, don't fix it."

Our effort in the HEART measure is to fix what is broken and to protect the strengths, including the choice by consumers, including responsible financing, including insurance market, administrative, and malpractice reform that we believe are essential.

I add to the compliments Senator CHAFEE has paid to the many staff. My particular thanks to Mark Hayes of the famous Hayes team, Mark being my health care legislative assistant, who has worked many 80- and 90-hour weeks to contribute to this plan.

Mr. DOMENICI. Mr. President, I am pleased to be an original cosponsor of the health care reform bill introduced today by Senator CHAFEE and a number of Senators who have been part of the Senate Republican health care task force. This has been led by Senator CHAFEE. This task force has been committed for more than 3 years to reforming our health care system, has met innumerable times, and I believe they have conducted themselves such that it is clear they are committed, each and every one, to reforming the system.

We worked very hard to understand the complex problems plaguing our health care system, and this bill is a product of a year-long effort to formulate a solution. Although I am a cosponsor and I support much of what is in this bill, I must begin by stating one major reservation. Incidentally, I believe the reservation is of interest to the occupant of the chair, knowing of his concern for what is going to happen to the deficit and unfunded, open-ended entitlements in the future.

This bill, like all others that are major in this field, does not achieve significant deficit reduction but uses up most, if not all, of what we currently spend for Medicare and Medicaid to help pay for the new system.

Instead of offering us some deficit reduction that is significant, this bill devotes most, if not all, as I indicated, of the savings from controlling current health care entitlements to expanding new health care programs needed as part of reform.

Unfortunately, we cannot afford our current health care entitlements. And that is interesting. Everybody says you cannot fix the Federal deficit without getting the current health care entitlements under control. The President must have said it during his campaign 50 times if he said it once. After he was in office and submitted his own plan he said, as for deficit reduction, we will never control it unless we get health care entitlements under control. If you look at the submissions the President made to the Congress, it is obvious that unless some of that health care entitlement explosion of costs over the next decade goes to deficit reduction, the deficit will grow until it is totally out of control.

Even after the biggest tax increase in history, the Congressional Budget Office and our experts say the deficit will exceed $360 billion by the end of the decade—largely because Medicare and Medicaid spending will triple during that time. Insisting on deficit reduction will clearly complicate our desire to expand health insurance coverage. But I believe very strongly that if we do not attend to our fiscal health and adopt policies that promote economic growth, we will not be able to afford the kind of health system that keeps us as healthy physically as we would like.

Nonetheless, this legislation does at least recognize that we cannot add to the deficit with uncontrolled and open-ended health care entitlements. –In this bill we make sure that the Federal Government's health expenditures are at most what we currently project for Medicare and Medicaid. If spending were to exceed those levels, the bill provides for slowing down the phase-in in new subsidies, scaling back the costs of the standard benefit package, or making other adjustments to keep total Federal health spending in check.

Although I would prefer some deficit reduction, I am very pleased that this bill includes this kind of spending control mechanism. We are beginning to call it "pay as you save," which is absolutely essential for fiscal responsibility; as you save within the Medicare and Medicaid system by reform, then apply that to spending. Pay for things as you save.

Other provisions in this package, I believe are the very best. Some concerns that I have about fiscal policy are clearly of concern. But I believe this bill is the most sound of all health care reforms and the various plans that are before the Congress.

First, it does not burden small business with new mandates;

Second, it does not create a government-run health care system;

Third, it provides coverage for all Americans without over promising benefits; and,

Fourth, it controls health care costs through managed competition, not price controls or other arbitrary Government regulations.

So I conclude that in a bill of this size, with so many authors, there are going to be provisions that I am not totally comfortable with, or less comfortable with than others. But that is fine, because this is not our last word on health care reform. Rather, it is our first step. We are all still learning about this complex system. As we learn more, I am sure we will revise our plans. Moreover, we hope this bill will give us an opportunity to get more input from the American people about what they want in a health care reform package so we can improve the product and move toward a national consensus.

I repeat, from the standpoint of the future of our economy, controlling the budget deficit, so-called fiscal probems of our Nation, I believe this is the best bill that has been introduced on either side, Senate or House, including the bill introduced recently in behalf of the President of the United States. I remain convinced that we must inject into this debate the future deficit of the United States, for it will to some extent, and I think a large extent, determine our economic future, our jobs future, and whether we can pay for any major health care program on a sustained basis.

So while I today reflect my concerns, I am also very pleased to state that in most respects, this is the best bill that has been introduced and referred to committees in the U.S. Senate or House, in my opinion.

Mr. HATFIELD. Mr. President, today 3 years of hard work culminates with the introduction of the Health Equity and Access Reform Today [HEART] Act of 1993. I would like to take this opportunity to thank Senator CHAFEE for his outstanding leadership of the Senate Republican Health Care Task Force. He and his staff have labored diligently to educate Republican Senators and their staffs about health care reform. And, the bill that we are introducing today is a reflection of the compromise and consensus cultivated by their efforts.

I am pleased to join my colleagues on the Task Force as an original cosponsor of this legislation. This legislation represents a responsible approach to a complex problem and it sets the stage for further bipartisan discussions on health care reform as we move into the second session of the 103d Congress. And, although I am not convinced that Congress will pass comprehensive health care reform legislation next year, I believe the Health Equity and Access Reform Today Act lays out a number of areas of agreement that will facilitate the ensuring health care reform debate.

I would like to take a comment to highlight the bill's treatment of several issues of importance to me. The first issue is financing. I am encouraged by the approach taken in this legislation with regard to financing. Our basic premise is "pay-as-you-save". We have committed to universal access through an individual mandate but have said that coverage of the uninsured will be phased in as the savings from the structural reforms in the bill are realized. The bill provides for an extension of the phase-in if savings are not realized as quickly as we hope. In addition, this legislation will finance reforms through changes in the deductibility of employer provided insurance and restraints on the growth of Medicare and Medicaid. Due to our checkered past with regard to accurate cost estimates and expected savings, I believe the approach taken in this bill is a sound one.

The second issue is the provision of health care services in rural and underserved areas. It is essential that we develop the infrastructure needed to assure that health care services are adequately delivered in rural and underserved areas. I support the provisions in this legislation that provide for grants to States to facilitate the creation of community-based primary health care systems in medically underserved areas, and the creation of demonstration projects to help States evaluate innovative approaches to improving access to primary care providers. I also support the incentives, such as tax incentives, National Health Service Corps loan repayment income exclusions and student loan repayment deductions, to primary care providers to practice in underserved areas.

The third issue I would like to highlight is medical research and its role in long term cost containment. I firmly believe that any comprehensive reform plan must include medical research as a central mechanism for controlling the cost of health care in this country. After all, a cure is the ultimate in cost control. It is a key link in our strategy to find treatments and remedies which will finally drive down costs. The lack of debate surrounding this issue has distressed me—it illustrates an apparent disconnectedness between medical research and true health care reform. Reformers are missing the point: Health care reform will not be complete without a research component.

The United States has built an impressive biomedical research enterprise since the inception of the Marine Hospital Service over 200 years ago. Today, dramatic developments in genetics and gene therapy offer new hope to many suffering from disorders such as cystic fibrosis, sleep apnea, breast and prostate cancer, diabetes and Alzheimer's Disease. Yet, our commitment to continue our disease defense buildup is threatened by our fiscal crisis—as we head into a 5-year freeze on discretionary spending, I fear the instability and unpredictability of providing increased Federal funds for research.

As a member of the Appropriations Committee for over 20 years, I am convinced that the stability necessary cannot be accomplished simply through the appropriations process. A dedicated funding source to augment annual appropriations is essential if we are to fulfill the hopes of millions of Americans suffering from disease and disability and achieve effective long-term health care cost control.

For this reason, my colleague from Iowa, Senator HARKIN, and I unveiled earlier this year our proposal to establish a medical research trust fund as part of any package which is billed as comprehensive health care reform. I am delighted that the HEART legislation includes our proposal for a National Fund for Medical Research. This fund is created and financed outside of the Federal budget process, by relying on a variety of funding sources. In this bill, we generate funds from two sources: First, the revenue raised from a voluntary Federal income tax checkoff, and second, income generated from the application of civil penalties under the Employee Retirement Income Security Act and the HEART proposal itself. We estimate that these sources will generate over $500 million in new revenue to be devoted to the research agenda of the National Institutes of Health.

This proposal is a starting point. I am hopeful that we will be able to find other creative financing options which are stable and adequate to fund the potential of biomedical research in this country. We are not alone in this task. Public opinion polls have shown massive public support for making health research the number one Federal science priority. Polls have shown that Americans favor an investment in medical research by a 30 to 1 ratio when compared to weapons research. I believe we owe it to the American people to create a vehicle whereby this interest can be mobilized to achieve a critical purpose.

The final issue that I would like to raise is the ability of States to act as laboratories for reform by enacting their own approaches to health care reform. As you know, Oregon is in the process of implementing a major reform plan which will extend health care to all Oregonians. The Medicaid portion of this plan, which will eventually extend Medicaid coverage to an additional 120,000 Oregonians, will go into effect in February. I believe that as we develop comprehensive national reform, we must also allow several States to continue their reforms in order to test and develop a database that can be used to refine national reform. The bill we are introducing today does not allow a full opt out for States, except in extraordinary circumstances, although it does allow states to apply

for waivers to try different approaches within a market system. This provision would allow States like Oregon to continue their innovative programs. In the end, I believe our national reform efforts will be strengthened by the data that is gathered by these States.

While I believe we have a long way to go before enacting comprehensive health care reform, I am pleased that we have been able to bring the ideas of the Task Force together in legislative form. I look forward to working with my colleagues in Congress and the administration as we proceed with this debate.

Mr. COHEN. Mr. President, I am pleased to join with Senator CHAFEE in introducing the Health Equity and Access Reform Today Act, which is the product of 3 years of study, negotiation, and just plain hard work by the Republican Health Care Task Force. The legislation—dubbed HEART—is a comprehensive initiative, which incorporates many of the principles outlined in my own health care reform bill, which I introduced last January.

First, it guarantees universal access to a standard benefit package emphasizing primary and preventive care and ensures that all Americans have health care coverage. It also provides for fairer and more equitable tax treatment of health care benefits, and includes insurance market reforms to ensure that individuals will not lose their coverage if they become ill, change jobs, become unemployed, or have a chronic health condition. Health plans will have to compete on the basis of price and the quality of the services they provide, rather than on their ability to exclude sick people from coverage.

The plan emphasizes the principles of individual responsibility and consumer choice. Individuals and small businesses will have the option of joining health insurance purchasing cooperatives, which will give them more buying power and access to better, more affordable coverage. Low-income and unemployed persons could also purchase insurance through these cooperatives, with their premiums subsidized by vouchers.

The plan also takes a number of important steps to contain health care costs.

Administrative costs would be reduced by as much as $100 billion a year by replacing the more than 1,100 insurance forms that clog the system with a simplified, standardized claims processing system. Increased outcomes research will help to establish the circumstances under which certain drugs and procedures are most effective, which will help reduce the costly practice of defensive medicine. And a measure of antitrust relief will be provided to enable hospitals and other providers to share costly high-tech equipment and services.

With health care costs approaching $1 trillion a year, health care fraud and abuse is one of the fastest growing law enforcement challenges facing our Nation. In fact, the General Accounting Office estimates that by 1995 fraud and abuse in our Nation's health care system could cost taxpayers as much as $100 billion a year.

Consumers and businesses are paying dearly for these health care rip-offs in the form of higher taxes and skyrocketing insurance premiums. Therefore, any health care reform plan must address the issue of health care fraud. I am particularly pleased that the HEART bill includes provisions of an antifraud bill I introduced earlier this year, the National Health Care Anti-Fraud and Abuse Act, which would strengthen the Federal Government's efforts to combat fraud and abuse.

The HEART bill also places a greater emphasis on prevention. George Bernard Shaw once asked why we pay doctors to take a leg off, but we don't pay them to keep a leg on. We spend billions of dollars on elaborate equipment and services once serious illness or injury occurs. Yet we scrimp on the preventive services that could have helped us avoid such situations all together. Health care reform presents us with a real opportunity to shift our emphasis from curing to preventing.

And finally, health care coverage won't do you much good if health services aren't available in your community. Therefore, our plan takes steps to increase the number of providers in rural areas in order to expand access to care for the millions of Americans who live in these underserved areas.

President Clinton's health care plan is expected to be introduced formally before Congress adjourns for the year. While there are many areas of agreement, there remain a number of significant differences which we will seek to resolve in the coming months.

For instance, I am concerned that the Clinton plan calls for too much government control at the expense of individual choice. It establishes dozens of new Federal Government agencies and commissions and turns substantial new regulatory power over health care services to the Federal Government. Further, it requires all businesses with fewer than 5,000 employees to purchase insurance through monolithic regional health alliances, many of which are likely to be government-run. In my home State of Maine, for instance, where only one business—Bath Iron Works—employs more than 5,000 people, virtually every business and every individual in the State would be forced to purchase their insurance through the health alliance. Not only is this likely to eliminate choice for dissatisfied customers, but it also will involve the heavy hand of government too intimately in personal health decisions.

The plan we are introducing today would allow more than one purchasing cooperative to compete for businesses in a region. It also allows consumers to purchase insurance outside the alliances, which, under our plan, would be member-run rather than government-run. The health alliances would therefore have to compete on the basis of price and the quality of their services in order to attract customers. If consumers are able to get a better deal or better service elsewhere, they will be free to do so.

President Clinton has also proposed that all employers pay 80 percent of the cost of their employees' health insurance premiums. Even if you only employ a part-time babysitter, you will still be required to contribute to their health coverage. Such a mandate is the equivalent of a tax on jobs—a dangerous thing to do in our current economy. Employers will not bear the cost of the insurance—workers will in the form of lower wages or lost jobs. In fact, the Employee Benefit Research Institute estimates that as many as 1.2 million jobs could be lost as a result of the mandate.

And finally, I am concerned that the President does not have a realistic financing plan, and that he may be promising more than the taxpayer can deliver. Too often, government tries to do too much, too quickly, at too great a cost to the taxpayers. Therefore, in our plan we have proposed financing health care reform on a "pay as you save" basis. As our reforms cut health care costs, we can afford to expand coverage and phase in new benefits.

Health care reform is an extremely complex issue. It will alter the lives of millions of people and make far-reaching changes in an industry that makes up one-seventh of our Nation's economy. Therefore, we must move forward with great caution and great care.

But move forward we must—we cannot afford to allow this opportunity to pass. The issue is simply too important and the need too compelling. We believe that the plan we are introducing today lays the foundation for a new approach to health care, and we look forward to working together with the President and our colleagues next year in an effort that is not just bipartisan, but nonpartisan.

Mr. DURENBERGER. Mr. President, I am pleased to be an original sponsor of the S. 1770, the HEART proposal that is being introduced today.

During the last 3 years, I have been pleased to work with my distinguished colleague from Rhode Island, JOHN CHAFEE, and other Republican members in the Republican Health Care Task Force. Our goal was to develop greater understanding of the health care marketplace and to propose responsible reforms.

I have been a supporter of market-based health reform principles throughout my entire career in the U.S. Senate. In 1979, I introduced the Health Incentives Reform Act to encourage competition and consumer

choice that is now a mainstay of the Minnesota health care marketplace.

I applaud the Clinton administration for putting health reform on the national agenda. I have personally pledged to the President and to the First Lady that I will work tirelessly to accomplish health reform in the 103d Congress.

I firmly believe that the only way to accomplish our goals in health care reform is through markets not regulation. I am the lead Republican cosponsor of S. 1579, the Breaux-Durenberger Managed Competition Act, which reflects my commitment to a competitive health care marketplace.

While I do not agree with every provision in the HEART bill we are introducing today, I support this effort to move toward functioning health care markets.

I applaud the President for rejecting Government-run health care reform. I will support President Clinton's bill when it removes all the regulatory provisions that I believe will impede the development of medical markets.

When we speak about health reform, we really mean three different components: system reform, coverage reform, and health reform.

System reform requires that we fundamentally change the way medical markets work. System reform requires informed buyers exercising choices among accountable health plans. The Government's role is to facilitate markets by setting the rules of the road for competitors.

The Managed Competition Act has the clearest set of national rules for local markets and the most effective set of institutional arrangements to achieve functioning medical markets.

The HEART bill also comes close in many important ways. I have concerns about the voluntary purchasing cooperative arrangement. I have much greater confidence in a system of exclusive, non-profit, consumer run cooperatives embodied in the Managed Competition Act.

However, I think the HEART bill does a better job constructing the tax cap premiums. While the Managed Competition Act ties the cap to employer deductions only, the Republican Task Force caps both the employee exclusion and the employer deduction. In order to encourage responsible purchasing, employees and employers both must feel the bite. The government should not subsidize over-consumption of extravagant health plans.

While I have much respect for my distinguished colleague from Oklahoma, DON NICKLES, I cannot support his proposal, S. 1743, which was introduced last week. It doesn't accomplish the essential reforms to make markets work. We must fundamentally change the way medicine is organized and delivered in order to get lower costs and increase quality.

The Clinton proposal includes many necessary market reforms. However, medical markets are constrained by regulation—including government imposed premium caps, State-by-State budgets, and highly bureaucratized purchasing alliances. States will have the discretion to interfere in the markets which traditionally have not conformed to arbitrary state boundaries.

President Clinton's much touted State flexibility will lead to 51 different health care financing and delivery systems that disrupt interstate commerce. This State authority will burden buyers who do business in more than one State as well as provider networks that cross State lines. This approach will add unnecessary inefficiency and involve States in activities for which they have little capacity and no expertise. Congress must design national rules and then let local markets work.

In addition to reforming the delivery system, all the bills deal in some form with coverage reform. Much of the recent debate has centered around which reform plan offers universal coverage. The Truth is that we all share in a common goal to extend coverage to every American.

But, Mr. President, the promise of universal coverage without the financing to pay for it is an empty one. The President's bill does not pay for the promises that it makes. It promises universal coverage but does not deliver on that promise.

The HEART proposal promises universal coverage through an individual mandate, but that promise warrants a closer look. The requirement for universal coverage is conditioned on the achievement of real savings. If the requite savings in the public expenditures do not accrue, the phase-in of the subsidies will not occur. This amounts to a commitment to move toward universal coverage, but it is no guarantee.

The Breaux-Durenberger bill does not make false promises of universal coverage. It shares with Clinton and CHAFEE reform of the insurance industry to remove barriers to obtaining coverage. It shares with Clinton and CHAFEE the assumption that Government has an obligation to help low-income individuals pay for health care. But, once the barriers are lifted, Breaux-Durenberger assumes that the decision to buy coverage is an individual responsibility not a new entitlement.

In my view, the promise of universal coverage, particularly when it is financed on the back of Medicare and Medicaid and not on new revenue sources, cannot occur without major restructuring of those publicly-financed programs. Without Medicare and Medicaid, no promise of coverage reform can truly occur.

Breaux-Durenberger restructures Medicaid, the program for low-income individuals. That is an important step.

The Managed Competition Act moves aggressively to reform Medicaid, by federalizing its source of funds, eliminating its tie to welfare, and substituting a low income voucher program. Thus, low income people will be "Mainstreamed" into the accountable health plans along with all other employed individuals.

Unfortunately, the bill as introduced does not address the Medicare program. I plan to introduce a separate proposal that will restructure Medicare through the application of managed competition principles.

Specifically, my legislation will provide Medicare beneficiaries with an annual enrollment period in which to select among competing health plans, employer-sponsored coverage, or the current federally administered fee-for-service program. When the elderly see the additional benefits and reduced costs that will be available through accountable health plans, they will willingly abandon the Medicare system as they now know it.

The HEART proposal takes some very small steps in the direction of managed care for low income individuals and for Medicare.

None of the health reform bills introduced to date deal with health in its broadest context. Health is more than a plastic card that promises access to doctors and hospitals. Health is what we read about in the newspapers every day—its the deterioration of our communities, it's children having children, it's violence and substance abuse, it's poverty and despair. We cannot improve our health outcomes if we ignore the social conditions in which people live.

All the plans that have been introduced fail to deal with health reform in its broadest context. I plan to introduce a bill in January that addresses these pressing issues.

In brief, the Responsible Federalism Act will encourage States to assume responsibility for what are now federal categorical grant programs in return for the Federal Government assuming responsibility for the costs of acute medical care for low income individuals. States, freed from dependence on rigid Federal grant programs, can return to their traditional responsibilities to protect the public health.

Mr. President, now the President's bill, and the HEART bill by the Republican Task Force join the Breaux-Durenberger Managed Competition Act. Despite many differences in detail, these three bills are premised on making medical markets work. In the next few months, the Congress will embark on the difficult task of reconciling our differences in order to hammer out a credible reform package that the American people will embrace.

I believe that a bipartisan consensus can be developed as long as it is premised on market reform. I believe that

consensus will be based on the best provisions in these three bills. I look forward to the opportunity to work with my colleagues on both sides of the aisle to make health reform a reality in the 103d Congress.

By Mr. DeCONCINI:

S. 1771. A bill to amend provisions of title 28, United States Code, to provide for the payment of attorney fees to a prevailing defendant in civil actions, and for other purposes; to the Committee on the Judiciary.

ATTORNEY ACCOUNTABILITY ACT OF 1993

Mr. DECONCINI. Mr. President, today I am reintroducing the Attorney Accountability Act, a bill to provide for the payment of reasonable attorney fees to prevailing defendants in Federal court actions. This legislation is meant to address the inequity that arises when an individual is forced to defend a lawsuit where he has done nothing wrong. As we all know, the costs of litigation can be enormous. This legislation allows defendants who prevail to be reimbursed for legal fees incurred in defending themselves.

Last year when I introduced this legislation, I heard from a large number of small business owners who strongly supported the bill. They recalled their experiences with lawsuits that threatened their businesses. Many were hit with frivolous lawsuits that they felt compelled to settle in order to avoid the legal fees involved.

I believe there needs to be greater accountability on the part of individuals and their lawyers. Making plaintiffs and their lawyers, in certain situations, responsible for the legal fees of winning defendants is necessary to bring about much needed reform in our civil justice system.

Under the provisions of this bill, fee awards to prevailing defendants can be waived by the court if such an award would be against equity and good conscience. This waiver is intended to allow the court the discretion not to impose fees on the poor or others for whom to do so would be unjust.

The bill clarifies that plaintiffs who are required to pay defendants' attorney fees will be reimbursed by their attorney if the court finds rule 11 of the Code of Civil Procedure was violated. Rule 11 provides that attorneys must certify that every pleading, motion or other paper filed is, to the best of his knowledge, "well grounded in fact and is warranted by existing law * * * and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." Although rule 11 already allows reimbursement for attorney fees, this bill ties the two together and gives the losing plaintiff recourse to recover fees paid.

This legislation places part of the burden of paying fees on attorneys who take cases on a contingency basis. Attorneys working on a contingency basis will be held responsible for a proportionate share of any attorney fee award equal to the percentage of their contingency fee. Concerns have been raised that contingency fee arrangements contribute to the litigation explosion. My bill seeks to impose accountability on the part of lawyers who take cases on a contingency fee basis by requiring that they share not only in the possible rewards of filing suit but also in the potential risks.

The bill does not intend to preempt other existing Federal statutes dealing with fee shifting, unless they are inconsistent. There are already a number of Federal statutes which provide for the award of attorney fees to prevailing parties. There is nothing in this bill that would prohibit prevailing plaintiffs in civil actions brought under statutes with fee shifting mechanisms from recovering their attorney fees. Finally, the bill does not apply to pending cases or to class actions.

Tort reform has been the subject of heated debate over the past decade. Concerns have been raised about the problems resulting from the high cost of liability insurance, the expense of litigation and the tremendous backlog in our courts. When I introduced the Attorney Accountability Act last Congress, I received strong support for the legislation from small businesses and the National Federation of Independent Business [NFIB] which endorsed the bill. The threat of litigation and its associated costs are major impediments to starting a small business. The Small Business Administration has estimated that the threat of malpractice suits adds an alarming $4 billion to the cost of health care each year and that defensive actions on the part of doctors costs $100,000 per year per physician.

Filing suit, no matter how baseless the charge, requires both parties to hire an attorney. Everyone knows that the cost of defending a lawsuit is skyrocketing; defending an employment discrimination suit has been estimated to cost over $60,000. Faced with the prospect of defending a lawsuit and paying the lawyers' fees, many defendants conclude they should settle. Even if they do proceed and win, their costs generally cannot be recovered and they are never made whole.

Fee shifting is an issue that generates much debate. The American legal system generally requires both parties to pay their own legal costs. The reason behind the so called "American rule" is the belief that such a system enhances access to the courts. The "English rule" is used virtually everywhere except the United States. Its goal is to reduce the number of cases filed and to eliminate frivolous cases. Critics of the English rule, however, argue that the loser-pays rule discourages the average citizen from filing suit because of the threat of huge legal fees.

I recognize that this bill could have the effect of discouraging litigation. However, plaintiffs who have valid, meritorious claims have little to fear, since they will not have to pay. What this bill will do is discourage claims initiated with the goal of settlement, claims without merit, and defendant shopping.

I have serious concerns about so-called "defendant shopping," a practice that is ripe for reform. In a personal injury suit, injured plaintiffs are looking for compensation, the "deep pocket." Therefore, in many cases suit is filed against any number of possibly negligent parties in order to seek out the best chance for recovery. For example, in an automobile accident claims may be filed against the person who caused the accident, the brake manufacturer, the car manufacturer, the mechanic, the driver's employer, etc. The list is nearly endless. Today there is little risk in such an approach. If the plaintiff knew that he could be responsible for each of these defendant's legal fees he might reconsider his strategy. This would reduce the workload in the courts, cut costs and reduce the time necessary to resolve such suits.

We don't sufficiently understand the incentives and deterrents in filing lawsuits and whether the benefits outweigh the costs of our current system for reimbursement of attorney fees. I am not confident that a major overhaul of our Nation's tort system of justice is necessary or advisable. This bill is my attempt to continue the debate on this most serious issue. I welcome comments, suggestions, and recommendations from my colleagues and other interested parties. I believe there are any number of ways that we can help restore some accountability in the court system, and I hope this will stimulate additional thoughts on this issue.

Mr. President, I ask unanimous consent that the full text of the Attorney Accountability Act be printed in the RECORD.

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

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 "Attorney Accountability Act of 1993".

SEC. 2. AWARD OF ATTORNEY FEES TO PREVAILING DEFENDANT.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by inserting after section 1931 the following new section:

"§ 1932. Award of attorney fees to prevailing defendant

"(a)(1) Except as otherwise provided in this section, in each court of the United States, the court shall award reasonable attorney fees to a prevailing defendant from the plaintiff after the entry of final judgment in any civil action.

"(2) In an action involving multiple parties, the court may apportion the payment of attorney fees under paragraph (1) between or among plaintiffs to defendant or defendants at the court's discretion.

"(3) The provisions of this section shall not apply to any class action suit.

"(b) The court may waive the provisions of subsection (a) in exceptional cases in which the application of such subsection would be against equity and good conscience.

"(c) In any case in which the provisions of subsection (a) apply and the court finds that the attorney for a plaintiff has violated rule 11 of the Federal Rules of Civil Procedure, the court shall order such attorney to reimburse the plaintiff for the amount awarded under subsection (a).

"(d) In any case in which the provisions of subsection (a) apply and the attorney for the plaintiff has a contingency fee agreement with the plaintiff, the court shall order such attorney to pay a portion of the fees awarded under subsection (a). Such payment shall equal the amount of the total fees awarded to the prevailing defendant under subsection (a) multiplied by the contingency fee percentage under such agreement.

"(e) The provisions of this section shall preempt and supersede any other Federal law relating to attorney fees to the extent such law is inconsistent with this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 123 of title 28, United States Code, is amended by adding after the item relating to section 1931 the following:

"1932. Award of attorney fees to prevailing defendants.".

(c) EFFECTIVE DATE.—The provisions of this Act and amendments made by this Act shall be effective on and after the date of the enactment of this Act and shall apply only to civil actions filed on and after such date.

By Mr. SIMON (for himself, Mr. WOFFORD, Mr. ROBB, and Mr. ROCKEFELLER):

S. 1773. A bill to make improvements in the Black Lung Benefits Act, and for other purposes: to the Committee on Finance.

BLACK LUNG BENEFITS RESTORATION ACT

• Mr. SIMON. Mr. President, I am introducing the Black Lung Benefits Restoration Act today with my colleagues: from Pennsylvania, Senator HARRIS WOFFORD; from Virginia, Senator CHUCK ROBB; and from West Virginia, Senator ROCKEFELLER.

The Black Lung Benefits Restoration Act should not just be of interest to those from coal producing States. The Black Lung Benefits Restoration Act should be of interest to anyone interested in equity and fairness.

BACKGROUND

Mr. President, as you know, Title V of the Federal Coal Mine Health and Safety Act of 1969 established a program of monthly cash payments to eligible coal miners totally disabled by coal workers' pneumoconiosis, or black lung disease, and their survivors. Amendments in 1972 and 1977 made changes to the program's eligibility so that more claimants would qualify for black lung benefits.

The Black Lung Program has two components—part B and part C. Under part B, cash benefits are awarded for miners disabled by black lung, and their dependents and survivors. The beneficiaries are paid from annually appropriated general revenues by the Social Security Administration. Benefits under part B are only paid to claims filed before July 1, 1973—for some survivors the deadline was December 1973. when the period of Federal responsibility for claims filed under part B ends, claims are to be paid under part C by the responsible coal operator. If no such operator can be found, then claims are to be paid by the coal industry as a whole through the Black Lung Disability Trust Fund. The trust fund, financed by an excise tax on coal, is to pay benefits when either no responsible coal operator can be identified, or if the operator is in default, or if the claim is based on coal mine employment that ended before January 1, 1970.

The trust fund has had a deficit since it was created. In 1981, Congress enacted legislation to eliminate the deficit and debt by increasing the excise tax on coal and strictly limiting eligibility for black lung benefits for future claimants. The debt is estimated to reach $4 billion by the end of this year.

Mr. President, the changes to the act made through the 1980's are not and will not eliminate the deficit or the debt, and the limits on eligibility are not equitable.

Mr. President, the purpose of the Black Lung Benefits Restoration Act is to establish a more objective and equitable process for determining black lung benefits and to work toward the solvency of the trust fund.

Let me share with you and my colleagues three stories about mining families from my State of Illinois.

CASE STUDIES

On June 4, 1993, Lyndell Laird called my Carbondale office to tell me what is happening to his mother, Sophie Laird, and her husband, Elmer's, black lung case. I had first been contacted by the Laird family in regard to Elmer's case 10 years ago.

Mr. President, let me take a moment and tell you about Elmer Laird. Elmer mined coal underground for 46 years. In 1973, the Department of Labor came to where he worked to take chest x rays of the miners to determine if any of the miners had black lung. Elmer took the test and was told by the Department that he had the disease. In 1973, however, Elmer was only aged 63; and therefore worked until retirement at age 67. He then applied for black lung benefits. Elmer was awarded benefits, but the decision was appealed. While the case was on appeal, interim benefits were started in 1976.

Elmer's son, Lydell, called to tell me that his mother had received a letter from the U.S. Department of Labor stating that she must pay back $59,210.60 within 30 days. Fifty-nine thousand, two hundred ten dollars and sixty cents is 17 years of interim black lung benefits that had been paid to Elmer. Elmer died April 2, 1993, His black lung case is still being appealed.

Under current law—because Elmer Laird's case was not final, and it cannot be proved that he died of black lung—his widow must return the $59,210.60 and is not eligible for survivor benefits.

Fortunately, Mrs. Laird and her husband were frugal and left the interim benefit money in a bank drawing interest. However, most cannot afford to leave the benefit money in a bank. Most need the benefits for their day-to-day needs and medical expenses.

The Black Lung Benefits Restoration Act would help Mrs. Laird, and others like her in similar situations. Under my legislation, Mrs. Laird would not have to return the 17 years worth of benefits, she would be eligible for spousal benefits, and it won't take almost 20 years to determine whether or not someone is eligible.

On September 13, 1993, the children of Joan Durbin wrote to me about the difficulty their mother was facing regarding her late husband's black lung benefits. I ask unanimous consent that the letter the Durbin children wrote to me be inserted into the RECORD. For 18 years Joan, her late husband, Ronald Durbin, and their eight children have been caught in the unrelenting cycle of the Black Lung Benefits Program. They were awarded benefits, only then to be denied. Some of the things the Durbins had to go through include: being told in 1985 that they would have to repay 10 years of benefits which came to $53,000; for 18 years Ronald having to undergo numerous medical examinations and court battles to prove his claim, which were paid for at his and his family's expense; and the emotional toll the disability and unending benefits battle took on his family. As the letter says, "Because of this on-again off-again black lung claim, over the years, our parents had to mortgage the house they owned for 35 years, cash in various life insurance policies, and have to do without many things.* * *" Even after Ronald's death in 1992 and an autopsy confirming a diagnosis of black lung, his widow is still fighting.

Joan was awarded survivor benefits in January 1993, only to be denied benefits the following July.

Under the Black Lung Benefits Restoration Act the Durbins would not have had to wait 18 years for a decision. Moreover, Joan would be eligible for benefits as his widow.

BLACK LUNG BENEFITS RESTORATION ACT

Benefit overpayment. Under current law, if a miner receives an interim ruling from the Department of Labor's Deputy Commissioner that he is entitled to benefits, and it is later determined by an Administrative Law Judge

that the miner is not entitled to benefits, then the miner must refund all interim benefits received.

There is a significant delay between the Deputy Commissioner's ruling and the Administrative Law Judges ruling. According to a General Accounting Office report, the Deputy Commissioner's decision takes an average of 2 to 3 years. In addition, the Administrative Law Judge ruling could take an additional 2 to 3 years. By this time, the miner has usually spent the interim benefit. Furthermore, the system is currently weighted in favor of the coal operators.

The Restoration Act would not require the miner, who through no fraud or deception, is awarded benefits prior to the final adjudication of their claim, to return any of the interim benefits if it is later determined that the miner is not entitled to benefits.

In addition, before the final adjudication of a claim, if a miner through no fraud or deception, received an interim benefit and has repaid the interim benefit to the trust fund, then the trust fund is to refund the repayment to the miner.

If a miner receives interim benefits from an operator, and is later found to be ineligible, the trust fund will reimburse the operator.

Lastly, if the Secretary of Labor makes an initial determination of eligibility, or that particular medical benefits are payable, or an award of benefits are made, then the responsible operator, within 30 days of such determination or award, is to begin payment of monthly benefits. If an operator fails to make any payment required by an initial determination or award in a timely manner, such determiantion or award shall be considered final as of the date of its issuance.

Evidence to determine benefit eligibility. Under current law, the miner and the opposing party—either the responsible coal operator or the trust fund—can require any number of medical examinations and present any number of medical experts as evidence to determine a miner's eligibility for benefits.

The problem is one of David versus Goliath. The coal miner is pitted against resources of the coal operators-industry or the Federal Government. More often than not, the coal miner is barely able to scrape together enough money to pay for one medical examination.

During the course of all proceedings on a claim, the Restoration Act would limit the number of medical examinations and chest x rays the miner can use as evidence to support eligibility to three each. In addition, during the course of all proceedings on a claim, the responsible operator or the trust fund may require that the miner undergo certain medical examinations, but the responsible coal operator or trust fund may not submit or require any more medical examinations than are conducted and submitted during the course of all proceedings by the miner, and may offer into evidence the set results of one chest x ray for each set offered into evidence by the miner. However, a complete pulmonary evaluation provided each miner, any evaluation developed by the District Director, any record of hospitalization or medical treatment for pulmonary or related disease, and a biopsy or an autopsy, shall be received into evidence without regard to the previous limitations.

Also, in addition to the above medical examinations, each party may submit not more than one interpretive medical opinion. Such an opinion may review other evidence derived from chest x rays, blood gas studies, or pulmonary function studies contained in the reports offered into evidence.

An Administrative Law Judge may require the miner to submit to a medical examination by a physician assigned by the District Director if the Administrative Law Judge determines that, at any time, there is good cause for requiring such an examination. Good cause shall exist only when the Administrative Law Judge is unable to determine from existing evidence whether the claimant is entitled to benefits.

A request of modification of a denied claim under section 22 of the Longshore and Harbor Workers' Compensation Act shall be considered as if it were a new claim for the purpose of applying the limitations on the number of medical examinations.

The opinion of the miner's treating physician is to be given substantial weight over other physicians in determining eligibility for benefits, if the treating physician is board certified in a specialty relevant to the diagnosis of total disability or death due to black lung.

Survivor benefits. Under the current law, a widow(er) cannot receive survivor benefits unless it is proven that the coal miner died from black lung.

Proving that the cause of death was black lung is extremely difficult. In addition, the widow(er) is usually a senior citizen who is left with limited or no means of support.

The Restoration Act would provide that if an eligible survivor files a claim for benefits and the miner was receiving benefits before the final adjudication, or was totally disabled with black lung at the time of death, it is presumed that he died from black lung—thus entitling the widow(er) to survivor benefits. However, if the miner's death was the result of an event that had no medical connection with black lung, then the widow would not be entitled to benefits. For example, the miner was killed in a car accident.

In addition, a widow(er) who was married to the miner for less than nine months prior to the miner's death is not eligible for survivor benefits, unless children were born as a result of the marriage.

The widow(er) of a miner may not receive survivor benefits if they remarry before attaining the age of 50. In addition, the widow(er) may not receive an augmentation of benefits on any basis arising out of the result of a remarriage.

Responsible operator. Under current law, the Department of Labor designates a parade of possible responsible operators.

The numerous designated operators all must incur considerable expense defending themselves against such claims. This process is also time consuming.

The Restoration Act would require the Secretary of Labor, prior to issuing an initial determination of eligibility and after investigation, notice, and a hearing, to determine whether an operator meets the Secretary's criteria for liability as a responsible operator. If a hearing concerning the question of liability is requested in a timely manner, then the decision of the Administrative Law Judge conducting the hearing shall be issued no later than 120 days after such request and is not subject to further appellate review.

If the Administrative Law Judge determines that an operator's request for a hearing on the question of liability was made without reasonable grounds, the Administrative Law Judge may access the operator for the costs of the proceeding, not to exceed $750.

Attorney fees. It is often difficult to get a lawyer to take on black lung cases are often difficult, expensive, and time consuming. You'll recall that Mr. Laird came to me with his case 10 years ago.

Under the Restoration Act, if a miner is to be awarded benefits, the miner is entitled to reasonable attorney's fees and expert witness fees that are to be paid by the responsible operator or if there is no responsible operator, then by the trust fund. However, the determination of what is reasonable must be made within 60 days of the miner submitting a petition outlining the costs. Furthermore, the attorneys must be paid within 45 days of the notice of determination, unless a motion to reconsider the amounts or the liability is pending. If the claim is denied, and the miner is not to be awarded benefits, the trust fund will pay the responsible operator's reasonable attorney's fees.

The awarding of reasonable attorney's fees shall apply only to those claims that are filed for the first time after the date of enactment of this act.

Appeals. Under the Restoration Act, no appeal of an order in a proceeding under the Black Lung Benefits Act may be made by a miner or responsible operator to the Benefits Review Board unless such order has been made by an Administrative Law Judge.

In addition, the Secretary of Labor may not delegate the authority to refuse to acquiesce in a decision of a Federal court.

Refiling. The Restoration Act would allow any claim that was filed under the Black Lung Benefits Act after January 1, 1982, but before the date of enactment of the Black Lung Restoration Act, to be refiled for a de novo review on the merits.

Definition. Coke ovens are included to be covered by this act.

Benefits Review Board and Employee Compensation Appeals Board. At the request of the administration, the Black Lung Benefits Restoration Act would allow the Secretary of Labor to appoint and fix the compensation of the Benefits Review Board and Employee Compensation Appeals Board members, but the rate of compensation shall not exceed the daily equivalent of the maximum rate specified in section 5376 of title 5, United States Code.

Black Lung Disability Trust Fund. Mr. President, as I stated before—the Black Lung Disability Trust Fund is in trouble. It has been operating with a deficit since its creation and is accumulating a substantial debt. Moreover, the gradual build up of funds generated by the 1986 amendments providing for an increase in the excise tax on coal and the gradual reduction in benefit outlays due to beneficiaries deaths and the limits on eligibility is dwarfed by the dramatic increase in interest charges from the deficit. According to the Department of Labor, 10 years ago, interest charges equaled only 30 percent of benefit outlays. Today, interest charges will equal 64 percent of benefit outlays. Absent any legislative changes, interest charges will actually exceed benefit outlays in the year 1999 and for subsequent years.

The debt has been financed with advances from the general revenues of the U.S. Treasury. These advances must be repaid from future trust fund revenues.

Through fiscal year 1985, interest on the cumulative advances to the trust fund was also due. However, Public Law 99-272 forgave trust fund interest payments for fiscal years 1986-90. This, along with the increase in tax rates and reduced benefit spending, substantially reduced the trust fund's borrowing from the general revenue beginning in fiscal year 1986; however, with the beginning of the payment on the interest as of 1991, substantial borrowing has resumed.

The first interest payment on the debt in the amount of $323.6 million was made on September 30, 1991. This payment accounts for the entire increase, $315 million, over fiscal year 1990 obligations.

According to the report by the Department of Labor on the status of the Black Lung Benefits Act submitted to Congress last year, without an unexpectedly large increases in coal production and/or sale prices to increase revenue, there is no realistic prospect at this time that the trust fund will achieve solvency under current tax law.

The Black Lung Benefits Restoration Act works toward restoring solvency to the trust fund.

Reduction of tax rate only when trust fund is solvent. The current excise tax on coal operators for underground mines is $1.10 per ton of coal or 4.4 percent of the price for which the coal was sold, whichever is less and for surface mines $0.55 per ton of coal or 4.4 percent of the price for which the coal was sold, whichever is less. The current excise tax is for the period between October 1, 1985, through December 31, 2013, after which the rates are to return to their original levels in 1977. The 1977 rate for underground mines was $0.50 per ton of coal or 2 percent of the price for which the coal was sold, whichever is less and for surface mines $0.25 per ton of coal or 2 percent of the price for which the coal was sold, whichever is less. The date was included in the statutory language because it was thought that the trust fund would have been solvent at that time. All estimates show that the trust fund will not be solvent by this date.

The legislation introduced today will remove the specific date and allow the excise tax rates to revert back to the 1977 levels when the trust fund is solvent, which means that there is no balance of repayable advances made to the trust fund and there is no unpaid interest on such advances.

Rate of interest of repayable advances. In an effort to advance the time when the trust fund becomes solvent, the legislation would also allow that the interest on any advances made to the trust fund be at the Federal long-term rate as determined by the Secretary of the Treasury for the month in which such advance occurs.

Refinancing of accumulated advances. In addition, the legislation would allow the trust fund to refinance its old debt to a more favorable current long-term rate. The average interest rate on the old or accumulated debt is at 10 percent. A current rate would be at about 6 percent.

Mr. President, I urge my colleagues to join me, Senator WOFFORD, Senator ROBB, and Senator ROCKEFELLER, in restoring equity and solvency to the Black Lung Program through cosponsorship and support of the Black Lung Benefits Restoration Act. 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. 1773

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

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Black Lung Benefits Restoration Act".

(b) REFERENCE.—Whenever in this Act (other than section 9(a)(1), 10, 11, or 12) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

SEC. 2. BENEFIT OVERPAYMENT.

Part C is amended by adding at the end the following:

"SEC. 436 (a) The repayment of benefits paid on a claim filed under this part before the final adjudication of the claim shall not be required if the claim was finally denied, unless fraud or deception was used to procure the payment of such benefits.

"(b) The trust fund shall refund any payments made to it as a reimbursement of benefits paid on a claim filed under this part before the final adjudication of the claim, unless fraud or deception was used to procure the payment of such benefits.

"(c) The trust fund shall reimburse an operator for any benefits paid on a claim filed under this part before the final adjudication of the claim if the claim was finally denied.

"(d) If on a claim for benefits filed under this part—

"(1) the Secretary makes an initial determination—

"(A) of eligibility; or

"(B) that particular medical benefits are payable; or

"(2) an award of benefits is made,

the operator found to be the responsible operator under section 422(h) shall, within 30 days of the date of such determination or award, commence the payment of monthly benefits accruing thereafter and of medical benefits that have been found payable. If an operator fails to timely make any payment required by an initial determination or by an award, such determination or award shall be considered final as of the date of its issuance.".

SEC. 3. EVIDENCE.

Section 422 (30 U.S.C. 932) is amended by adding at the end the following:

"(m)(1)(A) During the course of all proceedings on a claim for benefits under this part, the results of not more than 3 medical examinations and 3 interpretations of chest roentgenograms offered by the claimant may be received as evidence to support eligibility for benefits.

"(B) During the course of all proceedings on a claim for benefits under this part, the responsible operator or the trust fund—

"(i) may require, at no expense to the claimant, that the claimant undergo certain medical examinations, but the responsible operator or trust fund may not submit or require more medical examinations than are conducted and submitted during the course of all proceedings by the claimant; and

"(ii) may offer into evidence the set of results of one chest roentgenogram for each set of chest roentgenogram results that are offered into evidence by the claimant.

"(C) An administrative law judge may require the miner to submit to a medical examination by a physician assigned by the District Director if the administrative law judge determines that, at any time, there is good cause for requiring such examination. For purposes of this subparagraph, good cause shall exist only when the administrative law judge is unable to determine from existing evidence whether the claimant is entitled to benefits.

"(D) The complete pulmonary evaluation provided each miner under section 413(b) and any consultative evaluation developed by the District Director shall be received into evidence notwithstanding subparagraph (A) or (B).

"(E) Any record of—

"(i) hospitalization for a pulmonary or related disease;

"(ii) medical treatment for a pulmonary or related disease; and

"(iii) a biopsy or an autopsy,

may be received into evidence notwithstanding subparagraph (A) or (B).

"(2) In addition to the medical examinations authorized by paragraph (1), each party may submit not more than one interpretive medical opinion whether presented as documentary evidence or in oral testimony. Such medical opinion may review other evidence derived from chest roentgenograms, blood gas studies, or pulmonary function studies contained in the reports offered under this subsection.

"(3) A request for modification of a denied claim under section 22 of the Longshore and Harbor Workers' Compensation Act, as made applicable to this Act by subsection (a) of this section, shall be considered as if it were a new claim for the purpose of applying the limitations prescribed by paragraphs (1) and (2).

"(4) The opinion of a miner's treating physician, if offered in accordance with paragraph (1)(A), shall be given substantial weight over the opinion of other physicians in determining the claimant's eligibility for benefits if the treating physician is board-certified in a specialty relevant to the diagnosis of total disability or death due to pneumoconiosis.

"(5) For purposes of this subsection, a medical examination consists of a physical examination and all appropriate clinical studies (not including a biopsy or an autopsy) related to the diagnosis of total disability or death due to pneumoconiosis.".

SEC. 4. SURVIVOR BENEFITS.

(a) DEATH.—Section 422 (30 U.S.C. 932), as amended by section 3, is amended by adding at the end the following:

"(n) If an eligible survivor files a claim for benefits under this part and if the miner—

"(1) was receiving benefits for pneumoconiosis pursuant to a final adjudication under this part; or

"(2) was totally disabled by pneumoconiosis at the time of the miner's death,

the miner's death shall be considered to have occurred as a result of the pneumoconiosis, unless the miner's death was the result of an event that had no medical connection with the pneumoconiosis.".

(b) RULES FOR WIDOWS AND WIDOWERS.—Section 422 (30 U.S.C. 932), as amended by subsection (a), is amended by adding at the end the following:

"(o)(1) A widow or widower of a miner who was married to the miner for less than 9 months at any time preceding the miner's death is not qualified to receive survivor benefits under this part unless the widow or widower was the natural or adoptive parent of the miner's child.

"(2) The widow or widower of a miner is disqualified to receive survivor benefits under this part if the widow or widower remarries before attaining the age of 50.

"(3) A widow or widower may not receive an augmentation in survivor benefits on any basis arising out of a remarriage of the widow or widower.".

SEC. 5. RESPONSIBLE OPERATOR.

Section 422(h) (30 U.S.C. 932(h)) is amended by inserting "(1)" after "(h)" and by adding at the end the following:

"(2)(A) Prior to issuing an initial determination of eligibility, the Secretary shall, after investigation, notice, and a hearing as provided in section 19 of the Longshore and Harbor Workers' Compensation Act, as made applicable to this Act by subsection (a) of this section, determine whether any operator meets the Secretary's criteria for liability as a responsible operator under this Act. If a hearing is timely requested on the liability issue, the decision of the administrative law judge conducting the hearing shall be issued not later than 120 days after such request and shall not be subject to further appellate review.

"(B) If the administrative law judge determines that an operator's request for a hearing on the liability issue was made without reasonable grounds, the administrative law judge may assess the operator for the costs of the proceeding (not to exceed $750).".

SEC. 6. ATTORNEY FEES.

(a) ELIGIBILITY FOR FEES.—Section 422 (30 U.S.C. 932), as amended by section 4(b), is amended by adding at the end the following:

"(p)(1) If in any administrative or judicial proceeding on a claim for benefits a determination is made that a claimant is entitled to such benefits, the claimant shall be entitled to receive all reasonable costs and expenses (including expert witness and attorney's fees) incurred by the claimant in such proceeding and in any other administrative or judicial proceeding on such claim occurring before such proceeding.

"(2) In the case of a proceeding held with respect to such claim—

"(A) the person or Board that made the determination that the claimant is entitled to benefits in an administrative proceeding and any other person or Board that made a prior determination in an administrative proceeding on such claim; or

"(B) the court in the case of a judicial proceeding,

shall determine the amount of all costs and expenses (including expert witness and attorney's fees) incurred by the claimant in connection with any such proceeding and shall assess the operator responsible to the claimant for such costs and expenses that are reasonable or if there is not an operator responsible to the claimant, shall assess the fund for such costs and expenses.

"(3) The determination of such costs and expenses shall be made within 60 days of the date the claimant submits a petition for the payment of such costs and expenses to a person, the Board, or court that made a determination on the claimant's claim. The person, Board, or court receiving such petition shall take such action as may be necessary to assure that such costs and expenses are paid within 45 days of the date of the determination of such costs and expenses unless a motion to reconsider—

"(A) the amount of such costs and expenses; or

"(B) the person liable for the payment of such amount,

is pending.

"(4) If an operator pays costs and expenses assessed under paragraph (1) and if the claimant for whom such costs and expenses were paid is determined in a later proceeding not to be eligible for benefits under this part, the fund shall pay the operator the amount paid for such costs and expenses.

"(5) Section 28(e) of the Longshore and Harbor Workers' Compensation Act shall apply with respect to any person who receives costs and expenses that are paid under this subsection on account of services rendered a claimant.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to claims that are filed for the first time after the date of the enactment of this Act and shall not apply with respect to any claim that is filed before such date and that is refiled under section 8 of this Act after such date.

SEC. 7. ADMINISTRATION.

(a) APPEALS TO THE BENEFITS REVIEW BOARD.—No appeal of an order in a proceeding under the Black Lung Benefits Act may be made by a claimant or respondent to the Benefits Review Board unless such order has been made by an administrative law judge.

(b) ACQUIESCENCE.—The Secretary of Labor may not delegate to the Benefits Review Board the authority to refuse to acquiesce in a decision of a Federal court.

SEC. 8. REFILING.

Any claim filed under the Black Lung Benefits Act after January 1, 1982, but before the date of the enactment of this Act, may be refiled under such Act after the date of the enactment of this Act for a de novo review on the merits.

SEC. 9. DEFINITIONS.

(a) COKE OVENS.—

(1) FEDERAL MINE SAFETY AND HEALTH ACT OF 1977.—Section 3 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 802) is amended—

(A) in subsection (d), by inserting before the semicolon the following: "or who operates a coke oven or any machine shop or other operation reasonably related to the coke oven";

(B) in subsection (g), by inserting before the semicolon the following: "or working at a coke oven or in any other operation reasonably related to the operation of a coke oven"; and

(C) in subsection (h)(2), by inserting before the semicolon the following: "and includes a coke oven and any operation, structure, or area of land reasonably related to the operation of a coke oven".

(2) BLACK LUNG BENEFITS ACT.—The first sentence of section 402(d) (30 U.S.C. 902(d)) is amended by inserting before the period the following: "or who works or has worked at a coke oven or in any other operation reasonably related to the operation of a coke oven".

(b) PNEUMOCONIOSIS.—Section 402(b) (30 U.S.C. 902(b)) is amended—

(1) by adding after "sequelae" the following: "which disease or sequelae is restrictive or obstructive or both"; and

(2) by striking out "coal mine" and inserting in lieu thereof "coal mine or coke oven".

SEC. 10. BENEFITS REVIEW BOARD.

Section 21(b)(1) of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 921(b)(1)) is amended—

(1) by inserting after the first sentence the following new sentence: "The Secretary shall appoint and fix the compensation of the Benefits Review Board members without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53, relating to classification and the General Schedule pay rates, and without regard to chapter 75, relating to adverse actions.";

(2) in paragraph (5), by striking the sixth sentence; and

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

"(6) The rate of compensation for members of the Board shall not exceed the daily equivalent of the maximum rate specified in section 5376 of title 5, United States Code.".

SEC. 11. COMPENSATION FOR WORK INJURIES REGULATIONS.

Section 8149 of title 5, United States Code, is amended—

(1) in the second sentence by striking "designated or"; and

(2) by inserting after the second sentence the following new sentences: "The Secretary shall appoint and fix the compensation of the Employee's Compensation Appeals Board members without regard to the provisions of this title, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53, relating to classification and the General Schedule pay rates, and without regard to chapter 75, relating to adverse actions. The rate of compensation for members of the Board shall not exceed the daily equivalent of the maximum rate specified in section 5376.".

SEC. 12. BLACK LUNG DISABILITY TRUST FUND.

(a) REDUCTION IN TAX RATE ONLY WHEN TRUST FUND IS SOLVENT.—Paragraph (2) of section 4121(e) of the Internal Revenue Code of 1986 (relating to reduction in amount of tax) is amended to read as follows:

"(2) TEMPORARY INCREASE TERMINATION DATE.—For purposes of paragraph (1), the temporary increase termination date is the first January 1 after 1981 as of which there is—

"(A) no balance of repayable advances made to the Black Lung Disability Trust Fund, and

"(B) no unpaid interest on such advances."

(b) RATE OF INTEREST ON REPAYABLE ADVANCES.—Paragraph (3) of section 9501(c) of the Internal Revenue Code of 1986 (relating to repayable advances) is amended to read as follows:

"(3) RATE OF INTEREST.—Interest on any advance made pursuant to this subsection shall be at the Federal long-term rate determined by the Secretary of the Treasury under section 1274(d)(1)(C)(ii) for the month in which such advance occurs."

(c) REFINANCING OF ACCUMULATED ADVANCES.—Notwithstanding section 9501(d)(3) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)), in the case of any repayable advance made on or before the date of the enactment of this Act, interest on such advance for any period after such date shall be computed by using the Federal long-term rate determined by the Secretary of the Treasury under section 1274(d)(1)(C)(ii) of the Internal Revenue Code of 1986 for the month in which such date occurs.●

● Mr. WOFFORD. Mr. President, I join with my colleagues, Senator SIMON, Sentor ROBB, and Senator ROCKEFELLER, today in introducing legislation to provide fairness for black lung claimants. During the past several years court decisions and the administrative process have made it increasingly difficult for coal miners or their surviving spouses and dependents to obtain black lung benefits.

This legislation restores fairness to the black lung claims system. Currently, claimants must wait far too long for decisions. I have heard these same problems from claimants throughout Pennsylvania. The claims process is often bogged down with too many requests for medical examinations which may never allow for a hearing and decision on the claim. Sadly, a miner's claim becomes a widow's claim in many cases.

I am joining my colleagues, Senators SIMON, ROBB, and ROCKEFELLER, in introducing legislation that will streamline the process for adjudicating black lung claims. This bill stops the endless number of physical examinations claimants may be forced to undergo. A party's rights are preserved but needless delay is stopped. Survivors benefits are classified as well as the rules for attorneys fees. The current system discourages lawyers from taking a claimant's case, which further stacks the deck against the miner.

Mr. President, the time has come to give black lung claimants a fair shake. As a member of the Committee on Labor and Human Resources, I look forward to working for enactment of legislation that will restore fairness to the black lung claims system.●

● Mr. ROBB. Mr. President, I join my colleagues from Illinois, Pennsylvania, and West Virginia, Senators SIMON, WOFFORD, and ROCKEFELLER, in introducing the Black Lung Benefits Restoration Act. Our chief patron, Senator SIMON, has worked tirelessly to craft this legislation and I sincerely commend his dedication to this important issue.

As you know, Mr. President, the Commonwealth of Virginia has vast natural resources and enormous economic diversity. We have large urban metropolitan centers and sprawling farmlands; 100 miles of coastal land along the Atlantic Ocean and magnificent mountain ranges. We have the busiest port on the east coast—and in the largely rural southwest, we have coal mines.

With limited employment options, working the mines has put bread on the table for generations of southwest Virginia families. Fathers and sons—now mothers and daughters—can spend decades working in the mines.

My support for this legislation stems from one simple premise. Our country needs coal both as a source of energy and for national security purposes. And Virginians who provide that coal and become sick, or even die, as a consequence, deserve better for themselves and their families than a 4 percent national approval rating for black lung benefits.

I believe this bill will bring some much-needed equity back into the system.

This is not an ambitious expansion of the current program, Mr. President. Rather, it is a collection of reasonable modifications to allow for a more level playing field and a more rational, streamlined administrative process for all parties involved. Since my colleague from Illinois has described the bill in detail, I will briefly highlight some of the most important provisions.

First, the bill allows claimants to keep interim benefits received between filing and adjudication if a negative determination is made and the claim is filed without fraud or deception. It requires the black lung trust fund to repay coal miners for interim benefits it has collected for denied claims not yet finally adjudicated and requires the fund to repay coal operators for interim benefits paid for claims that have not been finally adjudicated but are ultimately denied.

Second, the legislation allows coal operators to offer into evidence only one medical examination and one chest roentgenogram interpretation for each medical examination and chest roentgenogram offered by the miner, with a maximum of three each, unless an administrative judge requests a fourth based on a good cause standard. In addition, each side is limited to one interpretive medical opinion. A pulmonary evaluation, a consultative evaluation produced by the District Director, hospital and treatment records for pulmonary related disorders, biopsies, or an autopsy, however, are permitted notwithstanding these limits.

In deciding eligibility for benefits, the opinion of the miner's physician, if he is certified in a pneumoconiosis specialty, is given substantial weight over the medical opinion offered in opposition to the claim.

The evidentiary section is extremely important, Mr. President, since medical evidence offered by miners—which can be expensive to obtain—can be completely overshadowed by the sheet volume of evidence offered by the other side.

A constituent of mine from Buchanan County submitted four claimant readings to support his eligibility for black lung benefits, while his employer submitted 64 readings in opposition to the claim. Another constituent, also from Buchanan County, submitted 8 claimant readings supporting his case, while his employer submitted 96 in opposition.

This is not a level playing field, Mr. President.

Third, the bill allows eligible spouses to receive survivor benefits if a miner is receiving black lung benefits at the time of his death, or if it is determined after his death that he was disabled from black lung. This presumption of eligibility does not apply if the cause of death is clearly unrelated to black lung.

The legislation also directs the Department of Labor to designate responsible operators in black lung cases within 120 days, establishes a timeframe for the payment of attorneys and expert witness fees, and allows claims filed since January 1, 1982 to be filed for a de novo review.

Finally, Mr. President, the bill tackles the $4 billion deficit currently in the Black Lung Trust Fund. It does so by refinancing the debt at today's lower interest rates, allowing the fund to receive future advances at the Federal long-term interest rate, and extending the coal excise tax earmarked for the fund—which is scheduled to end in the year 2013—until the trust fund is solvent.

Mr. President, we will continue to fine-tune the financing provisions during committee consideration of the bill. We are committed to both paying for the extra benefits authorized in the bill, as well as addressing the current debt in the trust fund.●

● Mr. ROCKEFELLER. Mr. President, today I join my colleagues in introducing the Black Lung Benefits Restoration Act of 1993. I congratulate Senators SIMON and WOFFORD, the chief sponsors of this legislation, for the hard work committed to developing this important effort to repair and rebuild the Federal Black Lung Program.

Our legislation has two important objectives: First to establish a more objective, and fairer, process for determining black lung benefits for disabled miners and widows, and second, to work toward shoring up the Black Lung Disability Trust Fund. It will help the Government fulfill the commitment that was made to miners disabled by pneumoconiosis, and their widows, when the Black Lung Program was begun in 1969.

I am an original sponsor of this legislation because it will help the people of my State who deserve a black lung program that responds to their needs. For nearly a decade, I have heard the heart-wrenching stories of disabled miners and widows from Bluefield, Oak Hill, and Jackson, West Virginia, from coal mining communities across my State, describe the incredibly frustrating, unjust, and seemingly interminable process that they have had to suffer through in order to get the black lung benefits that Congress promised would be available to them.

Ever since I came to the Senate, I have tried to deal with these problems. Several years ago, I focused on the delays in the review stage of the application process, and fought for additional judges and resources needed to speed up the time when decisions were made appeals from miners and families.

But much more remains to be done. This legislation tries to address many of the problems that I have heard about over the years, as well as some of the fundamental flaws that legislative hearings and oversight have demonstrated are commonplace in the operation of the Federal Black Lung Program. It will give miners and widows a fair chance to prove that they are eligible for benefits. At the same time, it does not take any appropriate rights from responsible coal operators.

This legislation intends to level the playing field so that an individual miner will have a fighting chance to prove that he should rightfully be a recipient of black lung benefits. It gives him an opportunity to prove his eligibility. For example, the Black Lung Benefits Restoration Act would limit the number of medical examinations and chest x-rays that miners and companies can use as evidence to support or refute eligibility to three each. In addition, each party can submit no more than one interpretive medical opinion. An administrative law judge can require a miner to submit to a medical exam by a physician that he/she assigns if there is a good cause. But the opinion of a miner's physician is to be given substantial weight over other physicians in determining eligibility for benefits. These changes should dramatically improve, and help to shorten the process that is currently used to determine eligibility.

The legislation also makes it a legal presumption that a miner who dies before final adjudication of his black lung claim, or who was totally disabled at the time of his death, died from black lung. This entitles his widow and children to black lung survivors benefits. Today, it is very, very difficult for a widow, or survivors to win a claim once a miner dies. Exceptions to this presumption are made if a miner dies as a result of a medical event that had no connection with black lung, such as a car accident.

Another provision of this legislation will mean that miners will no longer be required, after years of delay, to pay back interim final benefits if an administrative law judge ultimately rules that the miner is not entitled to benefits, as long as the interim benefits were not awarded as a result of fraud or deception. The stories of miners, or their widows, being badgered to repay large lump sums to the Department of Labor because ultimately their claim was rejected, are among the most harrowing that I have heard. Disabled miners and their families should not have to mortgage or sell their homes, or hock all their worldly goods, so that they can repay benefits that they used to buy food for their families or pay medical bills. Especially when they honestly believe that these benefits were rightfully awarded to them and their claim would be accepted.

Miners in West Virginia have also often told me how difficult it is to get a lawyer to take their black lung cases. These cases can take years to resolve. They are very complicated and expensive. So while we are doing what we can to speed up the process for making determinations, this bill allows a miner to recover reasonable attorney's fees, as well as expert witness fees, from either the responsible operator or the Trust Fund if he is awarded benefits.

There are some important administrative changes in the operation of the black lung program that will occur as a result of this legislation, too, which I think are key to improving the program.

Mr. President, for the victims of black lung disease, the 1980s will be remembered as a sad decade when the Executive branch of their Federal Government waged a relentless war aimed at tying the black lung program into knots. That Administration tried their utmost—and partly succeeded—to prevent deserving men and women from obtaining desperately needed compensation for a painful disease. A disease is the price for working years and sometimes decades to produce the coal that has made this country an industrial might.

That's why in the Black Lung Restoration Act, miners who filed a claim after January 1, 1982, but before enactment of this bill, would be allowed to refile their claims for a de novo review.

Finally, to help finance this legislation, this bill would extend the current excise tax on coal until the Black Lung Disability Trust Fund is solvent. The Fund will be able to refinance its old debt to a more favorable long term rate.

The black lung program may seem unimportant to Members who do not represent coal producing states, and therefore, coalminers and their families, but I would argue that it is an example of the government living up to its word. People who have worked hard for their entire lives, in the most dangerous occupation in this country, are entitled to our helping hand if as a result their health is devastated by what we call black lung disease. These miners have done the back-breaking, health-endangering, work of digging coal out of the earth so that we, Americans, can heat our homes, power our machines, and build the most powerful and just democratic society in the world. These miners and their families deserve a program that provides the help they need when they need it most. It is my sincere hope that we will enact the Black Lung Benefits Restoration Act and improve that program, and provide that help.●

By Mr. METZENBAUM (for himself, Mr. FEINGOLD, Mr. WOFFORD, Mrs. MURRAY, and Mr. SIMON):

S. 1776. A bill to amend the Revised Statutes to restore standards for proving intentional discrimination; to the Committee on Labor and Human Resources.

CIVIL RIGHTS STANDARDS RESTORATION ACT

● Mr. METZENBAUM. Mr. President, I introduce the Civil Rights Standards Restoration Act, with a strong sense of deja vu. It was just 2 years ago that Congress overturned eight Supreme Court decisions which had dramatically narrowed the rights and remedies

available to victims of employment discrimination. The Civil Rights Act of 1991 sent a strong signal to the Court that the people of this country would not tolerate a retreat from the freedoms they fought so hard for during the 1950's and 1960's.

Well, Mr. President, the Supreme Court is at it again. Last summer, in *St. Mary's Honor Center* v. *Hicks*, No. 902-602 (6/25/93), a bare 5-4 majority of the Supreme Court made it substantially harder for victims of intentional discrimination to enforce their rights. The Court abandoned a three-step legal framework Federal courts have used for 20 years to resolve claims of intentional discrimination filed under Federal civil rights laws. Instead, as Justice Souter wrote in dissent, the Court adopted "a scheme that will be unfair to plaintiffs, unworkable in practice, and inexplicable in forgiving employers who present false evidence in court." Notably, the Court's ruling cast aside the position taken by the Reagan administration, the Bush administration, the Clinton administration, and a majority of the Federal courts of appeals. The Civil Rights Standards Restoration Act restores this longstanding legal framework for proving intentional discrimination.

Let me explain what the law was for 20 years before the Hicks decision. In 1973, in McDonnell Douglas Corporation versus Green, the Supreme Court articulated a method for proving intentional discrimination using a three-part analytical framework. Notably, although this framework allocates between the parties the burden of producing evidence, the plaintiff retains the ultimate burden of proving unlawful discrimination.

Under the McDonnell Douglas framework, the plaintiff must first establish a "prima facie" case of unlawful discrimination—evidence strong enough to warrant a judgment for the plaintiff if the defendant offers no evidence of its own. Once the plaintiff has made such a showing, it is then fair to ask the defendant to explain its reasons for the challenged conduct. At this point, the defendant must simply articulate, through the introduction of admissible evidence, a legitimate, nondiscriminatory explanation for its decision.

Once the defendant meets this burden of producing evidence, the plaintiff must then prove that the defendant's explanation is, in reality, a pretext for discrimination. As the Supreme Court made clear in 1981 in Texas Dep't of Community Affairs versus Burdine, the plaintiff could meet this burden "either directly by persuading the court that a discriminatory reason more likely motivated the employer or indirectly by showing that the employer's proffered explanation is unworthy of credence."

Mr. President, this is the critical point. Before Hicks, plaintiffs could prove intentional discrimination by establishing a prima facie case and disproving the employer's explanation for its conduct. This framework serves to narrow the issues in these cases, and enables victims of intentional discrimination to enforce their rights without having "smoking gun" evidence of the employer's intent. As Attorney General Reno recently wrote, this approach "most fairly and efficiently balances the interests of employers and employees, while advancing the national interest in eliminating unlawful discrimination from the workplace." While this framework is not the only means of proving unlawful intentional discrimination, Federal courts have applied it in thousands of civil rights cases brought under a broad range of Federal laws.

Then came the Hicks decision. Melvin Hicks was an African-American corrections supervisor employed at a Missouri corrections facility. In 1981, the State conducted a study of the facility's management structure. The study concluded that "ethnic differences can be seen—or imagined—as a potential for organizational disruption." The study concluded that "Whites control only 38 percent of the decision making power" and that the number of African-Americans in supervisory positions created "the potential for subversion of the [white] Superintendent's power."

The facility's management was changed in January 1984, and three of five African-American supervisors were terminated and replaced by whites. The racial make-up of supervisors changed from one white and five African-Americans to four whites and two African-Americans—including Hicks. In the ensuing months, the facility demoted, suspended and finally terminated Hicks. Hicks sued the facility, alleging that he had been discharged because of his race.

Six months after the trial, the district court found that Hicks had established a prima facie case of intentional race discrimination. The court rejected the corrections facility's explanation for firing Hicks—that he had violated work rules—because the facility had disciplined Mr. Hicks much more harshly than his white coworkers, and had "manufactured [a] confrontation * * * in order to terminate him"

Even though Hicks had established a prima facie case of discrimination, and had disproved the employer's explanation for firing him, the court inexplicably rendered judgment for the employer. The court concluded that Hicks was terminated because of his supervisor's personal animosity toward him—an explanation with no evidence in the record to support it. Hicks' employer had never offered this explanation at trial, and Hicks had never had an opportunity to rebut it.

The Eighth Circuit Court of Appeals reserved, holding that "it was improper for the district court to assume—without evidence to support the assumption—that [the employer's] actions were somehow 'personally motivated.'" The court concluded—based on McDonnell Douglas, Burdine, and a clear majority of Federal courts of appeals—that the plaintiff should prevail as a matter of law where he proves a prima facie case of intentional discrimination and disproves the nondiscriminatory reasons offered by the employer to explain the challenged action.

The Supreme Court reversed the eight circuit's decision and upheld the district court's judgment for the employer. In an opinion by Justice Scalia, the Court abandoned the 20-year-old McDonnell-Douglas framework, holding that the plaintiff was not entitled to a judgment even though he had proved a prima facie case of discrimination and disproved the employer's only proffered reason for its conduct. Instead, the Court held that plaintiffs may be required not just to prove that the reasons offered by the employer were pretextual, but also to "disprove all other reasons suggested, no matter how vaguely, in the record." Justice Scalia acknowledged that the majority's decision places an employer who lies in a better position than one who says nothing.

Incredibly, the Hicks majority ignored 20 years of precedent, and rejected the position of the Reagan, Bush, and Clinton administrations as well as a majority of the Federal circuit courts. In a dissenting opinion—joined by Justices Blackmun, White, and Stevens—Justice Souter charged that the majority's decision "stems from a flat misreading of Burdine and ignores the central purpose of the McDonnell Douglas framework." "The Court is throwing out the rule," Justice Souter asserted, "for the benefit of employers who have been found to have given false evidence in a court of law." Justice Souter expressed particular concern that the decision "provides [the plaintiff] with no opportunity to produce evidence showing that the district court's hypothesized explanation, first articulated six months after trial, is unworthy of credence."

The Hicks decision turned the McDonnell Douglas framework—used in thousands of civil rights cases—on its head. First, as the Clinton EEOC has recognized, Hicks makes the plaintiff's task "much more onerous." A plaintiff must disprove not just the nondiscriminatory reasons offered by the employer but, as the Court explained, "all other reasons suggested, no matter how vaguely, in the record." In an earlier brief to the eighth circuit, the Bush administration argued that this approach "makes no sense as a matter of logic or policy" because a plaintiff "cannot be expected to eliminate every possible reason for an employer's action," particularly "a reason that is never proffered."

Second, Justice Souter rightly concluded that by requiring plaintiffs to disprove all conceivable reasons for the defendant's actions, Hicks "will promote longer trials and more pretrial discovery, threatening increased expense and delay in title VII litigation for both plaintiffs and defendants, and increased burdens on the judiciary." The Clinton EEOC agreed: "Hicks will most likely drive the cost of litigating employment discrimination claims—for the [EEOC], private plaintiffs, and employes—even higher."

Third, the Hicks decision actually places the defendant who fabricates a nondiscriminatory explanation for its action in a better position than the defendant who remains silent. In its 1988 Supreme Court brief in Harbison-Walker Refractories versus Brieck, the Reagan administration—in the context of an ADEA suit—explained the absurdity of this approach:

> Evidence establishing a prima facie case, if unrebutted by the defendant, entitles the plaintiff to summary judgment; if the plaintiff can show that the defendant's proffered explanation is unbelievable, he should be left, at the very least, in the same position that he would have been in had his prima facie case not been rebutted in the first place. Indeed, a showing of pretext should, if anything, strengthen the plaintiff's case.

Conversely, a defendant whose false explanation is rejected by a factfinder should not be in a better position than one who remains silent. By encouraging defendants to offer false explanations, Hicks undermines the very principles of our civil justice system.

Fourth, as Justice Souter recognized, the need to allow plaintiffs to prove their cases based on circumstantial evidence is "crucial to the success of most Title VII claims, for the simple reason that employers who discriminate are not likely to announce their discriminatory motive." Normally, as the Reagan administration argued in Harbison-Walker, direct evidence is unnecessary "because such a link is already forged by the establishment of a prima facie case." But as the Clinton EEOC rightly concluded, in the wake of Hicks "it may be impossible to prove discrimination in the absence of direct evidence."

The lower Federal courts are, in fact, already imposing this most onerous requirement on victims of intentional discrimination. For example, last month a Federal court in Massachusetts, relying on Hicks, dismissed a claim for intentional race discrimination. *Woods* v. *Friction Materials, Inc.*, No. 90-11389-WF (D. Ma. 10/1/93). The court held that even if the plaintiff proved a prima facie case, and disproved the employer's explanation for its conduct, he would not be entitled to judgment unless he proved something more—specifically, that his employer acted with an illegal motive. Similarly, a Federal court in Louisiana recently overturned, on the same basis, a jury verdict finding intentional age discrimination, *EEOC* v. *Louisiana Department of Social Services*, No. 91-4369 (D. La. 10/4/93). The message in these and other cases is clear: if the plaintiff offers no "smoking gun," the case is dismissed.

Two days after the Hicks decision, a New York Times editorial noted that the Supreme court "is back in the business of loading up job discrimination cases with extra burdens for those claiming bias." by making intentional discrimination substantially more difficult to prove, Hicks will discourage discrimination victims from suing to enforce their rights, thus frustrating title VII's purposes. After reviewing the decision, the Clinton EEOC concluded that Hicks "will have a negative effect on enforcement efforts and therefore should be overridden, by appropriate legislation."

The Civil Rights Standards Restoration Act will overturn Hicks and restore the legal framework Federal courts have used in thousands of cases to resolve claims of intentional discrimination. Notably, the text of the bill is drawn directly from the language of the Supreme Court's *McDonnell Douglas* and *Burdine* decisions.

The bill reestablishes the principle that a victim of intentional discrimination is entitled to prevail when he or she proves a prima facie case and disproves the defendant's explanation. The bill makes clear that plaintiffs need not present "smoking gun" evidence, or disprove all possible explanations for the defendant's conduct, in order to prevail. Thus, the bill codifies the position taken by the Reagan, Bush, and Clinton administrations, as well as a majority of the Federal courts of appeals.

Finally, the bill makes clear that the restored standards should apply in any court case or administrative proceeding in which the McDonnell Douglas framework is used. These include claims brought under employment statutes such as title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, as well as broader civil rights statutes such as section 1981—banning discrimination in the making of contracts—the Fair Housing Act, and the Employee Credit Opportunity Act. Notably, the bill recognizes the McDonnell Douglas framework is not the exclusive method by which a plaintiff may prove intentional discrimination, and it does not disturb those other existing methods.

Today, I urge my colleagues to cosponsor this restorative legislation. A companion bill will be introduced today by Congressman MAJOR OWENS. Clearly, on the issue of civil rights, the Supreme Court remains out of touch with the American people, the executive and legislative branches of our Federal Government, and most of the Federal judiciary. We must make our intent clear on this issue, and once again remind the court of its mandate, inscribed on the facade of the Supreme Court building: "Equal Justice Under Law." Mr. President, I ask unanimous consent that the New York Times editorial and the text of the bill be printed in the RECORD.

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

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 "Civil Rights Standards Restoration Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Supreme Court enunciated a method of proving intentional discrimination under Federal law in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), and Texas Department of Community Affairs v. Burdine, 450 U.S. 248 (1981);

(2) such method has been applied to establish intentional discrimination in cases and proceedings under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), and other Federal laws; and

(3) the standards established in St. Mary's Honor Center v. Hicks, No. 92-602 (1993), regarding the effect of a finding of pretext on proof of unlawful intentional discrimination, are contrary to—

(A) such method established by the Supreme Court in McDonnell Douglas Corp. v. Green and Texas Department of Community Affairs v. Burdine; and

(B) congressional intent regarding such Federal laws.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to restore the standards (regarding the effect of a finding of pretext on proof of unlawful intentional discrimination) enunciated by the Supreme Court in McDonnell Douglas Corp. v. Green and Texas Department of Community Affairs v. Burdine as part of a method of proving intentional discrimination; and

(2) to ensure the application of such restored standards in all cases and proceedings under Federal law (including title VII of the Civil Rights Act of 1964, title VIII of the Civil Rights Act of 1968, the Age Discrimination in Employment Act of 1967, and other Federal laws) to which such method applies.

SEC. 4. STANDARDS FOR PROVING INTENTIONAL DISCRIMINATION IN CERTAIN CIRCUMSTANCES.

The Revised Statutes are amended by inserting after section 1979 (42 U.S.C. 1983) the following new section:

"SEC. 1979A. STANDARDS FOR PROVING INTENTIONAL DISCRIMINATION IN CERTAIN CIRCUMSTANCES.

"(a) STANDARDS.—In a case or proceeding brought under Federal law in which a complaining party meets its burden of proving a prima facie case of unlawful intentional discrimination and the respondent meets its burden of clearly and specifically articulating a legitimate, nondiscriminatory explanation for the conduct at issue through the introduction of admissible evidence, unlawful intentional discrimination shall be established where the complaining party persuades a trier of fact, by a preponderance of the evidence, that—

"(1) a discriminatory reason more likely motivated the respondent; or

"(2) the respondent's proffered explanation is unworthy of credence.

"(b) RULE OF CONSTRUCTION.—This section shall apply only to those cases and proceedings in which the method of proof articulated in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), and Texas Department of Community Affairs v. Burdine, 450 U.S. 248 (1981), applies and shall not be construed "to specify the exclusive means by which the complaining party may establish unlawful intentional discrimination under Federal law.".

MORE BURDENS FROM THE REHNQUIST COURT

Unchastened by Congress's rebukes for misinterpreting civil rights laws, the Supreme Court is back in the business of loading up job discrimination cases with extra burdens for those claiming bias. On Friday the Court ruled that an employer could give the false explanations for firing a black employee—yet still prevail in a lawsuit.

Over the years the courts have worked out procedures and burdens of proof that were fair to both employees and employers. A plaintiff's plausible claim of discriminatory firing put the onus on the employer to provide a nonracial reason or lose the case. One would think that a phony or incredible explanation would be worse than none at all. Not according to the 5-to-4 majority.

Lawyers for Melvin Hicks, a black prison supervisor in St. Louise, demolished his employer's excuse for firing him, purportedly a series of rules infractions and a threat against his white superior. They showed that white corrections workers were not disciplined for similar or more serious infractions and that Mr. Hick's boss manufactured the verbal confrontation.

Still, a Federal judge ruled that Mr. Hicks failed to prove racial motive. He said Mr. Hicks hadn't disproved the possibility of personal rather than racial animosity—although prison officials never raised such a defense. Justice Antonin Scalia's majority said the trial judge was right.

Does this reward lying in court, as Justice David Souter argued in a biting dissent? No, said Justice Scalia. "The books are full of procedural rules that place the perjurer (initially, at least) in a better position than the truthful litigant who makes no response at all.

Perhaps, but in civil rights cases Congress and the courts have understood the special needs of plaintiffs. Biased employers no longer telegraph their motives; victims are entitled to rely on the inferences that flow from unbelievable excuses.

Four years ago the Court led by Chief Justice William Rehnquist, handed down a string of similarly grudging, burdensome misreadings of the 1964 Civil Rights Act. These rulings provoked a wholesale correction in the form of the Civil Rights Restoration Act of 1991.

This latest decision, in which the Court is again forcing victims of discrimination to refight and rewin old battles, invites another lesson from Congress in legal interpretation and fairness.•

By Mr. MOYNIHAN:

S. 1778. A bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of cooperative housing corporations; to the Committee on Finance.

TAX TREATMENT OF COOPERATIVE HOUSING CORPORATIONS

• Mr. MOYNIHAN. Mr. President, I rise today to reintroduce legislation designed to resolve, once and for all, the confusion surrounding the proper tax treatment of cooperative housing corporations. The bill I introduced today is identical to a bill I introduced last year. Companion bills have been introduced in the House of Representatives.

Mr. President, I am taking this action today in light of the IRS' persistence in applying section 277 of the Internal Revenue Code to housing cooperatives. As my statement introducing an identical bill last year makes clear, section 277 was enacted in 1969 to tax the nonmembership income of membership organizations like country clubs. Contrary to clear congressional intent, the IRS has been applying the law to residential cooperatives, assessing back taxes and interest, and in some cases penalties. This position has resulted in unwarranted tax problems for thousands of mostly low- and moderate-income families living in New York and elsewhere, many of whom are on fixed incomes.

Earlier this year I brought this matter to the attention of the Internal Revenue Service. In correspondence with the Commissioner of the IRS, I argued that the IRS' position applying section 277 was simply contrary to the legislative intent behind section 277. I noted that continuation of this position would only result in more taxpayer confusion, challenges and litigation. I was gratified when Commissioner Richardson responded to my letter by instructing the IRS field offices to suspend audits of cases applying section 277 of the Internal Revenue Code to housing cooperatives.

However, it has now come to my attention, on the eve of the congressional recess for this year, that the IRS is once again asserting its position on examinations of cooperatives' returns that section 277 applies to housing cooperatives. As a result, various revenues of housing cooperatives, including laundry and parking facilities—even when available only to residents of the building—are subject to taxation under section 277, regardless of the fact that such housing cooperatives have no net income when the expenses of operating the cooperatives are taken into account. I understand that the IRS' position includes an attempt to collect taxes retroactively as far back as 1981 even though the burden of these liabilities will often fall on tenant shareholders without ready means to pay.

This bill makes clear that section 277 was never intended to apply to housing cooperatives—as defined in section 216 of the Internal Revenue Code. Instead, the provisions of subchapter T of the Internal Revenue Code should control. This bill makes additional clarifying changes to Subchapter T for purposes of housing cooperatives. To prevent the IRS from retroactively punishing cooperatives which have been applying Subchapter T correctly all along, this bill allows those cooperatives to elect Subchapter T treatment of all open years.

Mr. President, I hope and expect that the IRS will not ignore congressional intent in this important area of the law and will desist from retroactively taxing tenant shareholders of housing cooperatives under section 277 of the Internal Revenue Code.

Mr. President, I ask unanimous consent that the text of the legislation appear in the RECORD.

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

S. 1778

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

SECTION 1. TAX TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.

(a) SECTION 277 NOT TO APPLY TO COOPERATIVE HOUSING CORPORATIONS.—Section 277(b) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a comma and "or", and by adding at the end thereof the following new paragraph:

"(5) which for the taxable year is a cooperative housing corporation described in section 216(b)(1) (determined without regard to section 143(k)(9)(E)."

(b) APPLICATION OF RULES RELATING TO TAX TREATMENT OF CORPORATIVES.—

(1) PATRONAGE EARNING MAY BE OFFSET ONLY BY PATRONAGE LOSSES.—Section 1388(a) of such Code is amended by adding at the end the following new sentence: "In no event shall any patronage losses of an organization described in section 277(b)(5) be used to offset earnings which are not patronage earnings.

(2) PATRONAGE EARNINGS AND LOSSES OF COOPERATIVE HOUSING CORPORATIONS.—Section 1388 of such Code is amended by adding at the end the following new subsections:

"(k) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The terms 'patronage earnings' and patronage losses' mean earnings and losses, respectively, which are derived from business done with or for patrons of the organization.

"(2) SPECIAL RULES FOR COOPERATIVE HOUSING CORPORATION.—In the case of a cooperative housing corporation, the following earnings shall be treated as patronage earnings:

"(A) Interest on reasonable reserves established in connection with the corporation, including reserves required by a governmental agency or lender.

"(B) Income from laundry and parking facilities to the extent attributable to use of the facilities by tenant-stockholders and their guests.

"(C) In the case of a cooperative housing corporation with respect to which the requirements of clause (i) of section 143(k)(9)(D) are met at all times during the taxable year, rental income from other than tenant-stockholder to the extent attributable to any project operated by the corporation.

"(3) DEFINITIONS.—For purposes of paragraph (2)—

"(A) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation'

has the meaning given such term by section 216(b)(1) (without regard to section 143(k)(9)(E)).

"(B) TENANT-STOCKHOLDER.—The term 'tenant-stockholder' has the meaning given such term by section 216(b)(2)."

(3) CONFORMING AMENDMENTS.—Section 1388(j) of such Code is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY RETROACTIVELY.—Any corporation which is a cooperative housing corporation as of the 1st day of the 1st taxable year beginning after the date of the enactment of this Act may elect to have the amendments made by this section apply to all taxable years whether beginning before, on, or after the date of the enactment of this Act.

(3) NO INFERENCE.—Nothing in the provisions of this section shall be construed as a change in the treatment of income derived by any cooperative housing corporation, and the treatment of such income for any year to which the amendments made by this section does not apply shall be made as if this section had not been enacted.•

By Mr. KENNEDY:

S. 1779. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; read the first time.

HEALTH SECURITY ACT

• Mr. KENNEDY. Mr. President, the strong support for comprehensive health care reform that has been expressed on the floor today by Members on both sides of the aisle is heartening. For health care reform to succeed, support must be bipartisan—and I believe Democrats and Republicans alike now agree that action is essential.

Just as cooperation among the two parties is essential, cooperation among all the committees of the Congress with an interest in this issue is also necessary. The Health Security Act that President Clinton has submitted to Congress and that Majority Leader Mitchell introduced in the Senate on Saturday is one of the most sweeping proposals ever introduced in the Congress. It touches the expertise and responsibility of many committees. We must all work together if we are to produce the best possible health reform for the American people.

When President Clinton's Health Security Act was initially presented to Congress last month, the Senate Paliamentarian conducted a thorough review of the President's bill, based on Senate rules and precedents, to determine which committees would have jurisdiction over its various components. The Parliamentarian's conclusions form a workable procedure for moving this measure through the legislative process in an expeditious way. A similar procedure has been adopted by the House of Representatives for action on the bill by various House committees.

Today, I am introducing a bill containing all of the provisions of the President's bill that the Parliamentarian has determined to be within the jurisdiction of the Labor and Human Resources Committee.

Of course, other committees also have important roles to play. The Finance Committee has jurisdiction over major and essential portions of the legislation, including matters pertaining to Medicaid, Medicare, and taxes. I look forward to working closely with the distinguished chairman of the Finance Committee to coordinate consideration of the matters within the Finance Committee's jurisdiction and the matters within the Labor Committee's jurisdiction.

In addition, a number of other provisions in the bill are within the jurisdiction of other Senate committees, including the Agriculture, Armed Services, Commerce, Governmental Affairs, Indian Affairs, Judiciary, and Veterans' Affairs Committees.

Let me briefly outline the provisions of the President's bill that the Parliamentarian has determined should be considered by the Labor and Human Resources Committee and that are in the bill I am introducing.

The sections of the President's Health Security Act contained in this bill include the portions of the President's program guaranteeing health security for all Americans and controlling health care costs, as well as those providing long-term care for the Nation's senior citizens and improving health care quality.

The legislation includes Title I of the President's bill, which provides the guarantee of universal coverage, defines the benefits to which all citizens are entitled, regulates health plans and health alliances, establishes employer responsibilities and lays out the division of responsibility between the Federal Government and the States.

The legislation also includes major portions of Subtitle B of Title II, which provide for a new program of home care and community-based care for senior citizens and other disabled Americans, and which regulate the sale of private long-term care insurance.

Next, the bill contains the public health initiatives in Title III, including programs for an appropriate supply of health professionals, expanded health research, preventive health programs, comprehensive school health initiatives, and other steps that will help make the health security card a true ticket to essential and effective health care for millions of Americans.

Key provisions of Title V on quality of care and consumer protection are part of the bill, including the subtitles dealing with quality management and improvement, information systems, privacy, an administrative simplification. These provisions are designed to assure high quality care for all Americans and cut through the massive red tape that is adding to health care costs and burdening doctors and patients alike.

The bill also includes Title VI of the President's bill, which establishes the premium obligations for businesses and individuals and provides discounts to enable low-income citizens and vulnerable small businesses to afford the cost of coverage.

In addition, the bill includes the portion of Title IX which establishes the obligation of the Federal Government to contribute to the cost of the premium reductions in the President's bill and sets the limits on that obligation.

Finally, the bill includes transitional insurance reform and reform of workers' compensation.

The introduction of the legislation today is another milestone on the road to comprehensive reform. The Labor and Human Resources Committee has already held extensive hearings on the legislation, and I look forward to working with all members of the Senate to expedite our consideration of the President's proposal.

Few, if any, other issues will affect the lives of more Americans. The need for action is obvious and urgent. The President has done his job. Now it is up to the Congress to respond.•

By Mr. DODD (for himself, Mr. COATS and Mr. DURENBERGER):

S.J. Res. 159. A joint resolution to designate the period commencing on February 14, 1994, and ending on February 20, 1994, as "Children of Alcoholics Week"; to the Committee on the Judiciary.

CHILDREN OF ALCOHOLICS WEEK

• Mr. DODD. Mr. President, I introduce a joint resolution to commemorate the week of February 14 through 20 as "Children of Alcoholics Week." I am joined in this effort by my distinguished colleague from Indiana, Senator COATS.

In the Subcommittee on Children, Family, Drugs and Alcoholism, we have focused a great deal on policies to strengthen and preserve families. Of central concern are the stresses faced by today's families. Many of these stresses are external—poverty, tension between work and family, and teenage pregnancy.

Alcoholism, however, is a force that destroys families from within. Sometimes this force is explosive; often it is quite and insidious. It is perhaps a truism to say that alcoholism is a family disease. But there is no question that the entire family is caught in its web. It shapes their lives and, in many cases, the lives of future generations.

Like the addicted person, other family members may deny the problem.

They may become part of a conspiracy of silence that prevents them from seeking help. Yet, it is not a happy silence. The atmosphere within the family is often negative, full of stress and conflict. The rituals that help define a family—for example, birthdays and religious holidays—may not be observed, a fact that has been linked to the transmission of alcoholism.

As always, the most vulnerable family members are the children. It is estimated there are nearly 27 million children of alcoholics in this country, almost 7 million of whom are under age 18. Children of alcoholics are at risk for a host of psychological and physical harms, not least of which is the greater likelihood that they, too, will become substance abusers. Children of alcoholics are two to four times more likely than others to become alcoholics. Moreover, daughters of alcoholics are more likely than others to marry alcoholic men, increasing the likelihood of perpetuating the cycle.

Children of alcoholics also tend to have more health problems than others. A study by the Children of Alcoholics Foundation found that children of alcoholics are admitted to hospitals, use hospital days, and incur hospital charges at rates much greater than those experienced by other persons. This pattern results in additional costs for hospital care of $1 billion a year, a figure the foundation considers quite conservative.

Children of alcoholics may blame themselves for the parent's problem and feel unloved and rejected. They may not reach out for help because they do not realize they are not alone. They may be vulnerable to abuse and neglect. Yet, some children show remarkable resiliency. Certainly, to be the child of an alcoholic is not to be doomed to a life of failure, filled with insurmountable problems.

It is with the intent to draw attention to the needs of children of alcoholics that we introduce this resolution today. The subcommittee has heard witnesses at our hearing describe in very moving terms how to be the child of an alcoholic is to feel totally alone, since it seems inconceivable that others could be in the same situation. We hope that by designating a week to focus on this group, we will let children who may now feel isolated and afraid know that they are not alone.

There is one special group of children of alcoholics who face a more severe challenge. These are children who are exposed to alcohol prenatally, those with symptoms of Fetal Alcohol Syndrome or Fetal Alcohol Effect. These symptoms can include a range of physical problems evident at birth. As these children grow, they may find themselves falling farther and farther behind in school. The tragedy of Fetal Alcohol Syndrome is two-fold. First, it is entirely preventable. Second, it results in a huge loss of human potential. In his book, "The Broken Cord," Michael Dorris writes poignantly about the limitations of his adopted son Adam, an FAS victim:

My son will forever travel through a moonless night with only the roar of the wind for company. Don't talk to him of mountains, of tropical beaches. Don't ask him to swoon at sunrises or marvel at the filter of light through leaves. He's never had time for such things, and he does not believe in them. * * * He doesn't wonder where he came from, where he's going. He doesn't ask who he is, or why. Questions are a luxury.

Well, for us, questions are a necessity. We must ask ourselves whether we cannot do better for these children.

One of the gaps existing in this area is the need for more public awareness, on the part of professionals, community members, and affected children themselves, that children in alcoholic families are at risk. They need treatment themselves, but may not be able to bring themselves to ask for help. They may not even fully understand that the problem is not them, but their parents' drinking. They may need someone to reach out to them. A greater understanding of the dangers these children face is a first step toward seeing that outreach occurs and treatment becomes more widely available.

Mr. President, in listening to the stories of recovering alcoholics and children of alcoholics, I am struck by the difficulty of pinpointing the beginning of alcoholism in individual families. Often, you cannot say "Here is the parent with an alcohol problem, and here is the child of the alcoholic." The parent also may be the child of an alcoholic, caught in a cycle perpetuated for generations. But if we cannot find the beginning of the cycle, we surely can find a way to break it.

Before we can do that, however, we must have a broader awareness of how that cycle is continued from one generation to another. We must make sure that community members understand why we must reach out to the children who are caught up in their families' alcoholism. Children of Alcoholics Week will help spread that awareness and understanding. I urge my colleagues to join us in making that possible.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD following my statement.

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

To designate the period commencing on February 14, 1994, and ending on February 20, 1994, as "Children of Alcoholics Week".

Whereas it is estimated that there are nearly 27,000,000 children of alcoholics in the United States, of whom 6,600,000 are under the age of 18;

Whereas there is strong scientific evidence that alcoholism runs in families with children of alcoholics being 2 to 4 times more likely to develop alcoholism than children of nonalcoholics;

Whereas parental alcoholism has a significant impact on the health of children and on the health care system, with children of alcoholics being admitted to hospitals at a 24 percent greater rate, using hospital days at a 62 percent greater rate, incurring hospital charges at a 36 percent greater rate, and incurring total health care charges at a 32 percent greater rate, than other children;

Whereas parental alcohol abuse is a significant factor in a large proportion of child abuse and neglect cases;

Whereas young children of alcoholics exhibit symptoms of depression and anxiety to a greater extent than children of nonalcoholics;

Whereas young children of alcoholics often have difficulty in school and are more likely to be truant, drop out of school, repeat grades, or be referred to a school counselor or psychologist;

Whereas children with Fetal Alcohol Syndrome suffer from a range of deficits that include dysmorphic facial features, growth retardation, intellectual impairment, and disruptive behavior patterns and children with Fetal Alcohol Effect suffer from significant, although less severe, deficits;

Whereas children of alcoholics, with the interest and help of family, friends, health professionals, teachers, clergy, and others, can avoid the negative effects of familial alcoholism;

Whereas this resolution seeks to raise the level of public and professional awareness on behalf of the families and children affected by alcohol addiction;

Whereas by bringing attention to the plight of the children of alcoholics, the Congress will be offering hope and encouragement for these innocent victims and will be taking a significant step forward toward ending the generational cycle of addiction;

Whereas a national week of recognition would give individuals and local, State, and national organizations the opportunity to break the silence often surrounding familial alcoholism; and

Whereas in recognition of the Tenth Anniversary of the establishment of the National Association for Children of Alcoholics: 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 February 14, 1994, and ending on February 20, 1994, is designated as "Children of Alcoholics Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such period with appropriate ceremonies, programs, and activities.●

By Mr. RIEGLE:

S.J. Res. 160. A joint resolution to designate the month of April 1994, as "National Sudden Infant Death Syndrome Awareness Month", and for other purposes; to the Committee on the Judiciary.

SIDS AWARENESS WEEK

● Mr. RIEGLE. Mr. President, I rise today to introduce legislation to designate the month of April 1994, as Sudden Infant Death Syndrome Awareness Month. Sudden Infant Death Syndrome [SIDS] is a fatal disorder which kills thousands of infants in the United States each year.

SIDS is one of the leading causes of death in the United States for infants 1-week to 1-year old, claiming the lives

of over 7,000 babies in America each year. That is one of every 500 live births, or nearly one baby every hour of every day. More children die of SIDS in one year then all infants who die of cancer, heart disease, pneumonia, child abuse, AIDS, cystic fibrosis, and muscular dystrophy combined. SIDS takes the lives of infants from all areas of America, all cultures and all socio-economic backgrounds. It is a major contributor to the high rate of infant mortality in the United States.

SIDS comes as a tragic surprise. An apparently healthy infant is put to bed without any indication that is anything is wrong. Later, the infant is found dead. Nothing in the infant's medical history, postmortem examination or examination of the scene of death provides any immediate answers to why the infant died.

The National Institute of Child Health and Human Development is currently conducting a 5 year research plan to understand the causes of SIDS and to develop a cure. Researchers at the National Institute of Child Health and Human Development have identified potential risk factors involved in SIDS including exposure to tobacco smoke, sleeping in the prone position, and kidney abnormalities. It is important that the National Institute of Child Health and Human Development continue to investigate these promising leads.

Mr. President, parents, relatives, and friends of victims have also been active in combating SIDS. In Michigan and all across America, people have united to bring attention to SIDS and to mobilize community and scientific resources to find answers to the pain, loss and suffering caused by this devastating syndrome. In April, communities across America will participate in Red Nose Day USA. This name comes from Bozo the Clown, who is spokesperson for Red Nose Day to fight SIDS. To show support for research and public awareness about SIDS, people across the Nation will wear the red clown nose. The goal is to make the problem of SIDS as plain as the nose on your face.

Mr. President, I encourage my colleagues in the Senate to join me in combating SIDS by supporting the joint resolution to designate April as Sudden Infant Death Syndrome Month.●

ADDITIONAL COSPONSORS

S. 154

At the request of Mr. GRAMM, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 154, a bill to insure that any peace dividend is invested in America's families and deficit reduction.

S. 377

At the request of Mr. GRAMM, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 377, a bill to require a balanced Federal budget by fiscal year 2000 and each year thereafter, to protect Social Security, to provide for zero-based budgeting and decennial sunsetting, to impose spending caps on the growth of entitlements during fiscal years 1994 through 2000, and to enforce those requirements through a budget process involving the President and Congress and sequestration.

At the request of Mr. HELMS, his name was added as a cosponsor of S. 377, supra.

S. 449

At the request of Mr. GRAMM, his name was added as a cosponsor of S. 449, a bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated.

S. 462

At the request of Mr. BUMPERS, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 462, a bill to prohibit the expenditure of appropriated funds on the United States International Space Station Freedom program.

S. 477

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 477, a bill to eliminate the price support program for wool and mohair, and for other purposes.

S. 517

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 517, a bill to reduce the deficit in the Federal budget for fiscal year 1994 by limiting to $2,000,000,000 the amount that may be appropriated for the Strategic Defense Initiative.

S. 519

At the request of Mr. BUMPERS, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 519, a bill to reduce Federal budget deficits by prohibiting further funding of the Trident II ballistic missile program.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 519, supra.

S. 563

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 563, a bill to require CBO analysis of each bill or joint resolution reported in the Senate or House of Representatives to determine the impact of any Federal mandates in the bill or joint resolution.

S. 652

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 652, a bill to eliminate the price support and production adjustment programs for tobacco, and for other purposes.

S. 689

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 689, a bill to improve the interstate enforcement of child support and parentage court orders, and for other purposes.

S. 798

At the request of Mr. BRYAN, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 798, a bill to amend the Federal Fire Prevention and Control Act of 1974 to establish a program of grants to States for arson research, prevention, and control, and for other purposes.

At the request of Mr. SARBANES, his name was added as a cosponsor of S. 798, supra.

S. 916

At the request of Mr. HELMS, his name was added as a cosponsor of S. 916, a bill to amend the Davis-Bacon Act and the Copeland Act to provide new job opportunities, effect significant cost savings by increasing efficiency and economy in Federal procurement, promote small and minority business participation in Federal contracting, increase competition for Federal construction contracts, reduce unnecessary paperwork and reporting requirements, clarify the definition of prevailing wage, and for other purposes.

S. 946

At the request of Mr. BROWN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 946, a bill to reduce the legislative branch budget by 25 percent.

At the request of Mr. HELMS, his name was added as a cosponsor of S. 946, supra.

S. 1004

At the request of Mr. BROWN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1004, a bill to limit amounts expended by certain government entities for overhead expenses.

At the request of Mr. HELMS, his name was added as a cosponsor of S. 1004, supra.

S. 1015

At the request of Mr. DORGAN, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1015, a bill to establish a 2-year moratorium on construction and leasing of space by the Federal Government, and for other purposes.

S. 1063

At the request of Mr. HATCH, the names of the Senator from Florida [Mr. GRAHAM], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1063, a bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan.

S. 1087

At the request of Mr. KOHL, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1087, a bill to amend title 18, United States Code, to prohibit the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile.

S. 1180

At the request of Mr. GRASSLEY, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to encourage the production and use of wind energy.

S. 1247

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1247, a bill to terminate the Extremely Low Frequency Communication System of the Navy.

S. 1275

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1275, a bill to facilitate the establishment of community development financial institutions.

S. 1351

At the request of Mr. REID, the names of the Senator from Nebraska [Mr. EXON] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 1351, a bill to curb criminal activity by aliens, to defend against acts of international terrorism, to protect American workers from unfair labor competition, and to relieve pressure on public services by strengthening border security and stabilizing immigration into the United States.

S. 1361

At the request of Mr. SIMON, the name of the Senator from West Virginia [Mr. ROCKFELLER was added as a cosponsor of S. 1361, a bill to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes.

S. 1371

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1371, a bill to terminate the Ground-Wave Emergency Network (GWEN) program.

S. 1372

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1372, a bill to eliminate the price support and production adjustment programs for tobacco, and for other purposes.

S. 1376

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1376, a bill to repeal the Helium Act, to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 1406

At the request of Mr. KERREY, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1406, a bill to amend the Plant Variety Protection Act to make such Act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes.

S. 1447

At the request of Mr. BRYAN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1447, a bill to modify the disclosures required in radio advertisements for consumer leases, loans and savings accounts.

S. 1516

At the request of Mr. COVERDELL, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1516, a bill to limit the use of funds for deployment of the Armed Forces of the United States outside the United States under United Nations command.

S. 1521

At the request of Mr. SHELBY, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1521, a bill to reauthorize and amend the Endangered Species Act of 1973 to improve and protect the integrity of the programs of such Act for the conservation of threatened and endangered species, to ensure balanced consideration of all impacts of decisions implementing such Act, to provide for equitable treatment of non-Federal persons and Federal agencies under such Act, to encourage non-Federal persons to contribute voluntarily to species conservation, and for other purposes.

S. 1548

At the request of Mr. SASSER, his name was added as a cosponsor of S. 1548, a bill to amend the National Wool Act of 1954 to reduce the subsidies that wool and mohair producers receive for the 1994 and 1995 marketing years and to eliminate the wool and mohair programs for the 1996 and subsequent marketing years, and for other purposes.

S. 1550

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1550, a bill to make systematic and comprehensive reductions in Federal spending and eliminate wasteful spending while preserving the ability of the Federal Government to meet its responsibilities.

S. 1560

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1560, a bill to establish the Social Security Administration as an independent agency, and for other purposes.

S. 1604

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of 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.

S. 1715

At the request of Mrs. HUTCHISON, the names of the Senator from Ohio [Mr. GLENN], the Senator from Washington [Mr. GORTON], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of S. 1715, a bill to provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes.

S. 1757

At the request of Mr. METZENBAUM, his name was added as a cosponsor of S. 1757, a bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

SENATE JOINT RESOLUTION 140

At the request of Mr. LAUTENBERG, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 140, a joint resolution to designate December 7, 1993, as "National Pearl Harbor Remembrance Day".

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. LAUTENBERG, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution concerning the Arab boycott of Israel.

SENATE RESOLUTION 148

At the request of Mr. SIMON, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of Senate Resolution 148, a resolution expressing the sense of the Senate that the United Nations should be encouraged to permit representatives of Taiwan to participate fully in its activities, and for other purposes.

SENATE RESOLUTION 170

At the request of Mr. CHAFEE, the names of the Senator from Nebraska [Mr. KERREY], the Senator from New Mexico [Mr. DOMENICI], the Senator from Ohio [Mr. GLENN], the Senator from Delaware [Mr. ROTH], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Resolution 170, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included as primary care providers for women in Federal laws relating to the provision of health care.

AMENDMENT NO. 1168

At the request of Mr. HATCH, his name was added as a cosponsor of amendment No. 1168 proposed to S.

1607, a bill to control and prevent crime.

SENATE CONCURRENT RESOLUTION 56—RELATING TO CORRECTIONS IN THE ENROLLMENT OF S. 1766

Mr. LEAHY submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the text of the bill (S. 1766) to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the Lime Board, and for other purposes, the Secretary of the Senate shall make the following corrections:

In section 4(b)(1)—

(1) strike "'The Secretary'" and insert "'Members'"; and

SENATE RESOLUTION 174—RELATIVE TO SALES OF RUSSIAN COMMERCIAL GRADE URANIUM

Mr. BROWN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 174

SECTION 1. CONGRESSIONAL FINDINGS.

The Senate finds that—

(1) The United States has a stake in the effort of the people of Russia to build democracy and market economies;

(2) Post-Communist reform is a long-term proposition, requiring a long view and steadiness on the part of the United States;

(3) The building of democracy and a market economy in Russia is in the interest of the United States;

(4) The building of democracy and a market economy is one of the most important foreign policy challenges of our time;

(5) In helping Russia build a market economy, the United States and its allies must work to integrate Russia into the world trading system;

(6) This means removing barriers to trade and investment for their goods and services to be sold in Western markets and for Western goods and services to be sold in Russia; and

(7) A special effort to resolve this issue should be made during the upcoming high level visits between the United States and Russia.

SEC. 2. SENSE OF THE SENATE.

Therefore, it is the sense of the Senate that—

(1) It is imperative that the dispute concerning sales of commercial grade uranium by Russia be promptly resolved:

(2) As part of its ongoing management of U.S.-Russia policy, the Clinton Administration's Steering Group on policy toward the New Independent States should immediately conduct a nuclear policy review involving high-level officials from relevant U.S.G. Departments and Agencies concerning the U.S.-Russia agreement on sales of commercial grade uranium;

(3) The review should recommend administrative methods and procedures for achieving access to U.S. markets for Russian commercial grade uranium in a manner that is consistent with U.S. trade law;

(4) Based on this review, the Policy Steering Group should propose recommendations for expeditiously resolving the dispute through government-to-government agreements in the context of the U.S.-Russia summit in January 1994;

(5) To the extent that the dispute remains unresolved, the President should provide a report to the appropriate committees of Congress within 90 days of enactment of this Act, detailing findings of the policy Steering Group review and its recommendations for expedited administrative procedures to resolve the dispute.

SEC. 3. APPROPRIATE COMMITTEES OF CONGRESS.

For purpose of this section the "appropriate committees of Congress" shall include the Senate Foreign Relations Committee, the House Foreign Affairs Committee, the Senate Finance Committee, the House Ways and Means Committee, the Senate Committee on Energy and Natural Resources and the House Committee on Energy and Commerce.

• Mr. BROWN. Mr. President, I am submitting a resolution expressing the sense of the Senate that the ongoing dispute concerning sales of commercial grade uranium between the United States and Russia should be resolved expeditiously.

Russia inherited from the former Soviet Union an economy in shambles. It also inherited an antidumping action initiated under United States trade law against Soviet Union commercial grade uranium. The case itself is unprecedented. Never before has the subject country dissolved during the course of an antidumping investigation. These unique circumstances forced the emerging government of the Russian Federation to respond to a highly complex investigation under adverse circumstances.

When the dust settled, it became clear that the resulting agreement did not perform as originally intended. Initially, it was designed to limit Russian sales of uranium into the United States market through a price-tied quota. The agreement, however, has effectively prohibited virtually all sales of Russian commercial uranium in the United States market, while permitting other countries to dominate it. The result for Russia has been the loss of a tremendous amount of much-needed hard currency at a critical time. Even worse, the unreasonable agreement has proven to be a continuing irritant in United States relations with Russia. For a fledgling free market economy, being completely shut-out of the world's largest marketplace is disastrous.

Worse yet, this "suspension agreement" has not reinvigorated the domestic uranium industry where employment and production continue to decrease. Instead, the agreement only protects other foreign producers who have carved up the American market amongst themselves.

No wonder the Russians have put the resolution of this dispute at the top of their list of impediments to progress in the United States-Russia relationship. Reportedly, President Yeltsin raised this issue with President Clinton during the Vancouver summit, and Prime Minister Chermyrodin raised it again with Vice President Gore during their meetings in August.

From the United States perspective, this policy just does not make sense. An inequitable trade policy may be counterproductive to the development of a democratic, free Russia. The objective of United States policy should be to give each country selling into our market equitable treatment. At present, we have a double standard: one for Russia and one for the rest of the world.

The United States would be better served by a uranium trade agreement which allows reasonable participation by Russia in the United States market while simultaneously encouraging United States uranium production, in accordance with United States trade laws.

Because of the Senate Foreign Relations Committee's concerns that many nuclear policy issues between the United States and Russia were not being given the centralized, high-level consideration they warrant, the Committee passed a resolution urging the establishment of a nuclear policy review group chaired by the National Security Advisor and composed of high-level officials from relevant agencies. The purpose of this group was to accomplish an expeditious, focused review of these nuclear issues between our two countries, an important one of which was access to United States markets for Russian commercial grade uranium.

Many concerns were expressed by the administration about the resolution, Senate Resolution 169, but after discussions with the Vice President and his agreement to look at the issue, we began to make significant progress. Today, I am submitting a more limited resolution that focuses sclely on the problem of providing market access for Russian commercial grade uranium. The resolution has been agreed to by the State Department and cleared by the White House.

It is my hope that the introduction of this resolution will serve as a catalyst for action on the issue. Although the Senate will adjourn before passage of this resolution is possible, it is my hope that this will act as a gameplan for the administration to address this as expeditiously as possible. In fact, the resolution expresses the sense of the Senate that the Clinton administration's Steering Group on policy toward the NIS should immediately conduct a review of the United States-Russia agreement on sales of commercial grade uranium. Based on this review, the Policy Steering Group is urged to propose recommendations for expeditions resolution of the dispute through government-to-government agreements

to conclude prior to the United States-Russia summit in January 1994.

In addition, I have received assurances that in the coming month, the State Department will be working closely with my office both as the weapons grade uranium agreement is resolved and as the dispute concerning commercial grade uranium is concluded.

I know that Senator BENNETT JOHNSTON is supportive of a resolution of the existing suspension agreement dispute. I look forward to working with him and his Energy Committee staff early in the coming year to ensure there is fast work on an effective solution.

In addition, to gain some momentum for a solution, Senator SIMPSON and I have agreed to send a joint letter to the administration urging that they hold a meeting before the first of January, 1994, for all American uranium producers. It is my hope that the meeting will occur quickly and contribute to a speedy implementation of a solution to the problem—one that provides American jobs and also permits Russia to gain access to our market. I look forward to working closely with my colleague from Wyoming on this issue.

Mr. President, an expeditious resolution of the existing restrictions on Russia's sale of commercial grade uranium to the United States is essential. I look forward to working closely with my colleagues on this issue.●

SENATE RESOLUTION 175—RELATIVE TO GUANTANAMO BAY

Mr. MOYNIHAN submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 175

Whereas, the Cuban people have suffered more than three decades of dictatorial government under Fidel Castro;

Whereas, the end of the cold war has brought freedom and democracy to many formerly totalitarian states around the world;

Whereas, the United States has had a long and close association and friendship with the people of Cuba;

Now, therefore, be it hereby *Resolved*, That it is the sense of the Senate that—when freedom and democracy are achieved in Cuba, the United States of America should unilaterally terminate the 1903 lease on its facilities at Guantánamo Bay, Cuba as a gesture of goodwill toward the people of Cuba.

● Mr. MOYNIHAN. Mr. President, I submit Senate Resolution 175, concerning the future of Cuba.

In 1903, the United States signed a treaty with Cuba leasing Guantánamo Bay and giving the United States the authority to establish a permanent military base there. Originally the lease was for $2,000 per year, the current payment is $4,085. The United States still pays its rent, although I am told that Fidel Castro has not cashed the checks since 1962.

The relationship between the people of the United States and the people of Cuba has been interrupted now for almost 35 years. The situation in Cuba is not a happy one. The economy is in ruin. Cubans continue to flee the harsh oppression and human rights abuses, there.

But the world is a changed place. The Soviet Union has dissolved and democracy is replacing totalitarianism in Eastern Europe. I am convinced that it will not be long before the winds of democracy sweeping the globe will reach the shores of Cuba. The resolution states that when this occurs, it would be fitting for the United States to unilaterally terminate its lease on Guantánamo Bay, as a gesture of goodwill toward the people of Cuba.●

AMENDMENTS SUBMITTED

TECHNICAL CORRECTION ACT

WOFFORD (AND SPECTER) AMENDMENT NO. 1236

Mr. BIDEN (for Mr. WOFFORD for himself and Mr. SPECTER) proposed an amendment to the bill (S. 1769) to make a technical correction, and for other purposes; as folllows:

At the appropriate place insert the following:

INCREASE OF CDBG PUBLIC SERVICES CAP.

(A) IN GENERAL.—Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by striking "and" after the penultimate comma; and

(2) by inserting before the semicolon at the end the following ", and except that of any amount of assistance under this title (including program income) in fiscal year 1994 to the City of Pittsburgh, Pennsylvania, such city may use not more than 20 percent in each such fiscal year for activities under this paragraph".

RIEGLE AMENDMENT NO. 1237

Mr. BIDEN (for Mr. RIEGLE) proposed an amendment to the bill S. 1769, supra; as follows:

At the appropriate place insert the following:

SECTION 23 CONVERSION PROJECTS.

(a) SECTION 23 CONVERSION.—

(1) AUTHORIZATION.—Notwithstanding contracts entered into pursuant to section 14(b)(2) of the United States Housing Act of 1937, the Secretary is authorized to enter into obligations for conversion of Leonard Terrace Apartments in Grand Rapids, Michigan, from a leased housing contract under section 23 of such Act to a project-based rental assistance contract under section 8 of such Act.

(2) REPAYMENT REQUIRED.—The authorization made in paragraph (1) is conditioned on the repayment to the Secretary of all amounts received by the public housing agency under the comprehensive improvement assistance program under section 14 of the United States Housing Act of 1937 for the Leonard Terrace Apartment project and the amounts, as determined by the Secretary, received by the public housing agency under the formula in section 14(k) of such Act by reason of the project.

D'AMATO AMENDMENT NO. 1238

Mr. BIDEN (for Mr. D'AMATO) proposed an amendment to the bill S. 1769, supra; as follows:

SEC. 308. FIRE SAFETY IN FEDERALLY ASSISTED HOUSING.

Section 31(c)(2)(A)(i) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(2)(A)(i)) is amended by adding "(or equivalent level of safety)" after "system".

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MANAGEMENT REORGANIZATION ACT OF 1993

GLENN AMENDMENT NO. 1239

Mr. BIDEN (for Mr. GLENN) proposed an amendment to the bill (H.R. 2876) to promote and support management reorganization of the National Aeronautics and Space Administration; as follows:

In section 2(b) of the bill, insert ", subject to the availability of appropriations provided in advance for this purpose," before "may be offered".

COAST GUARD AUTHORIZATION ACT OF 1993, PASSENGER VESSEL SAFETY ACT OF 1993

HOLLINGS (AND STEVENS) AMENDMENT NO. 1240

Mr. BIDEN (for Mr. HOLLINGS for himself and Mr. STEVENS) proposed an amendment to the bill (S. 1052) to authorize appropriations for fiscal years 1994 and 1995 for the Coast Guard, and for other purposes; as follows:

In lieu of the matter proposed to be inserted by the Committee amendment in the nature of a substitute, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1993".

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1994, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,612,552,200, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund, and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $417,996,500, to remain available until expended, of which $23,030,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to

navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, and defense readiness, $25,000,000, to remain available until expended, of which $4,457,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $548,774,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation associated with the Bridge Alteration Program, $12,940,000 to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities, $23,057,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) AUTHORIZED MILITARY STRENGTH LEVEL.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 39,138 as of September 30, 1994. The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) AUTHORIZED LEVEL OF MILITARY TRAINING.—For fiscal year 1994, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,986 student years.

(2) For flight training, 114 student years.

(3) For professional training in military and civilian institutions, 338 student years.

(4) For officer acquisition, 955 student years.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. CEILING ON OFFICER CORPS.

Subsection (a) of section 42 of title 14, United States Code, is amended by striking "6,000" and inserting "6,200".

SEC. 202. VOLUNTEER SERVICES.

Section 93 of title 14, United States Code, is amended by—

(1) striking "and" at the end of paragraph (r);

(2) striking the period at the end of paragraph (s) and inserting a comma; and

(3) adding at the end of the following new subsection:

"(t) notwithstanding any other law, enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals, to accept and utilize voluntary services for the maintenance and improvement of natural and historic resources on, or to benefit natural and historic research on, Coast Guard facilities, subject to the requirement that—

"(1) the cooperative agreements shall each provide for the parties to contribute funds or services on a matching basis to defray the costs of such programs, projects, and activities under the agreement; and

"(2) a person providing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code, with respect to compensation for work-related injuries, and chapter 171 of title 28, United States Code, with respect to tort claims; and".

SEC. 203. RESERVE RETENTION BOARDS.

Section 741 of title 14, United States Code, is amended—

(1) in subsection (a) in the first sentence by striking "and are not on active duty and not on an approved list of selectees for promotion to the next higher grade" and inserting the following' ", except those officers who—

"(1) are on extended active duty;

"(2) are on a list of selectees for promotion;

"(3) will complete 30 years total commissioned service by June 30th following the date that the retention board is convened; or

"(4) have reached age 59 by the date on which the retention board is convened';

(2) in subsection (a) by moving the second sentence so as to begin—

(A) immediately below paragraph (4) (as added by paragraph (1) of this section); and

(B) flush with the left margin of the material preceding paragraph (1);

(3) by designating the third sentence of subsection (a) as subsection (b) by—

(A) inserting "(b)" before "This board shall—"; and

(B) moving the third sentence so as to begin immediately below the second sentence of subsection (a); and

(4) by redesignating the last 2 subsections as subsections (c) and (d), respectively.

SEC. 204. CONTINUITY OF GRADE OF ADMIRALS AND VICE ADMIRALS.

(a) Section 46(a) of title 14, United States Code, is amended to read as follows:

"(a) A Commandant who is not reappointed shall be retired with the grade of admiral at the expiration of the appointed term, except as provided in subsection 51(d) of this title.".

(b)(1) Section 47 of title 14, United States Code, is amended—

(A) in the heading by striking "; retirement";

(B) in subsection (a) by—

(i) striking "(A)" at the beginning thereof, and

(ii) striking the last sentence and inserting the following: "The appointment and grade of a Vice Commandant shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in subsection 51(d) of this title."; and

(C) by striking subsections (b), (c), and (d).

(2) The table of sections at the beginning of chapter 3 of title 14, United States Code, is amended by striking the item relating to section 47 and inserting the following:

"47. Vice Commandant: assignment.".

(c) Section 50(b) of title 14, United States Code, is amended by striking the last sentence and inserting "The appointment and grade of an area commander shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in subsection 51(d) of this title.".

(d) Section 51 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(d) An officer serving in the grade of admiral or vice admiral shall continue to hold that grade—

"(1) while being processed for physical disability retirement, beginning on the day of the processing and ending on the day that officer is retired, but not for more than 180 days; and

"(2) while awaiting retirement, beginning on the day that officer is relieved from the position of Commandant, Vice Commandant, Area Commander, or Chief of Staff and ending on the day before the officer's retirement, but not for more than 60 days.".

SEC. 205. CHIEF OF STAFF.

(a) Section 41a(b) of title 14, United States Code, is amended by striking ", except that the rear admiral serving as Chief of Staff shall be the senior rear admiral for all purposes other than pay" at the end of the second sentence.

(b)(1) Title 14, United States Code, is amended by inserting after section 50 the following new section:

"§ 50a. Chief of Staff.

"(a) The President may appoint, by and with the advice and consent of the Senate, a Chief of Staff of the Coast Guard who shall rank next after the area commanders and who shall perform duties as prescribed by the Commandant. The Chief of Staff shall be appointed from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for the appointment.

"(b) The Chief of Staff shall have the grade of vice admiral with the pay and allowances of that grade. The appointment and grade of the Chief of Staff shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.".

(2) The table of sections at the beginning of chapter 3 of title 14, United States Code, is amended by inserting after the item relating to section 50 the following:

"50a. Chief of Staff.".

(c) Section 51 of title 14, United States Code, is amended—

(1) in subsection (a) by striking "as Commander, Atlantic Area, or Commander, Pacific Area" and inserting "in the grade of vice admiral"; and

(2) in subsection (b) by striking "as Commander, Atlantic Area, or Commander, Pacific Area" and inserting "in the grade of vice admiral".

(d) Section 290 of title 14, United States Code, is amended—

(1) in subsection (a) by striking "or in the position of Chief of Staff" in the second sentence;

(2) in subsection (f)(1) by striking "Chief of Staff or"; and

(3) in subsection (f)(2) by striking "Chief of Staff or".

TITLE III—MISCELLANEOUS COAST GUARD PROVISIONS

SEC. 301. NORTH ATLANTIC ROUTES.

Sections 3 and 5 of the Act of June 25, 1936 (49 Stat. 1922, 46 App. U.S.C. 738b and 738d), are repealed.

SEC. 302. COAST GUARD FAMILY HOUSING.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 670. Procurement authority for family housing

"(a) The Secretary is authorized—

"(1) to acquire, subject to the availability of appropriations sufficient to cover its full obligations, real property or interests therein by purchase, lease for a term not to exceed 5 years, or otherwise, for use as Coast Guard family housing units, including the acquisition of condominium units, which may include the obligation to pay maintenance, repair, and other condominium-related fees; and

"(2) to dispose of by sale, lease, or otherwise, any real property or interest therein used for Coast Guard family housing units for adequate consideration.

"(b)(1) For the purposes of this section, a multiyear contract is a contract to lease Coast Guard family housing units for at least one, but not more than 5, fiscal years.

"(2) The Secretary may enter into multiyear contracts under subsection (a) of

this section whenever the Coast Guard finds that—

"(A) the use of a contract will promote the efficiency of the Coast Guard family housing program and will result in reduced total costs under the contract; and

"(B) there are realistic estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract.

"(3) A multiyear contract authorized under subsection (a) of this section shall contain cancellation and termination provisions to the extent necessary to protect the best interests of the United States, and may include consideration of both recurring and nonrecurring costs. The contract may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17, United States Code, is amended by adding at the end the following:

"670. Procurement authority for family housing.".

SEC. 303. AIR STATION CAPE COD IMPROVEMENTS.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding after section 670 (as added by section 302 of this Act) the following new section:

"§ 671. Air Station Cape Cod improvements

"The Secretary may expend funds for the repair, improvement, restoration, or replacement of those federally or nonfederally owned support buildings, including appurtenances, which are on leased or permitted real property constituting Coast Guard Air Station Cape Cod, located on Massachusetts Military Reservation, Cape Cod, Massachusetts.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17, United States Code, is amended by adding after the item relating to section 670 (as added by section 302 of this Act) the following:

"671. Air Station Cape Cod improvements.".

SEC. 304. LONG-TERM LEASE AUTHORITY FOR AIDS TO NAVIGATION.

(a) Chapter 17 of title 14, United States Code, is amended by adding after section 671 (as added by section 303 of this Act) the following new section:

"§ 672. Long-term lease authority for navigation and communications systems sites

"(a) The Secretary is authorized, subject to the availability of appropriations, to enter into lease agreements to acquire real property or interests therein for a term not to exceed 20 years, inclusive of any automatic renewal clauses, for aids to navigation (hereafter in this section referred to as 'ATON') sites, vessel traffic service (hereafter in this section referred to as 'VTS') sensor sites, or National Distress System (hereafter in this section referred to as 'NDS') high level antenna sites. These lease agreements shall include cancellation and termination provisions to the extent necessary to protect the best interests of the United States. Cancellation payment provisions may include consideration of both recurring and nonrecurring costs associated with the real property interests under the contract. These lease agreements may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.

"(b) The Secretary may enter into multiyear lease agreements under subsection (a) of this section whenever the Secretary finds that—

"(1) the use of such a lease agreement will promote the efficiency of the ATON, VTS, or NDS programs and will result in reduced total costs under the agreement;

"(2) the minimum need for the real property or interest therein to be leased is expected to remain substantially unchanged during the contemplated lease period; and

"(3) the estimates of both the cost of the lease and the anticipated cost avoidance through the use of a multiyear lease are realistic.".

(b) The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by adding after the item relating to section 671 (as added by section 303 of this Act) the following:

"672. Long-term lease authority for navigation and communications systems sites.".

SEC. 305. AUTHORITY FOR EDUCATIONAL RESEARCH GRANTS.

(a) IN GENERAL.—Chapter 9 of title 14, United States Code, is amended by adding at the end the following new section.

"§ 196. Participation in Federal, State, or other educational research grants

"Notwithstanding any other provision of law, the United States Coast Guard Academy may compete for and accept Federal, State, or other educational research grants, subject to the following limitations:

"(1) No award may be accepted for the acquisition or construction of facilities.

"(2) No award may be accepted for the routine functions of the Academy.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 9 of title 14, United States Code, is amended by adding at the end the following:

"196. Participation in Federal, State, or other educational research grants.".

SEC. 306. PREPOSITIONED OIL SPILL CLEANUP EQUIPMENT.

The Secretary of Transportation is authorized to expend out of amounts appropriated for acquisition, construction, and improvement for fiscal year 1994—

(1) $890,000 to acquire and preposition oil spill response equipment at Port Arthur, Texas, and

(2) $890,000 to acquire and preposition oil spill response equipment at Helena, Arkansas, subject to the Secretary determining that adequate storage and maintenance facilities are available.

SEC. 307. SHORE FACILITIES IMPROVEMENTS AT COAST GUARD STATION LITTLE CREEK, VIRGINIA.

(a) The Secretary of Transportation, subject to the availability of appropriations, may at Coast Guard Station Little Creek, Virginia—

(1) construct a 2-story station building with operational, administrative, and living spaces;

(2) construct a 180-foot-long pier for Coast Guard patrol boats;

(3) construct a boat ramp; and

(4) strengthen a waterfront bulkhead.

(b) Funds necessary to carry out this section are authorized to be appropriated for fiscal year 1994.

SEC. 308. OIL SPILL TRAINING SIMULATOR.

The Secretary of Transportation is authorized to expend out of the amounts appropriated for acquisition, construction, and improvement not more than $1,250,000 to the Maritime College of the State of New York to purchase a marine oil spill management simulator.

SEC. 309. TECHNICAL CLARIFICATION.

Section 4283B of the Revised Statutes (46 App. U.S.C. 183c) is amended by striking "any court" in clause (2) and inserting in lieu thereof "court".

SEC. 310. OIL SPILL PREVENTION AND RESPONSE TECHNOLOGY TEST AND EVALUATION PROGRAM.

(a) Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall establish a program to evaluate the technological feasibility and environmental benefits of having tank vessels carry oil spill prevention and response technology. To implement the program the Secretary shall—

(1) publish in the Federal Register an invitation for submission of proposals including plans and procedures for testing; and

(2) review and evaluate technology using, to the maximum extent possible, existing evaluation and performance standards.

(b) The Secretary shall, to the maximum extent possible, incorporate in the program established in subsection (a), the results of existing studies and evaluations of oil spill prevention and response technology carried on tank vessels.

(c) Not later than 2 years after the date of the enactment of this Act, the Secretary shall evaluate the results of the program established in subsection (a) and submit a report to Congress with recommendations on the feasibility and environmental benefits of, and appropriate equipment and utilization standards for, requiring tank vessels to carry oil spill prevention and response equipment.

(d) Not later than 6 months after the date of the enactment of this Act, the Secretary shall evaluate and report to the Congress on the feasibility of using segregated ballast tanks for emergency transfer of cargo and storage of recovered oil.

SEC. 311. UNMANNED SEAGOING BARGES.

Section 3302 of title 46, United States Code, is amended by adding at the end the following:

"(m) A seagoing barge is not subject to inspection under section 3301(6) of this title if the vessel is unmanned and does not carry—

"(1) a hazardous material as cargo; or

"(2) a flammable or combustible liquid, including oil, in bulk.".

SEC. 312. PROHIBITION ON DECOMMISSIONING ICEBREAKER MACKINAW.

(a) The Secretary of Transportation may not decommission the Coast Guard cutter MACKINAW before December 31, 1994.

(b) There is authorized to be appropriated to the Secretary of Transportation $1,600,000 for fiscal year 1994, to remain available until expended, for operations and maintenance of the Coast Guard cutter MACKINAW.

SEC. 313. LOWER COLUMBIA RIVER MARINE FIRE AND SAFETY ACTIVITIES.

The Secretary of Transportation is authorized to expend out of the amounts appropriated for the Coast Guard for fiscal year 1994 not more than $421,700, and for fiscal year 1995 not more than $358,300, for the lower Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Marine Fire and Safety Association.

SEC. 314. CASS RIVER.

Subtitle II of title 46, United States Code, relating only to vessel inspection and manning, shall not apply to a vessel operating on the date of enactment of this Act on the Cass River above the dam at Frankenmuth, Michigan (locally known as the Hubinger Dam) which is inspected and licensed by the State of Michigan to carry passengers.

SEC. 315. SENSE OF THE CONGRESS REGARDING FUNDING FOR COAST GUARD.

It is the sense of the Congress that in appropriating amounts for the Coast Guard, the Congress should appropriate amounts adequate to enable the Coast Guard to carry out all extraordinary functions and duties the Coast Guard is required to undertake in addition to its normal functions established by law.

SEC. 316. COOPERATIVE AGREEMENT AUTHORITY.

Section 93 of title 14, United States Code, as amended by section 202 of this Act, is further amended by adding at the end the following new subsection:

"(u) enter into cooperative agreements with other Government agencies and the National Academy of Sciences.".

SEC. 317. REGIONAL FISHERIES LAW ENFORCEMENT TRAINING CENTERS.

(a) GULF OF MEXICO.—The Coast Guard shall establish a Gulf of Mexico Regional Fisheries Law Enforcement Training Center in the Eighth Coast Guard District in Southeastern Louisiana.

(b) SOUTHEAST ATLANTIC.—The Coast Guard shall establish a Southeast Regional Fisheries Law Enforcement Training Center in the Seventh Coast Guard District in Charleston, South Carolina.

(c) PURPOSE.—The purpose of the regional fisheries law enforcement training centers shall be to increase the skills and training of Coast Guard fisheries law enforcement personnel and to ensure that such training considers and meets the unique and complex needs and demands of the fisheries of the Gulf of Mexico and the Southeast United States.

SEC. 318. NATIONAL SAFE BOATING WEEK.

(a) The Act of June 4, 1958 (36 U.S.C. 161) is amended by striking "week commencing on the first Sunday in June" and inserting "the seven day period ending on the last Friday before Memorial Day".

(b) This section is effective January 1, 1995.

SEC. 319. LOS ANGELES-LONG BEACH VESSEL TRAFFIC SERVICE.

The Coast Guard is authorized to provide personnel support for the interim vessel traffic information service in the Ports of Los Angeles and Long Beach operated on behalf of the State of California by the Marine Exchange of Los Angeles-Long Beach Harbors, Inc., a California nonprofit corporation (hereinafter referred to as "Marine Exchange"). The Coast Guard shall be reimbursed for all costs associated with providing such personnel in accordance with a reimbursable agreement between the Coast Guard and the State of California. Amounts received by the Coast Guard as reimbursements for its costs shall be credited to the appropriation for operating expenses of the Coast Guard. The United States Government assumes no liability for any act or omission of any officer, director, employee, or representative of the Marine Exchange or of the State of California, arising out of the operation of the vessel traffic information service by the Marine Exchange, and the Coast Guard shall have the same protections and limitations on such liability as are afforded to the Marine Exchange under California law.

SEC. 320. FINANCIAL RESPONSIBILITY FOR NONPERFORMANCE.

Section 3(b) of Public Law 89-777 (46 App. U.S.C. 817e(b)) is amended by striking "and such bond or other security shall be in an amount paid equal to the estimated total revenue for the particular transportation." and inserting a period.

SEC. 321. FISHING AND FISH TENDER VESSELS.

(a) In this section, "fish tender vessel", "fishing vessel", and "tank vessel" have the meanings given those terms under section 2101 of title 46, Under States Code.

(b) A fishing vessel or fish tender vessel of not more than 750 gross tons, when engaged only in the fishing industry, shall not be deemed to be a tank vessel for the purposes of any law.

(c)(1) This section does not affect the authority of the Secretary of Transportation under chapter 33 of title 46, United States Code, to regulate the operation of the vessels listed in subsection (b) to ensure the safe carriage of oil and hazardous substances.

(2) This section does not affect the requirement for fish tender vessels engaged in the Aleutian trade to comply with chapters 33, 45, 51, 81, and 87 of title 45, United States Code, as provided in the Aleutian Trade Act of 1990 (Pub. L. 101-595).

SEC. 322. OIL SPILL RECOVERY OPERATIONS.

(a) Section 8104 of title 46, United States Code, is amended—

(1) in subsection (g), by striking "a vessel used only to respond to a discharge of oil or a hazardous substance,"; and

(2) by adding a new subsection to read as follows:

"(p) On a vessel used only to respond to a discharge of oil or a hazardous substance, the licensed individuals and crewmembers may be divided into at least two watches when the vessel is engaged in an operation less than 12 hours in duration.".

(b) Section 8301 of title 46, United States Code, is amended by adding a new subsection to read as follows:

"(e) A vessel used only to respond to a discharge of oil or a hazardous substance shall have—

"(1) two licensed mates when the vessel is engaged in an operation over 12 hours in duration;

"(2) one licensed mate when the vessel is engaged in an operation less than 12 hours in duration; and

"(3) if the vessel is more than 200 gross tons, a licensed engineer when the vessel is operating.".

SEC. 323. LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEMBERS—ALASKA EXCEPTION.

(a) ALASKA EXCEPTION.—Section 258 of the Immigration and Nationality Act (8 U.S.C. 1288) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) STATE OF ALASKA EXCEPTION.—(1) Subsection (a) shall not apply to a particular activity of longshore work at a particular location in the State of Alaska if an employer of alien crewmen has filed an attestation with the Secretary of Labor at least 30 days before the date of the first performance of the activity (or anytime up to 24 hours before the first performance of the activity, upon a showing that the employer could not have reasonably anticipated the need to file an attestation for that location at that time) setting forth facts and evidence to show that—

"(A) the employer will make a bona fide request for United States longshore workers who are qualified and available in sufficient numbers to perform the activity at the particular time and location from the parties to whom notice has been provided under clauses (ii) and (iii) of subparagraph (D), except that—

"(i) wherever two or more contract stevedoring companies have signed a joint collective bargaining agreement with a single labor organization described in subparagraph (d)(i), the employer may request longshore workers from only one of such contract stevedoring companies, and

"(ii) a request for longshore workers to an operator of a private dock may be made only for longshore work to be performed at that dock and only if the operator meets the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932);

"(B) the employer will employ all those United States longshore workers made available in response to the request made pursuant to subparagraph (A) who are qualified and available in sufficient numbers and who are needed to perform the longshore activity at the particular time and location;

"(C) the use of alien crewmembers for such activity is not intended or designed to influence an election of a bargaining representative for workers in the State of Alaska; and

"(D) notice of the attestation has been provided by the employer to—

"(i) labor organizations which have been recognized as exclusive bargaining representatives of United States longshore workers within the meaning of the National Labor Relations Act and which make available or intend to make available workers to the particular location where the longshore work is to be performed,

"(ii) contract stevedoring companies which employ or intend to employ United States longshore workers at that location, and

"(iii) operators of private docks at which the employer will use longshore workers.

"(2)(A) An employer filing an attestation under paragraph (1) who seeks to use alien crewmen to perform longshore work shall be responsible while the attestation is valid to make bona fide requests for United States longshore workers under paragraph (1)(A) and to employ United States longshore workers, as provided in paragraph (1)(B), before using alien crewmen to perform the activity or activities specified in the attestation, except that an employer shall not be required to request longshore workers from a party if that party has notified the employer in writing that it does not intend to make available United States longshore workers to the location at which the longshore work is to be performed.

"(B) If a party that has provided such notice subsequently notifies the employer in writing that it is prepared to make available United States longshore workers who are qualified and available in sufficient numbers to perform the longshore activity to the location at which the longshore work is to be performed, then the employer's obligations to that party under subparagraphs (A) and (B) of paragraph (1) shall begin 60 days following the issuance of such notice.

"(3)(A) In no case shall an employer filing an attestation be required—

"(i) to hire less than a full work unit of United States longshore workers needed to perform the longshore activity;

"(ii) to provide overnight accommodations for the longshore workers while employed; or

"(iii) to provide transportation to the place of work, except where—

"(I) surface transportation is available;

"(II) such transportation may be safely accomplished;

"(III) travel time to the vessel does not exceed one-half hour each way; and

"(IV) travel distance to the vessel from the point of embarkation does not exceed 5 miles.

"(B) In the cases of Wide Bay, Alaska, and Klawock/Craig, Alaska, the travel times and

travel distances specified in subclauses (III) and (IV) of subparagraph (A) shall be extended to 45 minutes and 7½ miles, respectively, unless the party responding to the request for longshore workers agrees to the lesser time and distance limitations specified in those subclauses.

"(4) Subject to subparagraphs (A) through (D) of subsection (c)(4), attestations filed under paragraph (1) of this subsection shall—

"(A) expire at the end of the 1-year period beginning on the date the employer anticipates the longshore work to begin, as specified in the attestation filed with the Secretary of Labor, and

"(B) apply to aliens arriving in the United States during such 1-year period if the owner, agent, consignee, master, or commanding officer states in each list under section 251 that it continues to comply with the conditions in the attestation.

"(5)(A) Except as otherwise provided by subparagraph (B), subsection (c)(3) and subparagraphs (A) through (E) of subsection (c)(4) shall apply to attestations filed under this subsection.

"(B) The use of alien crewmen to perform longshore work in Alaska consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel shall be governed by the provisions of subsection (c).

"(6) For purposes of this subsection—

"(A) the term 'contract stevedoring companies' means those stevedoring companies licensed to do business in the State of Alaska that meet the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932); and

"(B) the term 'employer' includes any agent or representative designated by the employer; and

"(C) the terms 'qualified' and 'available in sufficient numbers' shall be defined by reference to industry standards in the State of Alaska, including safety considerations.".

(b) CONFORMING AMENDMENTS.—

(1) Section 258(a) (8 U.S.C. 1288(a)) is amended by striking "subsection (c) or subsection (d)" and inserting "subsection (c), (d), or (e)".

(2) Section 258(c)(4)(A) (8 U.S.C. 1288(c)(4)(A)) is amended by inserting "or subsection (d)(1)" after "paragraph (1)" each of the two places it appears.

(3) Section 258(c) (8 U.S.C. 1288(c)) is amended by adding at the end the following new paragraph:

"(5) Except as provided in paragraph (5) of subsection (d), this subsection shall not apply to longshore work performed in the State of Alaska.".

(c) IMPLEMENTATION.—(1) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this section.

(2) Attestations filed pursuant to section 258(c) (8 U.S.C. 1288(c)) with the Secretary of Labor before the date of enactment of this Act shall remain valid until 60 days after the date of issuance of final regulations by the Secretary under this section.

SEC. 324. CAPE COD LIGHTHOUSE PLANNING AND DESIGN STUDIES.

(a) COMPLETION OF STUDIES.—

(1) PLANNING.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of the Interior shall complete the necessary planning studies, including selection of a relocation site, identified in the Coast Guard's strategy document for relocation of the Cape Cod Lighthouse (popularly known as the "Highland Light Station"), located in North Truro, Massachusetts.

(2) DESIGN.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall complete the design studies identified in the Coast Guard's strategy document for relocation of the Cape Cod Lighthouse.

(b) USE OF AMOUNTS FOR STUDIES.—Of amounts appropriated under the authority of this Act for acquisition, construction, rebuilding, and improvement, the Secretary of transportation may use up to $600,000 for conducting the studies required under subsection (a).

SEC. 325. WASHINGTON STATE LIGHTHOUSES.

(a) AUTHORITY TO TRANSFER.—

(1) IN GENERAL.—The Secretary may convey by any appropriate means to the Washington State Parks and Recreation Commission all right, title, and interest of the United States in and to property comprising 1 or more of the Cape Disappointment Lighthouse, North Head Lighthouse, and Point Wilson Lighthouse.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Cape Disappointment Lighthouse, North Head Lighthouse, or Point Wilson Lighthouse pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof—

(A) ceases to be used as a center for public benefit for the interpretation and preservation of maritime history;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) REQUIRED CONDITIONS.—Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Washington State Parks and Recreation Commission may not interfere or allow interference in any manner with such aids to navigation without express written permission from the Secretary of Transportation;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation;

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property; and

(F) the property shall be rehabilitated and maintained by the owner in accordance with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(4) MAINTENANCE OF CERTAIN EQUIPMENT NOT REQUIRED.—The Washington State Parks and Recreation Commission shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) DEFINITIONS.—For purposes of this section, the term—

(1) "Cape Disappointment Lighthouse" means the Coast Guard lighthouse located at Fort Canby State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard; and

(B) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of the maritime history;

(2) "North Head Lighthouse" means the Coast Guard lighthouse located at Fort Canby State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard;

(B) ancillary buildings; and

(C) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of maritime history;

(3) "Point Wilson Lighthouse" means the Coast Guard lighthouse located at Fort Worden State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard;

(B) 2 ancillary buildings; and

(C) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of maritime history; and

(4) "Secretary" means the Secretary of Transportation.

SEC. 326. HERON NECK LIGHTHOUSE.

(a) AUTHORITY TO TRANSFER.—

(1) IN GENERAL.—The Secretary of Transportation shall convey by any appropriate means to the Island Institute, Rockland, Maine, all right, title, and interest of the United States in and to property comprising the Heron Neck Lighthouse.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine property conveyed pursuant to this subsection.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—The conveyance of property pursuant to subsection (a) shall be made—

(A) without payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) USE OF PROPERTY.—The property conveyed pursuant to subsection (a) may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museums, gift shops, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) REVISIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising the Heron Neck Lighthouse pursuant to subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof—

(A) ceases to be used as a nonprofit center for educational, historic, recreational, and cultural programs open to and for the benefit of the general public;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (U.S.C. 470 et seq.).

(3) REQUIRED CONDITIONS.—Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States Government for as long as they are needed for this purpose;

(B) the Island Institute may not interfere or allow interference in any manner with such aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or made any changes on any property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) MAINTENANCE OBLIGATION.—The Island Institute shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to subsection (a).

(c) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—The Island Institute shall maintain the Heron Neck Lighthouse in accordance with the Provisions of the National Historic Preservation Act of 1966 (16 U.S.C. et seq.) and other applicable laws.

(d) DEFINITIONS.—For purposes of this section, the term "Heron Neck Lighthouse" means the Coast Guard lighthouse located on Green Island, Vinalhaven, Maine, including—

(1) the attached keeper's dwelling, ancillary buildings, and associated fog signal, and boat ramp; and

(2) such land as may be necessary to enable the Island Institute to operate at that lighthouse a nonprofit center for public benefit.

SEC. 327. BURNT COAT HARBOR LIGHTHOUSE.

(a) AUTHORITY TO TRANSFER.—

(1) IN GENERAL.—The Secretary of Transportation shall convey by any appropriate means to the Town of Swan's Island, Swans Island, Maine, all right, title, and interest of the United States in and to property comprising the Burnt Coat Harbor Lighthouse.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine property conveyed pursuant to this subsection.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—The conveyance of property pursuant to subsection (a) shall be made—

(A) without payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) USE OF PROPERTY.—The property conveyed pursuant to subsection (a) may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museums, gift shops, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising the Heron Neck Lighthouse pursuant to subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof—

(A) ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of the State of Maine;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (U.S.C. 470 et seq.).

(4) REQUIRED CONDITIONS.—Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States Government for as long as they are needed for this purpose;

(B) the Town of Swan's Island may not interfere or allow interference in any manner with such aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make changes on any property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) MAINTENANCE OBLIGATION.—The town of Swan's Island shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to subsection (a).

(c) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—The Town of Swan's Island shall maintain the Burnt Coat Harbor Lighthouse in accordance with the Provisions of the National Historic Preservation Act of 1966 (16 U.S.C. et seq.) and other applicable laws.

(d) DEFINITIONS.—For purposes of this section, the term "Burnt Coat Harbor Lighthouse" means the Coast Guard lighthouse located on Swans Island, Maine, including the keeper's dwelling, oil house, bell tower and such lands as may be necessary to enable the Swan's Island Educational Society to operate at the lighthouse a nonprofit center for public benefit.

TITLE IV—EMPLOYMENT AND DISCHARGE

SEC. 401. SHIPPING ARTICLES AGREEMENTS.

Section 10302 of title 46, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) The owner, charterer, managing operator, master, or individual in charge shall make a shipping agreement in writing with each seaman before the seaman commences employment."; and

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

"(c) Each shipping agreement must be signed by the master or individual in charge or a representative of the owner, charterer, or managing operator, and by each seaman employed.

"(d) The owner, charterer, managing operator, master, or individual in charge shall maintain the shipping agreement and make the shipping agreement available to the seaman.".

SEC. 402. FORM OF AGREEMENTS.

Section 10304 of title 46, United States Code, is amended by striking "Shipping commissioner's signature or initials" from the form.

SEC. 403. MANNER OF SIGNING AGREEMENTS.

Section 10305 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by striking "a shipping commissioner" and inserting in lieu thereof "the master or individual in charge";

(2) by striking "(a)"; and

(2) by striking subsections (b) and (c).

SEC. 404. EXHIBITING MERCHANT MARINERS' DOCUMENTS.

Section 10306 of title 46, United States Code, is amended by striking "shipping commissioner" and inserting in lieu thereof "master or individual in charge".

SEC. 405. REPEAL OF PENALTY FOR FAILURE TO POST AGREEMENT.

Section 10307 of title 46, United States Code, is amended by striking the last sentence.

SEC. 406. REPEAL OF PENALTY RELATING TO ENGAGING SEAMEN OUTSIDE UNITED STATES.

Section 10308 of title 46, United States Code, is amended by striking "(a)" and by striking subsection (b).

SEC. 407. REPEAL OF PENALTY RELATING TO ENGAGING REPLACEMENT SEAMEN; APPLICATION OF REQUIREMENTS.

Section 10309 of title 46, United States Code, is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 408. ACCOUNTING OF WAGES AND DEDUCTIONS AT PAYOFF OR DISCHARGE.

Section 10310 of title 46, United States Code, is amended by striking "or a shipping commissioner" in the first sentence and by striking the last sentence.

SEC. 409. CERTIFICATES OF DISCHARGE.

Section 10311 of title 46, United States Code, is amended—

(1) in subsection (a), by striking "shipping commissioner" and inserting in lieu thereof "master or individual in charge";

(2) in subsection (b), by striking the last sentence and inserting in lieu thereof "The certificate shall be signed by the master and the seaman.";

(3) in subsection (d)(1), by striking "Secretary" and inserting in lieu thereof "owner, charterer, managing operator, master, or individual in charge"; and

(4) in subsection (d)(2), by striking "at a cost prescribed by regulation" and inserting in lieu thereof "at the request of the seaman".

SEC. 410. SETTLEMENTS ON DISCHARGE.

Section 10312 of title 46, United States Code, is amended to read as follows:

"§ 10312. Settlements on discharge

"When discharge and settlement are completed, the master, individual in charge, or owner and each seaman shall sign the agreement required by section 10302 of this title.".

SEC. 411. RECORDS OF SEAMEN.

Section 10320 of title 46, United States Code, is amended to read as follows:

"§ 10320. Records of seamen

"The Secretary shall prescribe regulations requiring vessel owners to maintain records of seamen on matters of engagement, discharge, and service. A vessel owner shall make these records available to the seamen and the Coast Guard on request.".

SEC. 412. GENERAL PENALTY.

Section 10321 of title 46, United States Code, is amended to read as follows:

"10321. General penalty

"(a) A person violating any provision of this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $5,000.

"(b) The vessel is liable in rem for any penalty assessed under this section.".

SEC. 413. SHIPPING ARTICLES AGREEMENTS.

Section 10502 of title 46, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) The owner, charterer, managing operator, master, or individual in charge shall make a shipping agreement in writing with each seaman before the seaman commences employment.".

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

"(d) Each shipping agreement must be signed by the master or individual in charge or a representative of the owner, charterer, or managing operator, and by each seaman employed.

"(e) The owner, charterer, managing operator, master, or individual in charge shall maintain the shipping agreement and make the shipping agreement available to the seaman.

"(f) The Secretary shall prescribe regulations requiring shipping companies to maintain records of seamen on matters of engagement, discharge, and service. The shipping companies shall make these records available to the seaman and the Coast Guard on request.".

SEC. 414. ADVANCES.

Section 10505 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by striking "$100" and inserting in lieu thereof "$5,000"; and

(2) in subsection (b), by striking "$500" and inserting in lieu thereof "$5,000".

SEC. 415. DUTIES OF SHIPPING COMMISSIONERS.

(a) REPEAL.—Section 10507 of title 46, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The analysis at the beginning of chapter 105 of title 46, United States Code, is amended by striking the item relating to section 10507.

SEC. 416. GENERAL PENALTIES.

Section 10508(b) is amended by striking "$20" and inserting in lieu thereof "not more than $5,000".

SEC. 417. GENERAL REPORT REQUIREMENT.

Section 10103(a) of title 46, United States Code, is amended—

(1) by striking "without a shipping commissioner being present"; and

(2) by inserting "to the vessel owner" immediately after "shall submit reports".

SEC. 418. PROCEDURES OF MASTERS REGARDING SEAMAN'S EFFECTS.

Section 10703 of title 46, United States Code, is amended—

(1) in subsection (a), by striking "by regulations prescribed by the Secretary" and inserting in lieu thereof "in section 10706 of this title";

(2) in subsection (b), by striking "as prescribed by regulations" and inserting in lieu thereof "to a district court of the United States"; and

(3) in subsection (c), by striking "subsection (a) of this section" and inserting in lieu thereof "section 10706 of this title".

SEC. 419. SEAMEN DYING IN THE UNITED STATES.

Section 10706 of title 46, United States Code, is amended by striking at the end "as provided by regulations prescribed by the Secretary." and inserting in lieu thereof "to a district court of the United States within one week of the seaman's death. If the seaman's death occurs at sea, such money, property, or wages shall be delivered to a district court or a consular officer within one week of the vessel's arrival at the first port call after the seaman's death.".

SEC. 420. DELIVERY TO DISTRICT COURT.

(a) REPEAL.—Section 10707 of title 46, United States Code, is repealed.

(b) AMENDMENT TO CHAPTER ANALYSIS.—The analysis at the beginning of chapter 107 of title 46, United States Code, is amended by striking the item relating to section 10707.

SEC. 421. DISPOSAL OF FORFEITURES.

Section 11505 of title 46, United States Code, is amended—

(1) in subsection (a), by striking the last sentence and inserting in lieu thereof "The balance shall be transferred to the appropriate district court of the United States when the voyage is completed."; and

(2) in subsection (b), by striking the first sentence.

SEC. 422. CONFORMING AMENDMENTS.

(a) DUTIES OF MASTERS.—Section 10702(b) of title 46, United States Code, is amended by striking "a shipping commissioner" and inserting in lieu thereof "the consular officer or court clerk".

(b) COMPLAINTS OF UNFITNESS.—Section 10902(b) of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "Secretary," immediately after "The complaint may be made to the";

(B) by striking "Coast Guard shipping commissioner,"; and

(2) in paragraphs (2) and (3), by striking "The officer, commissioner," each place it appears and inserting in lieu thereof "The Secretary, officer,".

(c) SHIPPING COMMISSIONER DESIGNATIONS AND DUTIES.—(1) Section 10102 of title 46, United States Code, is repealed.

(2) The analysis at the beginning of chapter 101 is amended by striking the item relating to section 10102.

TITLE V—PASSENGER VESSEL SAFETY

SEC. 501. SHORT TITLE.

This title may be cited as the "Passenger Vessel Safety Act of 1993".

SEC. 501. PASSENGER.

Section 2101(21) of title 46, United States Code, is amended to read as follows:

"(21) 'passenger'—

"(A) means an individual carried on the vessel except—

"(i) the owner or an individual representative of the owner or, in the case of a vessel under charter, an individual charterer or individual representative of the charterer;

"(ii) the master; or

"(iii) a member of the crew engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for on board services.

"(B) on an offshore supply vessel, means an individual carried on vessel except—

"(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

"(ii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

"(iii) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

"(iv) an individual employed in a phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel.

"(C) on a fishing vessel, fish processing vessel, or fish tender vessel, means an individual carried on the vessel except—

"(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

"(ii) a managing operator;

"(iii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

"(iv) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

"(v) an observer or sea sampler on board the vessel pursuant to a requirement of State or Federal law.

"(D) on a sailing school vessel, means an individual carried on the vessel except—

"(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

"(ii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iii) an employee of the demise charterer of the vessel engaged in the business of the demise charterer; or

"(iv) a sailing school instructor or sailing school student.".

SEC. 503. PASSENGER VESSEL.

Section 2101(22) of title 46, United States Code, is amended to read as follows:

"(22) 'passenger vessel' means a vessel of at least 100 gross tons—

"(A) carrying more than 12 passengers, including at least one passenger for hire;

"(B) that is chartered and carrying more than 12 passengers; or

"(C) that is a submersible vessel carrying at least one passenger for hire.".

SEC. 504. SMALL PASSENGER VESSEL.

Section 2101(35) of title 46, United States Code, is amended to read as follows:

"(35) 'small passenger vessel' means a vessel of less than 100 gross tons—

"(A) carrying more than 6 passengers, including at least one passenger for hire;

"(B) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying more than 6 passengers;

"(C) that is chartered with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers; or

"(D) that is a submersible vessel carrying at least one passenger for hire.".

SEC. 505. UNINSPECTED PASSENGER VESSEL.

Section 2101(42) of title 46, United States Code, is amended to read as follows:

"(42) 'uninspected passenger vessel' means an uninspected vessel—

"(A) of at least 100 gross tons—

"(i) carrying not more than 12 passengers, including at least one passenger for hire; or

"(ii) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 12 passengers; and

"(B) of less than 100 gross tons—

"(i) carrying not more than 6 passengers, including at least one passenger for hire; or

"(ii) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 6 passengers.".

SEC. 506. PASSENGER FOR HIRE.

Section 2101 of title 46, United States Code, is amended by inserting between paragraphs (21) and (22) a new paragraph (21a) to read as follows:

"(21a) 'passenger for hire' means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.".

SEC. 507. CONSIDERATION.

Section 2101 of title 46, United States Code, is amended by inserting between paragraph (5) and (6) a new paragraph (5a) to read as follows:

"(5a) 'consideration' means an economic benefit, inducement, right, or profit including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage, by monetary contribution or donation of fuel, food, beverage, or other supplies.'.

SEC. 508. OFFSHORE SUPPLY VESSEL.

Section 2101(19) of title 46, United States Code, is amended by inserting "individuals in addition to the crew," immediately after "supplies," and by striking everything after "resources" to the period at the end.

SEC. 509. SAILING SCHOOL VESSEL.

Section 2101(30) of title 46, United States Code, is amended in subparagraph (B) by striking "at least 6" and substituting "more than 6".

SEC. 510. SUBMERSIBLE VESSEL.

Section 2101 of title 46, United States Code, is amended by inserting between paragraph (37) and (38) a new paragraph (37a) to read as follows:

"37a) 'submersible vessel' means a vessel that is capable of operating below the surface of the water.".

SEC. 511. GENERAL PROVISION.

(a) Section 2113 of title 46, United States Code, is amended to read as follows:

§ 2113. Authority to exempt certain vessels

"If the Secretary decides that the applicant of a provision of part B, C, F, or G of this subtitle is not necessary in performing the mission of the vessel engaged in excursions or an oceanographic research vessel, or not necessary for the safe operation of certain vessels carrying passengers, the Secretary by regulation may—

"(1) for a vessel, issue a special permit specifying the conditions of operation and equipment;

"(2) exempt an oceanographic research vessel from that provision under conditions the Secretary may specify;

"(3) establish different operating and equipment requirements for vessels defined in section 2101(42)(A) of this title;

"(4) establish different structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less than 300 gross tons carrying not more than 150 passengers on domestic voyages if the owner of the vessel—

"(A) makes application for inspection to the Coast Guard within 6 months of the date of enactment of the Passenger Vessel Safety Act of 1993; and

"(B) provides satisfactory documentation that the vessel was chartered at least once within the previous 12 months prior to the date of enactment of that Act; and

"(5) establish different structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less than 500 gross tons, carrying not more than 150 passengers on domestic voyages, if the owner of the vessel—

"(A) makes application for inspection to the Coast Guard within 6 months of the date of enactment of the Passenger Vessel Safety Act of 1993; and

"(B) provides satisfactory documentation that the vessel was chartered at least once within the previous 12 months prior to the date of enactment of that Act.".

(b) Section 4105 of title 46, United States Code, is amended—

(1) by inserting "(a)" before the text; and

(2) by adding a new subsection (b) to read as follows:

"(b) Within twenty-four months of the date of enactment of this subsection, the Secretary shall, by regulation, require certain additional equipment which may include liferafts or other lifesaving equipment, construction, standards, or specify additional operating standards for those uninspected passenger vessels defined in section 2101(42)(A) of this title.".

SEC. 512. EQUIPMENT AND STANDARDS FOR CERTAIN PASSENGER VESSELS.

(a) Section 3306 of title 46, United States Code, is amended by adding at the end of the following new subsections:

"(h) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less that 300 gross tons carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of section 2113(4) of this title.

"(i) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less than 500 gross tons carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of section 2113(5) of this title."

(b) The Secretary of Transportation shall, within twenty-four months of the date of enactment of this Act, prescribe regulations establishing the structural fire protection, manning, operating, and equipment requirements for vessals which meet the requirements of subsections (h) and (i) of section 3306 of title 46, United States Code, as amended by this Act.

(c) Before the Secretary of Transportation prescribes regulations under subsections (h) and (i) of section 3306 of title 46, United States Code, as amended by this Act, the Secretary may prescribe the route, service, manning, and equipment for those vessels based on existing passenger vessel and small passenger vessel regulations.

SEC. 513. APPLICABILITY DATE FOR REVISED REGULATIONS.

(a) APPLICABILITY DATE FOR CERTAIN CHARTERED VESSELS.—Revised regulations governing small passenger vessels and passenger vessels (as the definitions of those terms in section 2101 of title 46, United States Code, are amended by this Act) shall not, before the date that is 6 months after the date of enactment of this Act, apply to such vessels when chartered with no crew provided.

(b) EXTENSION OF PERIOD.—The Secretary of the department in which the Coast Guard is operating shall extend for up to 30 additional months or until issuance of a certificate of inspection, whichever occurs first, the period of inapplicability specified in subsection (a) if the owner of the vessel concerned carries out the provisions of subsection (c) to the satisfaction of the Secretary.

(c) CONDITIONS FOR EXTENSION.—To receive an extension authorized by subsection (b), the owner of the vessel shall—

(1) make application for inspection with the Coast Guard within 6 months after the date of enactment of this Act;

(2) make the vessel available for examination by the Coast Guard prior to the carriage of passengers;

(3)(A) correct especially any hazardous conditions involving the vessel's structure, electrical system, and machinery installation, such as (i) grossly inadequate, missing, unsound, or severely deteriorated frames or major structural members; (ii) wiring systems or electrical appliances without proper grounding or overcurrent protection; and (iii) significant fuel or exhaust system leaks;

(B) equip the vessel with lifesaving and fire fighting equipment, or the portable equivalent, required for the route and number of persons carried; and

(C) verify through stability tests, calculations, or other practical means (which may include a history of safe operations) that the vessel's stability is satisfactory for the size, route, and number of passengers; and

(4) develop a work plan approved by the Coast Guard to complete in a good faith effort all requirements necessary for issuance of a certificate of inspection as soon as practicable.

(d) OPERATION OF VESSEL DURING EXTENSION PERIOD.—The owner of a vessel receiving an extension under this section shall operate the vessel under the conditions of route, service, number of passengers, manning, and equipment as may be prescribed by the Coast Guard for the extension period.

TITLE VI—DOCUMENTATION OF VESSELS

SEC. 601. DOCUMENTATION OF VESSELS

(a) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue certificates of documentation with a coastwise endorsement for the following vessels:

(1) ABORIGINAL (United States official number 942118).

(2) AFTERSAIL (United States official number 689427).

(3) ALEXANDRIA (United States official number 586490).

(4) AMANDA (Michigan registration number MC–1125–FR).

(5) ARBITRAGE II (United States official number 962861).

(6) ARIEL (United States official number 954762).

(7) BRANDARIS (former United States official number 263174).

(8) COMPASS ROSE (United States official number 695865).

(9) DIXIE (United States official number 513159).

(10) ELISSA (United States official number 697285).

(11) EMERALD PRINCESS (former United States official number 530095).

(12) ENTERPRISE (United States official number 692956).

(13) EUROPA STAR (former United States official number 588270).

(14) EUROPA SUN (former United States official number 596656).

(15) GAZELA OF PHILADELPHIA (Pennsylvania registration number PA-4339-AF).

(16) GUSTO (United States official number 624951).

(17) GRAY (Connecticut registration number CT-5944-AJ).

(18) GRIZZLY PROCESSOR (Canadian official number 369183).

(19) GYPSY COWBOY (United States official number 550771).

(20) IMPATIENT LADY (United States official number 553952).

(21) INTREPID DRAGON II (United States official number 548109).

(22) ISLAND GIRL (United States official number 674840).

(23) JULIET (Michigan registration number MC-1669-LM).

(24) KALENA (Hawaii registration number HA-1923-E).

(25) LAURISA (United States official number 924052).

(26) LIBBY ROSE (United States official number 236976).

(27) LISERON (United States official number 971339).

(28) MARINE STAR (United States official number 248329).

(29) MARINER (United States official number 285452).

(30) MARY B (Kentucky registration number KY-0098-HX).

(31) MOONSHINE (United States official number 974226).

(32) MYSTIQUE (United States official number 921194).

(33) NORTHERN LIGHT (United States official number 237510).

(34) PAI NUI (Hawaii registration number HA-6949-D).

(35) PANDACEA (United States official number 665892).

(36) PELICAN (United States official number 234959).

(37) PLAY PRETTY (United States official number 975346).

(38) PRINCE OF TIDES II (United States official number 903858).

(39) RANGOON RUBY (Hawaii registration number HA-5635-B).

(40) RBOAT (United States official number 563955).

(41) SABLE (Massachusetts registration number MS-1841-AM).

(42) SERENA (United States official number 965317).

(43) SHILOH (United States official number 902675).

(44) SIDEWINDER (United States official number 991719).

(45) SWELL DANCER (United States official number 622046).

(46) TESSA (United States official number 675130).

(47) TOP DUCK (United States official number 990973).

(48) VIKING (United States official number 286080).

(49) WHIT CON TIKI (United States official number 663823).

(b) Notwithstanding section 27 of the Merchant Marine Act, 1920 (466 App. U.S.C. 883) or any other law restricting a foreign-flag vessel from operating in the coastwise trade, the foreign-flag vessel H851 may engage in the coastwise trade to transport an offshore drilling platform jacket from a place near Aransas Pass, Texas, to a site on the Outer Continental Shelf known as Viosca Knoll 989.

(c) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and sections 12106 and 12107 of title 46, United States Code, the Secretary of Transportation may issue certificates of documentation with a coastwise and Great Lakes endorsement for the vessels LADY CHARL II (United States official number 541399) and LINETTE (United States official number 654318).

(d) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for the vessel M/V TWIN DRILL (Panama official number 8536-PEXT-2) if—

(1) the vessel undergoes a major conversion (as defined in section 2101 of title 46, United States Code) in a United States shipyard;

(2) the cost of the major conversion is more than three times the purchase value of the vessel before the major conversion;

(3) the major conversion is completed and the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement before June 30, 1995;

(4) the person documenting the vessel contracts with a United States shipyard to construct an additional vessel of equal or greater capacity within 12 months of the date of enactment of this Act, for delivery within 36 months of the date of such contract; and

(5) the additional vessel is documented under chapter 121 of title 46, United States Code immediately after it is constructed.

(e) Notwithstanding sections 12106 and 12108 of title 46, United States Code, the Act of June 19, 1886 (46 App. U.S.C. 289), and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation with a coastwise and fishery endorsement for the vessel REEL CLASS (Hawaii registration number HA-6566-E).

(f) Notwithstanding section 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a fishery endorsement for the vessel DA WARRIOR (United States official number 962231).

(g) Notwithstanding any other law or any agreement with the United States Government, the vessels UST ATLANTIC (United States official number 601437) and UST PACIFIC (United States official number 613131) may be sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

(h) Notwithstanding any other law, the vessel AMY CHOUEST (United States official number 995631) is deemed to be less than 500 gross tons, as measured under chapter 145 of title 46, United States Code, for purposes of the maritime laws of the United States.

(i) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) PRINCESS XANADU OF MONACO (United States official number 660847).

(2) INSPIRATION (United States official number 277099).

(3) VENUS (United States official number 547419).

(4) LATER (United States official number 615732).

(5) MATCH MAKER (United States official number 908725).

TITLE VII—MISCELLANEOUS FISHERY PROVISIONS

SEC. 701. GOVERNING INTERNATIONAL FISHERIES AGREEMENT.

The Agreement between the Government of the United States of America and the Government of the Russian Federation on Mutual Fisheries Relations which was entered into on May 31, 1988, and which expired by its terms on October 28, 1993, may be brought into force again for the United States through an exchange of notes between the United States of America and the Russian Federation and may remain in force and effect on the part of the United States until May 1, 1994, and may be amended or extended by a subsequent agreement to which section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823) applies.

SEC. 702. SHRIMP TRAWL FISHERY.

Section 304(g)(6)(B) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(g)(6)(B)) is amended by striking "January 1, 1994" and inserting "April 1, 1994".

SEC. 703. INTERNATIONAL FISHERY CONSERVATION IN THE CENTRAL BERING SEA.

It is the sense of the Congress that—

(1) the United States should take appropriate measures to conserve the resources of the Doughnut Hole, a small enclave of international waters in the central Bering Sea, encircled by the Exclusive Economic Zones of the United States and the Russian Federation;

(2) the United States should continue its pursuit of an international agreement, consistent with its rights as a coastal state, to ensure proper management for future commercial viability of these natural resources;

(3) the United States, working closely with the Russian Federation should, in accordance with international law and through multilateral consultations or through other means, promote effective international programs for the implementation and enforcement of regulations of the fisheries by those nations that fish in the Doughnut Hole;

(4) the United States nonetheless should be mindful of its management responsibility in this regard and of its rights in accordance with international law to fully utilize the stock within its own exclusive economic zone;

(5) the United States should accept as an urgent duty the need to conserve for future generations the Aleutian Basin pollock stock and should carry out that duty by taking all necessary measures, in accordance with international law; and

(6) the United States should foster further multilateral cooperation leading to international consensus on management of the Doughnut Hole resources through the fullest use of diplomatic channels and appropriate domestic and international law and should explore all other available options and means for conservation and management of these living marine resources.

SEC. 704. NOAA FACILITIES IN KODIAK.

(a) Notwithstanding any other provision of law, the Secretary of Commerce may enter into an agreement with the University of Alaska under which the University may contract the engineering and design specifications of a facility on * * * Island in Kodiak, Alaska, that meets the long-term space

needed by National Oceanic and Atmospheric Administration personnel currently in Alaska.

(b) The Secretary may transfer available funds to the University of Alaska to pay for such engineering and design if additional funds in an equal or greater amount are made available from non-federal sources for such work.

TITLE VIII—ATLANTIC COASTAL FISHERIES

SEC. 801. SHORT TITLE.

This title may be cited at the "Atlantic Coastal Fisheries Cooperative Management Act".

SEC. 802. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Coastal fishery resources that migrate, or are widely distributed, across the jurisdictional boundaries of two or more of the Atlantic States and of the Federal Government are of substantial commercial and recreational importance and economic benefit to the Atlantic coastal region and the Nation.

(2) Increased fishing pressure, environmental pollution, and the loss and alteration of habitat have reduced severely certain Atlantic coastal fishery resources.

(3) Because no single governmental entity has exclusive management authority for Atlantic coastal fishery resources, harvesting of such resources is frequently subject to disparate, inconsistent, and intermittent State and Federal regulation that has been detrimental to the conservation and sustainable use of such resources and to the interests of fishermen and the Nation as a whole.

(4) The responsibility for managing Atlantic coastal fisheries rests with the States, which carry out a cooperative program of fishery oversight and management through the Atlantic States Marine Fisheries Commission. It is the responsibility of the Federal Government to support such cooperative interstate management of coastal fishery resources.

(5) The failure by one or more Atlantic States to fully implement a coastal fishery management plan can affect the status of Atlantic coastal fisheries, and can discourage other States from fully implementing coastal fishery management plans.

(6) It is in the national interest to provide for more effective Atlantic State fishery resource conservation and management.

(b) PURPOSE.—The purpose of this title is to support and encourage the development, implementation, and enforcement of effective interstate conservation and management of Atlantic coastal fishery resources.

SEC. 803. DEFINITIONS.

In this title, the following definitions apply:

(1) The term "coastal fishery management plan" means a plan for managing a coastal fishery resource, or an amendment to such plan, prepared and adopted by the Commission, that—

(A) contains information regarding the status of the resource and related fisheries;

(B) specifies conservation and management actions to be taken by the States; and

(C) recommends actions to be taken by the Secretary in the exclusive economic zone to conserve and manage the fishery.

(2) The term "coastal fishery resource" means any fishery, any species of fish, or any stock of fish that moves among, or is broadly distributed across, waters under the jurisdiction of two or more States or waters under the jurisdiction of one or more States and the exclusive economic zone.

(3) The term "Commission" means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77-539 and 81-721.

(4) The term "conservation" means the restoring, rebuilding, and maintaining of any coastal fishery resource and the marine environment, in order to assure the availability of coastal fishery resources on a long-term basis.

(5) The term "Councils" means Regional Fishery Management Councils established under section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852).

(6) The term "exclusive economic zone" means the exclusive economic zone of the United States established by Proclamation Number 5030, dated March 10, 1983. For the purposes of this title, the inner boundary of that zone is a line coterminus with the seaward boundary of each of the coastal States, and the outer boundary of that zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

(7) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal life other than marine mammals and birds.

(8) The term "fishery" means—

(A) one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, commercial, recreational, or economic characteristics; or

(B) any fishing for such stocks.

(9) The term "fishing" means—

(A) the catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity that can be reasonably expected to result in the catching, taking, or harvesting of fish; or

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity or the catching, taking, or harvesting of fish in an aquaculture operation.

(10) The term "implement and enforce" means to enact and implement laws or regulations as required to conform with the provisions of a coastal fishery management plan and to assure compliance with such laws or regulations by persons participating in a fishery that is subject to such plan.

(11) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(12) The term "Secretary" means the Secretary of Commerce.

(13) The term "State" means Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, the District of Columbia, or the Potomac River Fisheries Commission.

SEC. 804. STATE-FEDERAL COOPERATION IN ATLANTIC COASTAL FISHERY MANAGEMENT.

(a) FEDERAL SUPPORT FOR STATE COASTAL FISHERIES PROGRAMS.—The Secretary in cooperation with the Secretary of the Interior shall develop and implement a program to support the interstate fishery management efforts of the Commission. The program shall include activities to support and enhance State cooperation in collection, management, and analysis of fishery data; law enforcement; habitat conservation; fishery research, including biological and socioeconomic research; and fishery management planning.

(b) FEDERAL REGULATION IN EXCLUSIVE ECONOMIC ZONE.—In the absence of an approved and implemented fishery management plan under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and after consultation with the appropriate Councils, the Secretary may implement regulations to govern fishing in the exclusive economic zone that are—

(A) necessary to support the effective implementation of a coastal fishery management plan; and

(B) consistent with the national standards set forth in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851).

The regulations may include measures recommended by the Commission to the Secretary that are necessary to support the provisions of the coastal fishery management plan. Regulations issued by the Secretary to implement an approved fishery management plan prepared by the appropriate Councils or the Secretary under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) shall supersede any conflicting regulations issued by the Secretary under this subsection.

(2) The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations issued under this subsection as if such regulations were issued under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 805. STATE IMPLEMENTATION OF COASTAL FISHERY MANAGEMENT PLANS.

(a) COASTAL FISHERY MANAGEMENT PLANS.—(1) The Commission shall prepare and adopt coastal fishery management plans to provide for the conservation of coastal fishery resources. In preparing a coastal fishery management plan for a fishery that is located in both State waters and the exclusive economic zone, the Commission shall consult with appropriate Councils to determine areas where such coastal fishery management plan may complement Council fishery management plans. The coastal fishery management plan shall specify the requirements necessary for States to be in compliance with the plan. Upon adoption of a coastal fishery management plan, the Commission shall identify each State that is required to implement and enforce that plan.

(2) Within 1 year after the date of enactment of this Act, the Commission shall establish standards and procedures to govern the preparation of coastal fishery management plans under this title, including standards and procedures to ensure that—

(A) such plans promote the conservation of fish stocks throughout their ranges and are based on the best scientific information available; and

(B) the Commission provides adequate opportunity for public participation in the plan preparation process, including at least four public hearings and procedures for the submission of written comments to the Commission.

(b) STATE IMPLEMENTATION AND ENFORCEMENT.—(1) Each State identified under subsection (a) with respect to a coastal fishery management plan shall implement and enforce the measures of such plan within the time frame established in the plan.

(2) Within 90 days after the date of enactment of this Act, the Commission shall establish a schedule of time frames within which States shall implement and enforce the measures of coastal fishery management plans in existence before such date of enactment. No such time frame shall exceed 12 months after the date on which the schedule is adopted.

(c) COMMISSION MONITORING OF STATE IMPLEMENTATION AND ENFORCEMENT.—The Commission shall, at least annually, review each State's implementation and enforcement of coastal fishery management plans for the purpose of determining whether such State is effectively implementing and enforcing each such plan. Upon completion of such reviews, the Commission shall report the results of the reviews to the Secretaries.

SEC. 806. STATE NONCOMPLIANCE WITH COASTAL FISHERY MANAGEMENT PLANS.

(a) NONCOMPLIANCE DETERMINATION.—The Commission shall determine that a State is not in compliance with the provisions of a coastal fishery management plan if it finds that the State has not implemented and enforced such plan within the time frames established under the plan or under section 805.

(b) NOTIFICATION.—Upon making any determination under subsection (a), the Commission shall within 10 working days notify the Secretaries of such determination. Such notification shall include the reasons for making the determination and an explicit list of actions that the affected State must take to comply with the coastal fishery management plan. The Commission shall provide a copy of the notification to the affected State.

(c) WITHDRAWAL OF NONCOMPLIANCE DETERMINATION.—After making a determination under subsection (a), the Commission shall continue to monitor State implementation and enforcement. Upon finding that a State has complied with the actions required under subsection (b), the Commission shall immediately withdraw its determination of noncompliance. The Commission shall promptly notify the Secretaries of such withdrawal.

SEC. 807. SECRETARIAL ACTION.

(a) SECRETARIAL REVIEW OF COMMISSION DETERMINATION OF NONCOMPLIANCE.—Within 30 days after receiving a notification from the Commission under section 806(b) and after review of the Commission's determination of noncompliance, the Secretary shall make a finding on—

(1) whether the State in question has failed to carry out its responsibility under section 805; and

(2) if so, whether the measures that the State has failed to implement and enforce are necessary for the conservation of the fishery in question.

(b) CONSIDERATION OF COMMENTS.—In making a finding under subsection (a), the Secretary shall—

(A) give careful consideration to the comments of the State that the Commission has determined under section 806(a) is not in compliance with a coastal fishery management plan, and provide such State, upon request, with the opportunity to meet with and present its comments directly to the Secretary; and

(B) solicit and consider the comments of the Commission and the appropriate Councils.

(c) MORATORIUM.—(1) Upon making a finding under subsection (a) that a State has failed to carry out its responsibility under section 805 and that the measures it failed to implement and enforce are necessary for conservation, the Secretary shall declare a moratorium on fishing in the fishery in question within the waters of the noncomplying State. The Secretary shall specify the moratorium's effective date, which shall be any date within 6 months after declaration of the moratorium.

(2) If after a moratorium is declared under paragraph (1) the Secretary is notified by the Commission that the Commission is withdrawing under section 806(c) the determination of noncompliance, the Secretary shall immediately determine whether the State is in compliance with the applicable plan. If so, the moratorium shall be terminated.

(d) IMPLEMENTING REGULATIONS.—The Secretary may issue regulations necessary to implement this section. Such regulations—

(1) may provide for the possession and use of fish which have been produced in an aquaculture operation, subject to applicable State regulations; and

(2) shall allow for retention of fish that are subject to a moratorium declared under this section and unavoidably taken as incidental catch in fisheries directed toward menhaden if—

(A) discarding the retained fish is impracticable;

(B) the retained fish do not constitute a significant portion of the catch of the vessel; and

(C) retention of the fish will not, in the judgment of the Secretary, adversely affect the conservation of the species of fish retained.

(e) PROHIBITED ACTS DURING MORATORIUM.—During the time in which a moratorium under this section is in effect, it is unlawful for any person to—

(1) violate the terms of the moratorium or of any implementing regulation issued under subsection (d);

(2) engage in fishing for any species of fish to which the moratorium applies within the waters of the State subject to the moratorium;

(3) land, attempt to land, or possess fish that are caught, taken, or harvested in violation of the moratorium or of any implementing regulation issued under subsection (d);

(4) fail to return to the water immediately, with a minimum of injury, any fish to which the moratorium applies that are taken incidental to fishing for species other than those to which the moratorium applies, except as provided by regulations issued under subsection (d);

(5) refuse to permit any officer authorized to enforce the provisions of this title to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title;

(6) forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection under this title;

(7) resist a lawful arrest for any act prohibited by this section;

(8) ship, transport, offer for sale, sell, purchase, import, or have custody, control, or possession of, any fish taken or retained in violation of this title; or

(9) interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.

(f) CIVIL AND CRIMINAL PENALTIES.—(1) Any person who commits any act that is unlawful under subsection (e) shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

(2) Any person who commits an act prohibited by paragraph (5), (6), (7), or (9) of subsection (e) is guilty of an offense punishable as provided by section 309(a)(1) and (b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(a)(1) and (b)).

(g) CIVIL FORFEITURES.—(1) Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or as the result of, the commission of any act that is unlawful under subsection (e), shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860).

(2) Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed in regulation.

(h) ENFORCEMENT.—A person authorized by the Secretary or the Secretary of the department in which the Coast Guard is operating may take any action to enforce a moratorium declared under subsection (c) of this section that an officer authorized by the Secretary under section 311(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(b)) may take to enforce that Act. The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a State in carrying out that enforcement.

SEC 808. FINANCIAL ASSISTANCE.

The Secretary and the Secretary of the Interior may provide financial assistance to the Commission and to the States to carry out their respective responsibilities under this title, including—

(1) the preparation, implementation, and enforcement of coastal fishery management plans; and

(2) State activities that are specifically required within such plans.

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

To carry out the provisions of this title, there are authorized to be appropriated $3,000,000 for fiscal year 1994, $5,000,000 for fiscal year 1995, and $7,000,000 for fiscal year 1996.

SEC. 810. ATLANTIC STRIPED BASS CONSERVATION ACT.

Section 9 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is repealed.

SEC. 811. INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308(c) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(c)) is amended by inserting ", and $600,000 for each of the fiscal years 1994 and 1995," immediately after "and 1993".

TITLE IX—LIBERTY MEMORIAL

SEC. 901. SHORT TITLE.

This title may be cited as the "Liberty Memorial Act of 1993".

SEC. 902. CONVEYANCE VESSELS.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey without consideration all right, title, and interest of the United States in two vessels described in subsection (b) to any nonprofit organization that operates and maintains a Liberty ship

or Victory ship as a memorial to merchant mariners.

(b) VESSELS DESCRIBED.—Vessels that may be conveyed under subsection (a) are vessels that—

(1) are in the National Defense Reserve Fleet on the date of the enactment of this Act;

(2) are not less than 4,000 displacement tons;

(3) have no usefulness to the Government; and

(4) are scheduled to be scrapped.

(c) CONDITIONS OF CONVEYANCE.—As a condition of conveying any vessel to any organization under subsection (a), the Secretary of Transportation shall require that before the date of the conveyance, the organization shall enter into an agreement under which the organization shall—

(1) sell the vessel for scrap purposes;

(2) use the proceeds of that scrapping for the purpose of refurbishing and making seaworthy a Liberty ship or Victory ship that the organization maintains as a memorial to merchant mariners, to enable the vessel to participate in 1994 in commemorative activities in conjunction with the 50th anniversary of the Normandy invasion; and

(3) return to the United States any proceeds of scrapping carried out pursuant to paragraph (1) that are not used in accordance with paragraph (2).

(d) DEPOSIT OF AMOUNTS RETURNED.—Amounts returned to the United States pursuant to subsection (c)(3) shall be deposited in the Vessel Operations Revolving Fund established under the Act of June 2, 1951 (46 U.S.C. 1241a).

(e) DELIVERY OF VESSELS.—The Secretary of Transportation shall deliver each vessel conveyed under this section—

(1) at the place where the vessel is located on the date of the approval of the conveyance by the Secretary of Transportation;

(2) in its condition on that date; and

(3) without cost to the Government.

(f) EXPIRATION OF AUTHORITY TO CONVEY.—The authority of the Secretary of Transportation under this section to convey vessels shall expire on the date that is 2 years after the date of enactment of this Act.

GOVERNMENT SECURITIES ACT AMENDMENTS OF 1993

DODD (AND GRAMM) AMENDMENT NO. 1241

Mr. BIDEN (for Mr. DODD, for himself, and Mr. GRAMM) proposed an amendment to the bill (S. 422), a bill to amend the Securities Exchange Act of 1934 to ensure the efficient and fair operation of the government securities market, in order to protect investors and facilitate government borrowing at the lowest possible cost to taxpayers, and to prevent false and misleading statements in connection with offerings of government securities; as follows:

In lieu of the amendment of the House, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government Securities Act Amendments of 1993".

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

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

Sec. 101. Findings.
Sec. 102. Extension of government securities rulemaking authority.
Sec. 103. Transaction records.
Sec. 104. Large position reporting.
Sec. 105. Authority of the Commission to regulate transactions in exempted securities.
Sec. 106. Sales practice rulemaking authority.
Sec. 107. Market information.
Sec. 108. Disclosure by government securities brokers and government securities dealers whose accounts are not insured by the Securities Investor Protection Corporation.
Sec. 109. Technical amendments.
Sec. 110. Offerings of certain government securities.
Sec. 111. Rule of construction.
Sec. 112. Study of regulatory system for government securities.

TITLE II—REPORTS ON PUBLIC DEBT

Sec. 201. Annual report on public debt.
Sec. 202. Treasury auction reforms.
Sec. 203. Notice on Treasury modifications to auction process.

TITLE III—LIMITED PARTNERSHIP ROLLUPS

Sec. 301. Short title.
Sec. 302. Revision of proxy solicitation rules with respect to limited partnership rollup transactions.
Sec. 303. Rules of fair practice in rollup transactions.
Sec. 304. Effective date; effect on existing authority.

TITLE I—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 101. FINDINGS.

The Congress finds that—

(1) the liquid and efficient operation of the government securities market is essential to facilitate government borrowing at the lowest possible cost to taxpayers;

(2) the fair and honest treatment of investors will strengthen the integrity and liquidity of the government securities market;

(3) rules promulgated by the Secretary of the Treasury pursuant to the Government Securities Act of 1986 have worked well to protect investors from unregulated dealers and maintain the efficiency of the government securities market; and

(4) extending the authority of the Secretary and providing new authority will ensure the continued strength of the government securities market.

SEC. 102. EXTENSION OF GOVERNMENT SECURITIES RULEMAKING AUTHORITY.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5) is amended by striking subsection (g).

SEC. 103. TRANSACTION RECORDS.

(a) AMENDMENT.—Section 15C(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(d)) is amended by adding at the end the following new paragraph:

"(3) GOVERNMENT SECURITIES TRADE RECONSTRUCTION.—

"(A) FURNISHING RECORDS.—Every government securities broker and government securities dealer shall furnish to the Commission on request such records of government securities transactions, including records of the date and time of execution of trades, as the Commission may require to reconstruct trading in the course of a particular inquiry or investigation being conducted by the Commission for enforcement or surveillance purposes. In requiring information pursuant to this paragraph, the Commission shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission, to the Federal Reserve Bank of New York, or to an appropriate regulatory agency or self-regulatory organization with responsibility for examining the government securities broker or government securities dealer. The Commission may require that such information be furnished in machine readable form notwithstanding any limitation in subparagraph (B). In utilizing its authority to require information in machine readable form, the Commission shall minimize the burden such requirement may place on small government securities brokers and dealers.

"(B) LIMITATION; CONSTRUCTION.—The Commission shall not utilize its authority under this paragraph to develop regular reporting requirements, except that the Commission may require information to be furnished under this paragraph as frequently as necessary for particular inquiries or investigations for enforcement or surveillance purposes. This paragraph shall not be construed as requiring, or as authorizing the Commission to require, any government securities broker or government securities dealer to obtain or maintain any information for purposes of this paragraph which is not otherwise maintained by such broker or dealer in accordance with any other provision of law or usual and customary business practice. The Commission shall, where feasible, avoid requiring any information to be furnished under this paragraph that the Commission may obtain from the Federal Reserve Bank of New York.

"(C) PROCEDURES FOR REQUIRING INFORMATION.—At the time the Commission requests any information pursuant to subparagraph (A) with respect to any government securities broker or government securities dealer for which the Commission is not the appropriate regulatory agency, the Commission shall notify the appropriate regulatory agency for such government securities broker or government securities dealer and, upon request, furnish to the appropriate regulatory agency any information supplied to the Commission.

"(D) CONSULTATION.—Within 90 days after the date of enactment of this paragraph, and annually thereafter, or upon the request of any other appropriate regulatory agency, the Commission shall consult with the other appropriate regulatory agencies to determine the availability of records that may be required to be furnished under this paragraph and, for those records available directly from the other appropriate regulatory agencies, to develop a procedure for furnishing such records expeditiously upon the Commission's request.

"(E) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this paragraph shall be construed so as to permit the Commission to require any government securities broker or government securities dealer to obtain, maintain, or furnish any examination report of any appropriate regulatory agency other than the Commission or any supervisory recommendations or analysis contained in any such examination report.

"(F) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission and the appropriate regulatory agencies shall not be compelled to disclose any information required

or obtained under this paragraph. Nothing in this paragraph shall authorize the Commission or any appropriate regulatory agency to withhold information from Congress, or prevent the Commission or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or from complying with an order of a court of the United States in an action brought by the United States, the Commission, or the appropriate regulatory agency. For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

(b) CONFORMING AMENDMENTS.—(1) Section 15C(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(a)(4)) is amended by inserting ", other than subsection (d)(3)," after "subsection (a), (b), or (d) of this section".

(2) Section 15C(f)(2) of such Act is amended—

(A) in the first sentence, by inserting ", other than subsection (d)(3)", after "threatened violation of the provisions of this section"; and

(B) in the second sentence, by inserting "(except subsection (d)(3))" after "other than this section".

SEC. 104. LARGE POSITION REPORTING.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) LARGE POSITION REPORTING.—

"(1) REPORTING REQUIREMENTS.—The Secretary may adopt rules to require specified persons holding, maintaining, or controlling large positions in to-be-issued or recently issued Treasury securities to file such reports regarding such positions as the Secretary determines to be necessary and appropriate for the purpose of monitoring the impact in the Treasury securities market of concentrations of positions in Treasury securities and for the purpose of otherwise assisting the Commission in the enforcement of this title, taking into account any impact of such rules on the efficiency and liquidity of the Treasury securities market and the cost to taxpayers of funding the Federal debt. Unless otherwise specified by the Secretary, reports required under this subsection shall be filed with the Federal Reserve Bank of New York, acting as agent for the Secretary. Such reports shall, on a timely basis, be provided directly to the Commission by the person with whom they are filed.

"(2) RECORDKEEPING REQUIREMENTS.—Rules under this subsection may require persons holding, maintaining, or controlling large positions in Treasury securities to make and keep for prescribed periods such records as the Secretary determines are necessary or appropriate to ensure that such persons can comply with reporting requirements under this subsection.

"(3) AGGREGATION RULES.—Rules under this subsection—

"(A) may prescribe the manner in which positions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control; and

"(B) may define which persons (individually or as a group) hold, maintain, or control large positions.

"(4) DEFINITIONAL AUTHORITY; DETERMINATION OF REPORTING THRESHOLD.—

"(A) In prescribing rules under this subsection, the Secretary may, consistent with the purpose of this subsection, define terms used in this subsection that are not otherwise defined in section 3 of this title.

"(B) Rules under this subsection shall specify—

"(i) the minimum size of positions subject to reporting under this subsection, which shall be no less than the size that provides the potential for manipulation or control of the supply or price, or the cost of financing arrangements, of an issue or the portion thereof that is available for trading;

"(ii) the types of positions (which may include financing arrangements) to be reported;

"(iii) the securities to be covered; and

"(iv) the form and manner in which reports shall be transmitted, which may include transmission in machine readable form.

"(5) EXEMPTIONS.—Consistent with the public interest and the protection of investors, the Secretary by rule or order may exempt in whole or in part, conditionally or unconditionally, any person or class of persons, or any transaction or class of transactions, from the requirements of this subsection.

"(6) LIMITATION ON DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Secretary and the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Secretary or the Commission to withhold information from Congress, or prevent the Secretary or the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or from complying with an order of a court of the United States in an action brought by the United States, the Secretary, or the Commission. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

SEC. 105. AUTHORITY OF THE COMMISSION TO REGULATE TRANSACTIONS IN EXEMPTED SECURITIES.

(a) PREVENTION OF FRAUDULENT AND MANIPULATIVE ACTS AND PRACTICES.—Section 15(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking "fictitious quotation, and no municipal securities dealer" and inserting the following:

"fictitious quotation.

"(B) No municipal securities dealer";

(3) by striking "fictitious quotation. The Commission shall" and inserting the following:

"fictitious quotation.

"(C) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or induce or attempt to induce the purchase or sale of, any government security in connection with which such government securities broker or government securities dealer engages in any fraudulent, deceptive, or manipulative act or practice, or makes any fictitious quotation.

"(D) The Commission shall"; and

(4) by adding at the end the following:

"(E) The Commission shall, prior to adopting any rule or regulation under subparagraph (C), consult with and consider the views of the Secretary of the Treasury and each appropriate regulatory agency. If the Secretary of the Treasury or any appropriate regulatory agency comments in writing on a proposed rule or regulation of the Commission under such subparagraph (C) that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule. If the Secretary of the Treasury determines, and notifies the Commission, that such rule or regulation, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the Commission shall, prior to adopting the proposed rule or regulation, find that such rule or regulation is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.".

(b) FRAUDULENT AND MANIPULATIVE DEVICES AND CONTRIVANCES.—Section 15(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(1)) is amended—

(1) by inserting "(A)" after "(c)(1)";

(2) by striking "contrivance, and no municipal securities dealer" and inserting the following:

"contrivance.

"(B) No municipal securities dealer";

(3) by striking "contrivance. The Commission shall" and inserting the following:

"contrivance.

"(C) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security by means of any manipulative, deceptive, or other fraudulent device or contrivance.

"(D) The Commission shall"; and

(4) by adding at the end the following:

"(E) The Commission shall, prior to adopting any rule or regulation under subparagraph (C), consult with and consider the views of the Secretary of the Treasury and each appropriate regulatory agency. If the Secretary of the Treasury or any appropriate regulatory agency comments in writing on a proposed rule or regulation of the Commission under such subparagraph (C) that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule. If the Secretary of the Treasury determines, and notifies the Commission, that such rule or regulation, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the Commission shall, prior to adopting the proposed rule or regulation, find that such rule or regulation is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.".

SEC. 106. SALES PRACTICE RULEMAKING AUTHORITY.

(a) RULES FOR FINANCIAL INSTITUTIONS.—Section 15C(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(b)) is amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

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

"(3)(A) With respect to any financial institution that has filed notice as a government securities broker or government securities dealer or that is required to file notice under subsection (a)(1)(B), the appropriate regulatory agency for such government securities

broker or government securities dealer may issue such rules and regulations with respect to transactions in government securities as may be necessary to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade. If the Secretary of the Treasury determines, and notifies the appropriate regulatory agency, that such rule or regulation, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the appropriate regulatory agency shall, prior to adopting the proposed rule or regulation, find that such rule or regulation is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.

"(B) The appropriate regulatory agency shall consult with and consider the views of the Secretary prior to approving or amending a rule or regulation under this paragraph, except where the appropriate regulatory agency determines that an emergency exists requiring expeditious and summary action and publishes its reasons therefor. If the Secretary comments in writing to the appropriate regulatory agency on a proposed rule or regulation that has been published for comment, the appropriate regulatory agency shall respond in writing to such written comment before approving the proposed rule or regulation.

"(C) In promulgating rules under this section, the appropriate regulatory agency shall consider the sufficiency and appropriateness of then existing laws and rules applicable to government securities brokers, government securities dealers, and persons associated with government securities brokers and government securities dealers.".

(b) RULES BY REGISTERED SECURITIES ASSOCIATIONS.—

(1) REMOVAL OF LIMITATIONS ON AUTHORITY.—(A) Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended—

(i) by striking subsections (f)(1) and (f)(2); and

(ii) by redesignating subsection (f)(3) as subsection (f).

(B) Section 15A(g) of such Act is amended—

(i) by striking "exempted securities" in paragraph (3)(D) and inserting "municipal securities";

(ii) by striking paragraph (4); and

(iii) by redesignating paragraph (5) as paragraph (4).

(2) CONFORMING AMENDMENT.—

(A) Section 3(a)(12)(B)(ii) of such Act (15 U.S.C. 78c(a)(12)(B)(ii)) is amended by striking "15, 15A (other than subsection (g)(3)), and 17A" and inserting "15 and 17A".

(B) Section 15(b)(7) of such Act (15 U.S.C. 78o(b)(7)) is amended by inserting "or government securities broker or government securities dealer registered (or required to register) under section 15C(a)(1)(A)" after "No registered broker or dealer".

(c) OVERSIGHT OF REGISTERED SECURITIES ASSOCIATIONS.—Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended—

(1) in subsection (b), by adding at the end the following new paragraphs:

"(5) The Commission shall consult with and consider the views of the Secretary of the Treasury prior to approving a proposed rule filed by a registered securities association that primarily concerns conduct related to transactions in government securities, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor. If the Secretary of the Treasury comments in writing to the Commission on a proposed rule that has been published for comment, the Commission shall respond in writing to such written comment before approving the proposed rule. If the Secretary of the Treasury determines, and notifies the Commission, that such rule, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the Commission shall, prior to adopting the proposed rule, find that such rule is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.

"(6) In approving rules described in paragraph (5), the Commission shall consider the sufficiency and appropriateness of then existing laws and rules applicable to government securities brokers, government securities dealers, and persons associated with government securities brokers and government securities dealers."; and

(2) in subsection (c), by adding at the end the following new paragraph:

"(5) With respect to rules described in subsection (b)(5), the Commission shall consult with and consider the views of the Secretary of the Treasury before abrogating, adding to, and deleting from such rules, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor.".

SEC. 107. MARKET INFORMATION.

Section 23(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended—

(1) by striking subparagraphs (C), (D), and (H);

(2) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (C), (D), and (E), respectively;

(3) by redesignating subparagraphs (I), (J), and (K) as subparagraphs (F), (G), and (H), respectively;

(4) by striking "and" at the end of such redesignated subparagraph (G);

(5) by striking the period at the end of such redesignated subparagraph (H) and inserting "; and"; and

(6) by inserting after such redesignated subparagraph (H) the following new subparagraph:

"(I) the steps that have been taken and the progress that has been made in promoting the timely public dissemination and availability for analytical purposes (on a fair, reasonable, and nondiscriminatory basis) of information concerning government securities transactions and quotations, and its recommendations, if any, for legislation to assure timely dissemination of (i) information on transactions in regularly traded government securities sufficient to permit the determination of the prevailing market price for such securities, and (ii) reports of the highest published bids and lowest published offers for government securities (including the size at which persons are willing to trade with respect to such bids and offers).".

SEC. 108. DISCLOSURE BY GOVERNMENT SECURITIES BROKERS AND GOVERNMENT SECURITIES DEALERS WHOSE ACCOUNTS ARE NOT INSURED BY THE SECURITIES INVESTOR PROTECTION CORPORATION.

Section 15C(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following:

"(4) No government securities broker or government securities dealer that is required to register under paragraph (1)(A) and that is not a member of the Securities Investor Protection Corporation shall effect any transaction in any security in contravention of such rules as the Commission shall prescribe pursuant to this subsection to assure that its customers receive complete, accurate, and timely disclosure of the inapplicability of Securities Investor Protection Corporation coverage to their accounts.".

SEC. 109. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO DEFINITIONS.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) in paragraph (34)(G) (relating to the definition of appropriate regulatory agency), by amending clauses (ii), (iii), and (iv) to read as follows:

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a foreign bank, an uninsured State branch or State agency of a foreign bank, a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978), or a corporation organized or having an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 or section 25A of the Federal Reserve Act;

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank) or an insured State branch of a foreign bank (as such terms are used in the International Banking Act of 1978);

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation;";

(2) by amending paragraph (46) (relating to the definition of financial institution) to read as follows:

"(46) The term 'financial institution' means—

"(A) a bank (as defined in paragraph (6) of this subsection);

"(B) a foreign bank (as such term is used in the International Banking Act of 1978); and

"(C) a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation."; and

(3) by redesignating paragraph (51) (as added by section 204 of the International Securities Enforcement Cooperation Act of 1990) as paragraph (52).

(b) EFFECTIVE DATE OF BROKER/DEALER REGISTRATION.—

(1) GOVERNMENT SECURITIES BROKERS AND DEALERS.—Section 15C(a)(2)(ii) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(a)(2)(ii)) is amended by inserting before "The Commission may extend" the following: "The order granting registration shall not be effective until such government securities broker or government securities dealer has become a member of a national securities exchange registered under section 6 of this title, or a securities association registered under section 15A of this title, unless the Commission has exempted such government securities broker or government securities dealer, by rule or order, from such membership.".

(2) OTHER BROKERS AND DEALERS.—Section 15(b)(1)(B) of such Act (15 U.S.C. 78o(b)(1)(B)) is amended by inserting before "The Commission may extend" the following: "The order granting registration shall not be effective until such broker or dealer has become a member of a registered securities association, or until such broker or dealer has become a member of a national securities exchange if such broker or dealer effects transactions solely on that exchange, unless the Commission has exempted such broker or dealer, by rule or order, from such membership.".

(c) INFORMATION SHARING.—Section 15C(d)(2) of such Act is amended to read as follows:

"(2) Information received by an appropriate regulatory agency, the Secretary, or the Commission from or with respect to any government securities broker, government securities dealer, any person associated with a government securities broker or government securities dealer, or any other person subject to this section or rules promulgated thereunder, may be made available by the Secretary or the recipient agency to the Commission, the Secretary, the Department of Justice, the Commodity Futures Trading Commission, any appropriate regulatory agency, any self-regulatory organization, or any Federal Reserve Bank.".

SEC. 110. OFFERINGS OF CERTAIN GOVERNMENT SECURITIES.

Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

"(7) In connection with any bid for or purchase of a government security related to an offering of government securities by or on behalf of an issuer, no government securities broker, government securities dealer, or bidder for or purchaser of securities in such offering shall knowingly or willfully make any false or misleading written statement or omit any fact necessary to make any written statement made not misleading.".

SEC. 111. RULE OF CONSTRUCTION.

(a) IN GENERAL.—No provision of, or amendment made by, this title may be construed—

(1) to govern the initial issuance of any public debt obligation, or

(2) to grant any authority to (or extend any authority of) the Securities and Exchange Commission, any appropriate regulatory agency, or a self-regulatory organization—

(A) to prescribe any procedure, term, or condition of such initial issuance,

(B) to promulgate any rule or regulation governing such initial issuance, or

(C) to otherwise regulate in any manner such initial issuance.

(b) EXCEPTION.—Subsection (a) of this section shall not apply to the amendment made by section 110 of this Act.

(c) PUBLIC DEBT OBLIGATION.—For purposes of this section, the term "public debt obligation" means an obligation subject to the public debt limit established in section 3101 of title 31, United States Code.

SEC. 112. STUDY OF REGULATORY SYSTEM FOR GOVERNMENT SECURITIES.

(a) JOINT STUDY.—The Secretary of the Treasury, the Securities and Exchange Commission, and the Board of Governors of the Federal Reserve System shall—

(1) with respect to any rules promulgated or amended after October 1, 1991, pursuant to section 15C of the Securities Exchange Act of 1934 or any amendment made by this title, and any national securities association rule changes applicable principally to government securities transactions approved after October 1, 1991—

(A) evaluate the effectiveness of such rules in carrying out the purposes of such Act; and

(B) evaluate the impact of any such rules on the efficiency and liquidity of the government securities market and the cost of funding the Federal debt;

(2) evaluate the effectiveness of surveillance and enforcement with respect to government securities, and the impact on such surveillance and enforcement of the availability of automated, time-sequenced records of essential information pertaining to trades in such securities; and

(3) submit to the Congress, not later than March 31, 1998, any recommendations they may consider appropriate concerning—

(A) the regulation of government securities brokers and government securities dealers;

(B) the dissemination of information concerning quotations for and transactions in government securities;

(C) the prevention of sales practice abuses in connection with transactions in government securities; and

(D) such other matters as they consider appropriate.

(b) TREASURY STUDY.—The Secretary of the Treasury, in consultation with the Securities and Exchange Commission, shall—

(1) conduct a study of—

(A) the identity and nature of the business of government securities brokers and government securities dealers that are registered with the Securities and Exchange Commission under section 15C of the Securities Exchange Act of 1934; and

(B) the continuing need for, and regulatory and financial consequences of, a separate regulatory system for such government securities brokers and government securities dealers; and

(2) submit to the Congress, not later than 18 months after the date of enactment of this Act, the Secretary's recommendations for change, if any, or such other recommendations as the Secretary considers appropriate.

TITLE II—REPORTS ON PUBLIC DEBT

SEC. 201. ANNUAL REPORT ON PUBLIC DEBT.

(a) GENERAL RULE.—Subchapter II of chapter 31 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 3130. Annual public debt report

"(a) GENERAL RULE.—On or before June 1 of each calendar year after 1993, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

"(1) the Treasury's public debt activities, and

"(2) the operations of the Federal Financing Bank.

"(b) REQUIRED INFORMATION ON PUBLIC DEBT ACTIVITIES.—Each report submitted under subsection (a) shall include the following information:

"(1) A table showing the following information with respect to the total public debt:

"(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

"(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

"(2) A table showing the following information with respect to the net public debt:

"(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

"(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

"(C) The interest cost on such debt for prior fiscal years and the projected interest cost on such debt for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

"(D) The interest cost to outlay ratios for prior fiscal years and the projected interest cost to outlay ratios for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

"(3) A table showing the maturity distribution of the net public debt as of the time the report is submitted and for prior years, and an explanation of the overall financing strategy used in determining the distribution of maturities when issuing public debt obligations, including a discussion of the projections and assumptions with respect to the structure of interest rates for the current fiscal year and for the succeeding 5 fiscal years.

"(4) A table showing the following information as of the time the report is submitted and for prior years:

"(A) A description of the various categories of the holders of public debt obligations.

"(B) The portions of the total public debt held by each of such categories.

"(5) A table showing the relationship of federally assisted borrowing to total Federal borrowing as of the time the report is submitted and for prior years.

"(6) A table showing the annual principal and interest payments which would be required to amortize in equal annual payments the level (as of the time the report is submitted) of the net public debt over the longest remaining term to maturity of any obligation which is a part of such debt.

"(c) REQUIRED INFORMATION ON FEDERAL FINANCING BANK.—Each report submitted under subsection (a) shall include (but not be limited to) information on the financial operations of the Federal Financing Bank, including loan payments and prepayments, and on the levels and categories of the lending activities of the Federal Financing Bank, for the current fiscal year and for prior fiscal years.

"(d) RECOMMENDATIONS.—The Secretary of the Treasury may include in any report submitted under subsection (a) such recommendations to improve the issuance and sale of public debt obligations (and with respect to other matters) as he may deem advisable.

"(e) DEFINITIONS.—For purposes of this section—

"(1) CURRENT FISCAL YEAR.—The term 'current fiscal year' means the fiscal year ending in the calendar year in which the report is submitted.

"(2) TOTAL PUBLIC DEBT.—The term 'total public debt' means the total amount of the obligations subject to the public debt limit established in section 3101 of this title.

"(3) NET PUBLIC DEBT.—The term 'net public debt' means the portion of the total public debt which is held by the public.

"(4) DEBT TO GDP RATIO.—The term 'debt to GDP ratio' means the percentage obtained by dividing the level of the total public debt or net public debt, as the case may be, by the gross domestic product.

"(5) INTEREST COST TO OUTLAY RATIO.—The term 'interest cost to outlay ratio' means, with respect to any fiscal year, the percentage obtained by dividing the interest cost for such fiscal year on the net public debt by the total amount of Federal outlays for such fiscal year.".

(b) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 31 of title 31, United States Code, is amended by adding at the end the following new item:

"3130. Annual public debt report.".

SEC. 202. TREASURY AUCTION REFORMS.

(a) ABILITY TO SUBMIT COMPUTER TENDERS IN TREASURY AUCTIONS.—By the end of 1995, any bidder shall be permitted to submit a computer-generated tender to any automated auction system established by the Secretary of the Treasury for the sale upon issuance of securities issued by the Secretary if the bidder—

(1) meets the minimum creditworthiness standard established by the Secretary; and

(2) agrees to comply with regulations and procedures applicable to the automated system and the sale upon issuance of securities issued by the Secretary.

(b) PROHIBITION ON FAVORED PLAYERS.—

(1) IN GENERAL.—No government securities broker or government securities dealer may receive any advantage, favorable treatment, or other benefit, in connection with the purchase upon issuance of securities issued by the Secretary of the Treasury, which is not generally available to other government securities brokers or government securities dealers under the regulations governing the sale upon issuance of securities issued by the Secretary of the Treasury.

(2) EXCEPTION.—

(A) IN GENERAL.—The Secretary of the Treasury may grant an exception to the application of paragraph (1) if—

(i) the Secretary determines that any advantage, favorable treatment, or other benefit referred to in such paragraph is necessary and appropriate and in the public interest; and

(ii) the grant of the exception is designed to minimize any anticompetitive effect.

(B) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress describing any exception granted by the Secretary under subparagraph (A) during the year covered by the report and the basis upon which the exception was granted.

(c) MEETINGS OF TREASURY BORROWING ADVISORY COMMITTEE.—

(1) OPEN MEETINGS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any meeting of the Treasury Borrowing Advisory Committee of the Public Securities Association (hereafter in this subsection referred to as the "advisory committee"), or any successor to the advisory committee, shall be open to the public.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any part of any meeting of the advisory committee in which the advisory committee—

(i) discusses and debates the issues presented to the advisory committee by the Secretary of the Treasury; or

(ii) makes recommendations to the Secretary.

(2) MINUTES OF EACH MEETING.—The detailed minutes required to be maintained under section 10(c) of the Federal Advisory Committee Act for any meeting by the advisory committee shall be made available to the public within 3 business days of the date of the meeting.

(3) PROHIBITION ON RECEIPT OF GRATUITIES OR EXPENSES BY ANY OFFICER OR EMPLOYEE OF THE BOARD OR DEPARTMENT.—In connection with any meeting of the advisory committee, no officer or employee of the Department of the Treasury, the Board of Governors of the Federal Reserve System, or any Federal reserve bank may accept any gratuity, consideration, expense of any sort, or any other thing of value from any advisory committee described in subsection (c), any member of such committee, or any other person.

(4) PROHIBITION ON OUTSIDE DISCUSSIONS.—

(A) IN GENERAL.—Subject to subparagraph (B), a member of the advisory committee may not discuss any part of any discussion, debate, or recommendation at a meeting of the advisory committee which occurs while such meeting is closed to the public (in accordance with paragraph (1)(B)) with, or disclose the contents of such discussion, debate, or recommendation to, anyone other than—

(i) another member of the advisory committee who is present at the meeting; or

(ii) an officer or employee of the Department of the Treasury.

(B) APPLICABLE PERIOD OF PROHIBITION.—The prohibition contained in subparagraph (A) on discussions and disclosures of any discussion, debate, or recommendation at a meeting of the advisory committee shall cease to apply—

(i) with respect to any discussion, debate, or recommendation which relates to the securities to be auctioned in a midquarter refunding by the Secretary of the Treasury, at the time the Secretary makes a public announcement of the refunding; and

(ii) with respect to any other discussion, debate, or recommendation at the meeting, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2).

(C) REMOVAL FROM ADVISORY COMMITTEE FOR VIOLATIONS OF THIS PARAGRAPH.—In addition to any penalty or enforcement action to which a person who violates a provision of this paragraph may be subject under any other provision of law, the Secretary of the Treasury shall—

(i) remove a member of the advisory committee who violates a provision of this paragraph from the advisory committee and permanently bar such person from serving as a member of the advisory committee; and

(ii) prohibit any director, officer, or employee of the firm of which the member referred to in clause (i) is a director, officer, or employee (at the time the member is removed from the advisory committee) from serving as a member of the advisory committee at any time during the 5-year period beginning on the date of such removal.

(d) REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress containing the following information with respect to material violations or suspected material violations of regulations of the Secretary relating to auctions and other offerings of securities upon the issuance of such securities by the Secretary:

(A) The number of inquiries begun by the Secretary during the year covered by the report regarding such material violations or suspected material violations by any participant in the auction system or any director, officer, or employee of any such participant and the number of inquiries regarding any such violations or suspected violations which remained open at the end of such year.

(B) A brief description of the nature of the violations.

(C) A brief description of any action taken by the Secretary during such year with respect to any such violation, including any referrals made to the Attorney General, the Securities and Exchange Commission, any other law enforcement agency, and any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act).

(2) DELAY IN DISCLOSURE OF INFORMATION IN CERTAIN CASES.—The Secretary of the Treasury shall not be required to include in a report under paragraph (1) any information the disclosure of which could jeopardize an investigation by an agency described in paragraph (1)(C) for so long as such disclosure could jeopardize the investigation.

SEC. 203. NOTICE ON TREASURY MODIFICATIONS TO AUCTION PROCESS.

The Secretary of the Treasury shall notify the Congress of any significant modifications to the auction process for issuing United States Treasury obligations at the time such modifications are implemented.

TITLE III—LIMITED PARTNERSHIP ROLLUPS

SEC. 301. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1993".

SEC. 302. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under subsections (a) and (d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purpose of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed limited partnership rollup transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination, except that—

"(i) nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title; and

"(ii) any holder of not less than 5 percent of the outstanding securities that are the subject of the proposed limited partnership rollup transaction who engages in the business of buying and selling limited partnership interests in the secondary market shall be required to disclose such ownership interests and any potential conflicts of interests in such preliminary communications;

"(B) require the issuer to provide to holders of the securities that are the subject of

the limited partnership rollup transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a limited partnership rollup transaction—

"(i) on the basis of whether the solicited proxy, consent, or authorization either approves or disapproves the proposed limited partnership rollup transaction; or

"(ii) contingent on the approval, disapproval, or completion of the limited partnership rollup transaction;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest, or the compensation of the general partner in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of the interests of the limited partners to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the limited partnership rollup transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the limited partnership rollup transaction with less than all limited partnerships;

"(vi) the statement by the general partner required under subparagraph (E);

"(vii) such other matters deemed necessary or appropriate by the Commission;

"(E) require a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and an evaluation and a description by the general partner of alternatives to the limited partnership rollup transaction, such as liquidation;

"(F) provide that, if the general partner or sponsor has obtained any opinion (other than an opinion of counsel), appraisal, or report that is prepared by an outside party and that is materially related to the limited partnership rollup transaction, such soliciting materials shall contain or be accompanied by clear, concise, and comprehensible disclosure with respect to—

"(i) the analysis of the transaction, scope of review, preparation of the opinion, and basis for and methods of arriving at conclusions, and any representations and undertakings with respect thereto;

"(ii) the identity and qualifications of the person who prepared the opinion, the method of selection of such person, and any material past, existing, or contemplated relationships between the person or any of its affiliates and the general partner, sponsor, successor, or any other affiliate;

"(iii) any compensation of the preparer of such opinion, appraisal, or report that is contingent on the transaction's approval or completion; and

"(iv) any limitations imposed by the issuer on the access afforded to such preparer to the issuer's personnel, premises, and relevant books and records;

"(G) provide that, if the general partner or sponsor has obtained any opinion, appraisal, or report as described in subparagraph (F) from any person whose compensation is contingent on the transaction's approval or completion or who has not been given access by the issuer to its personnel and premises and relevant books and records, the general partner or sponsor shall state the reasons therefor;

"(H) provide that, if the general partner or sponsor has not obtained any opinion on the fairness of the proposed limited partnership rollup transaction to investors in each of the affected partnerships, such soliciting materials shall contain or be accompanied by a statement of such partner's or sponsor's reasons for concluding that such an opinion is not necessary in order to permit the limited partners to make an informed decision on the proposed transaction;

"(I) require that the soliciting material include a clear, concise, and comprehensible summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of subparagraph (D) and a summary of the matter referred to in subparagraphs (F), (G), and (H)), with the risks of the limited partnership rollup transaction set forth prominently in the fore part thereof;

"(J) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(K) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this title, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION OF LIMITED PARTNERSHIP ROLLUP TRANSACTION.—Except as provided in paragraph (5), as used in this subsection, the term 'limited partnership rollup transaction' means a transaction involving the combination or reorganization of one or more limited partnerships, directly or indirectly, in which—

"(A) some or all of the investors in any of such limited partnerships will receive new securities, or securities in another entity, that will be reported under a transaction reporting plan declared effective before the date of enactment of this subsection by the Commission under section 11A;

"(B) any of the investors' limited partnership securities are not, as of the date of filing, reported under a transaction reporting plan declared effective before the date of enactment of this subsection by the Commission under section 11A;

"(C) investors in any of the limited partnerships involved in the transaction are subject to a significant adverse change with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(D) any of such investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSIONS FROM DEFINITION.—Notwithstanding paragraph (4), the term 'limited partnership rollup transaction' does not include—

"(A) a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate;

"(B) a transaction involving only limited partnerships wherein the interests of the limited partners are repurchased, recalled, or exchanged in accordance with the terms of the preexisting limited partnership agreements for securities in an operating company specifically identified at the time of the formation of the original limited partnership;

"(C) a transaction in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(D) a transaction that involves only issuers that are not required to register or report under section 12, both before and after the transaction;

"(E) a transaction, except as the Commission may otherwise provide by rule for the protection of investors, involving the combination or reorganization of one or more limited partnerships in which a non-affiliated party succeeds to the interests of a general partner or sponsor, if—

"(i) such action is approved by not less than 66⅔ percent of the outstanding units of each of the participating limited partnerships; and

"(ii) as a result of the transaction, the existing general partners will receive only compensation to which they are entitled as expressly provided for in the preexisting limited partnership agreements; or

"(F) a transaction, except as the Commission may otherwise provide by rule for the protection of investors, in which the securities offered to investors are securities of another entity that are reported under a transaction reporting plan declared effective before the date of enactment of this subsection by the Commission under section 11A, if—

"(i) such other entity was formed, and such class of securities was reported and regularly traded, not less than 12 months before the date on which soliciting material is mailed to investors; and

"(ii) the securities of that entity issued to investors in the transaction do not exceed 20 percent of the total outstanding securities of the entity, exclusive of any securities of such class held by or for the account of the entity or a subsidiary of the entity.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934,

as amended by subsection (a), and such regulations shall become effective not later than 12 months after the date of enactment of this Act.

(c) EVALUATION OF FAIRNESS OPINION PREPARATION, DISCLOSURE, AND USE.—

(1) EVALUATION REQUIRED.—The Comptroller General of the United States shall, within 18 months after the date of enactment of this Act, conduct a study of—

(A) the use of fairness opinions in limited partnership rollup transactions;

(B) the standards which preparers use in making determinations of fairness;

(C) the scope of review, quality of analysis, qualifications and methods of selection of preparers, costs of preparation, and any limitations imposed by issuers on such preparers;

(D) the nature and quality of disclosures provided with respect to such opinions;

(E) any conflicts of interest with respect to the preparation of such opinions; and

(F) the usefulness of such opinions to limited partners.

(2) REPORT REQUIRED.—Not later than the end of the 18-month period referred to in paragraph (1), the Comptroller General of the United States shall submit to the Congress a report on the evaluation required by paragraph (1).

SEC. 303. RULES OF FAIR PRACTICE IN ROLLUP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in paragraphs (4) and (5) of section 14(h)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to one of the following:

"(i) an appraisal and compensation;

"(ii) retention of a security under substantially the same terms and conditions as the original issue;

"(iii) approval of the limited partnership rollup transaction by not less than 75 percent of the outstanding securities of each of the participating limited partnerships;

"(iv) the use of a committee that is independent, as determined in accordance with rules prescribed by the association, of the general partner or sponsor, that has been approved by a majority of the outstanding securities of each of the participating partnerships, and that has such authority as is necessary to protect the interest of limited partners, including the authority to hire independent advisors, to negotiate with the general partner or sponsor on behalf of the limited partners, and to make a recommendation to the limited partners with respect to the proposed transaction; or

"(v) other comparable rights that are prescribed by rule by the association and that are designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed limited partnership rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a person who, on the date on which soliciting material is mailed to investors, is a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction, and who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such person shall file an objection in writing under the rules of the association during the period in which the offer is outstanding.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in paragraphs (4) and (5) of section 14(h)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to one of the following:

"(i) an appraisal and compensation;

"(ii) retention of a security under substantially the same terms and conditions as the original issue;

"(iii) approval of the limited partnership rollup transaction by not less than 75 percent of the outstanding securities of each of the participating limited partnerships;

"(iv) the use of a committee of limited partners that is independent, as determined in accordance with rules prescribed by the exchange, of the general partner or sponsor, that has been approved by a majority of the outstanding units of each of the participating limited partnerships, and that has such authority as is necessary to protect the interest of limited partners, including the authority to hire independent advisors, to negotiate with the general partner or sponsor on behalf of the limited partners, and to make a recommendation to the limited partners with respect to the proposed transaction; or

"(v) other comparable rights that are prescribed by rule by the exchange and that are designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed limited partnership rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a person who, on the date on which soliciting material is mailed to investors, is a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction, and who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such person shall file an objection in writing under the rules of the exchange during the period during which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in paragraphs (4) and (5) of section 14(h)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to one of the following:

"(i) an appraisal and compensation;

"(ii) retention of a security under substantially the same terms and conditions as the original issue;

"(iii) approval of the limited partnership rollup transaction by not less than 75 percent of the outstanding securities of each of the participating limited partnerships;

"(iv) the use of a committee that is independent, as determined in accordance with rules prescribed by the association, of the general partner or sponsor, that has been approved by a majority of the outstanding securities of each of the participating partnerships, and that has such authority as is necessary to protect the interest of limited partners, including the authority to hire independent advisors, to negotiate with the general partner or sponsor on behalf of the limited partners, and to make a recommendation to the limited partners with respect to the proposed transaction; or

"(v) other comparable rights that are prescribed by rule by the association and that are designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed limited partnership rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a person who, on the date on which soliciting material is mailed to investors, is a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction, and who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such person shall file an objection in writing under the rules of the association during the period during which the offer is outstanding.".

SEC. 304. EFFECTIVE DATE; EFFECT ON EXISTING AUTHORITY.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by section 303 shall become effective 12 months after the date of enactment of this Act.

(2) RULEMAKING AUTHORITY.—Notwithstanding paragraph (1), the authority of the Securities and Exchange Commission, a registered securities association, and a national securities exchange to commence rulemaking proceedings for the purpose of issuing rules pursuant to the amendments made by section 303 is effective on the date of enactment of this Act.

(3) REVIEW OF FILINGS PRIOR TO EFFECTIVE DATE.—Prior to the effective date of regulations promulgated pursuant to this title, the Securities and Exchange Commission shall continue to review and declare effective registration statements and amendments thereto relating to limited partnership rollup transactions in accordance with applicable regulations then in effect.

(b) EFFECT ON EXISTING AUTHORITY.—The amendments made by this title shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

ADDITIONAL STATEMENTS

CELEBRATING THE 75TH ANNIVERSARY OF LATVIAN INDEPENDENCE

• Mr. RIEGLE. Mr. President, this week the Latvian people marked the 75th anniversary of the birth of their nation. Three quarters of a century ago, the Republic of Latvia was born from the ashes of the First World War. Despite the unjust persecution and oppression which has marred Latvia's history, the triumph of the Latvian spirit has enabled the Latvian people to celebrate their diamond anniversary in a free and independent country. Although over 50 years of Soviet occupation weighed heavily on the hearts of the Latvian people, the Latvian consciousness survived and their cultural values have been preserved.

As World War I came to a close, Latvia and her fellow Baltic States, Lithuania and Estonia, gained independence for the first time. During the interwar period, Latvia was an active participant in international affairs and established productive relations with many nations around the globe. With the arrival of World War II, Latvia lost the freedom which it had cherished for a brief 22 years. In 1939, Nazi Germany and the U.S.S.R. conspired through a secret Molotov-Ribbentrop pact to relegate control of the three Baltic States, including Latvia, to the Soviet Union's sphere of influence.

Soviet forces marched into Latvia, illegally occupying it in June 1940, and pro-Soviet governments were quickly erected to puppet the rhetoric of Moscow's leaders.

What followed is considered to have been the bleakest era in Latvia's history. Stalin and his successors implemented repressive and colonial policies to achieve the Sovietization and Russification of Latvia. Tens of thousands of Latvian men, women, and children were executed, imprisoned, and exiled to the frozen wasteland of Siberia. Simultaneously, large numbers of ethnic Russians poured into Latvia, almost relegating the native Latvian population to minority status. Although these measures were insufficient to stamp out the Latvian spirit, the Soviet Union did manage to cause severe environmental damage with its anachronistic industrial policies, and establish Russian as the dominant language.

Through this difficult period many nations continued to recognize Latvia's legal status as a separate state even though it lost its sovereignty to an illegal Soviet occupation. The Latvian-American community, which has over 4,000 members in my home State of Michigan, also struggled hard, from across the Atlantic, to bring an end to the Soviet occupation. Latvian cultural values and traditions were promoted and preserved in this country to prepare a new generation for a free Latvia where they could achieve free expression.

Thus, Western pressure, the determination of the Latvian people, and the assistance of the Latvian-American community, enabled Latvians to capitalize on a window of opportunity in August 1991 and declare their independence.

In its new era of independence, Latvia is finally able to move forward. As Latvia moves once again down the path toward complete economic and political freedom, we must assure that it remains independent and stable. Guntis Ulmanis, the President of Latvia, speaking before the United Nations General Assembly, stressed that Latvia was adamant that no foreign troops remain on Latvian soil. Given the historic relations between Russia and the Baltic States it is clear why the Latvian people perceive the Russian troops as occupiers. We must ensure that the unilateral withdrawal of Russian forces from Latvia occur promptly and immediately.

As a leader of the decade long effort to support Baltic independence I once again salute the Latvian people on the 75th anniversary of the birth of their nation. I look forward to continuing to work closely with the Latvian-American community in the United States in promoting greater economic and political cooperation between our nation and the Republic of Latvia.•

NORTH AMERICAN FREE-TRADE AGREEMENT

• Mr. D'AMATO. Mr. President, a few days ago the House of Representatives voted to pass the North American Free-Trade Agreement. There was passion and conviction in the arguments both for and against the agreement as there has been here in the Senate. At the heart of the debate is whether NAFTA will mean job creation or job loss.

In my mind there is no question that NAFTA will result in short-term job losses. This job loss is especially serious in the Northeast and other areas where thousands of people have already lost jobs and businesses are treading water as they wait for the economy's heartbeat to pick up. People who actually are employed lack job security because the threat of layoffs is still commonplace. Employers are facing increased taxes under the Clinton economic plan, ever increasing regulation from the administration and the threat of increased mandates under the Clinton health care plan.

The downsizing of corporations, the reduction in defense workers and the lingering stagnant economy continue to erode our industrial base. Given this scenario, it is the wrong time to ask hard working middle-class workers to jeopardize their jobs today so that someone else may get a job 10 years from now. That is why I cannot support this NAFTA.

There is no question that additional jobs will move to Mexico due to NAFTA, and the lower wages and poorer working conditions in that country. Importantly, I note that U.S. workers have also lost jobs as a result of poor enforcement of our own U.S. fair trade laws. I am gravely concerned that foreign countries outside the NAFTA will find it very inviting to use Mexico as a platform in order to circumvent United States trade laws and export freely into the United States. By producing parts in home countries and setting up low-wage assembly plants in Mexico, foreign companies will be able to send products into the United States either with low or no duty.

Over the past few years I have become all too familiar with the problem of circumvention in our dumping laws. I have also become all too familiar with the politics of status quo when it comes to trying to enforce and strengthen these laws so that U.S. companies and U.S. workers can compete on a level playing field with foreign companies. As a consequence, this status quo has meant people who had jobs in my State last year, do not have jobs this year.

There are 875 unemployed Smith Corona workers in Cortland, NY, who are testimony to that point. Smith Corona fought for 12 years to get the U.S. to enforce our trade laws and stop circumvention. They were unable to get relief from either the executive branch or the legislative branch even though the evidence was clear that a Japanese company had been dumping in the United States and undercutting their ability to compete in a truly competitive market. Eventually, Smith Corona was forced to leave the United States and set up operations in Mexico in order to survive.

So, I ask: Does NAFTA do anything to strengthen or close loopholes in our fair trade laws? No. NAFTA will operate under the currently flawed antidumping [AD] and countervailing duty

[CVD] laws which allow foreign companies to circumvent our fair trade laws. NAFTA further weakens our enforcement efforts by vesting the power to interpret U.S. trade law in a 5-member binational dispute resolution panel which makes U.S. agency administrative decisions subject to a single binding decision by this panel. American business forfeits its access to the Court of International Trade [CIT], the U.S. Court of Appeals for the Federal Circuit, and the Supreme Court. Instead of pursuing judicial review in domestic courts, parties must submit challenges to the 5-member ad-hoc committee.

Cheap labor and foreign companies outside the NAFTA that use Mexico to cheat in trade leaves jobs vulnerable nationwide, especially our manufacturing jobs which in large part rely on labor intensive production. At least 6 percent of New York's manufacturing job base—403,000 jobs, according to the Economic Policy Institute—is estimated to be vulnerable under NAFTA. Nationwide, manufacturing jobs continue to decline from a high of 21 million workers in 1979 to 18 million workers in 1992. In New York, manufacturing employment has gone from 1.5 million in 1978 to 1 million in 1991.

Since 1970, New York has lost approximately 1,107,000 jobs in the following fields: 813,000 manufacturing; 145,000 apparel and textile; 60,000 industrial machinery; 53,000 primary metals; 25,000 steel; and 11,000 electric lighting and wiring. Between 1990 and 1992, approximately 300,000 were lost including 115,000 in manufacturing. NAFTA will only further erode New York's manufacturing base.

The importance of manufacturing employment to the economy is vitally clear when you consider the multiplier effect of secondary employment associated with each manufacturing job, both in supplier industries and in sectors where workers spend their paychecks. The average manufacturing job generates four and a half times as many secondary jobs as does the average retail job and almost three times as many secondary jobs as a job in the personal and business service sector. This fact speaks for itself as to the importance of manufacturing jobs to our economy.

For U.S. workers who do not lose their jobs NAFTA offers something different—higher taxes. NAFTA offers a spending program that will cost taxpayers billions of dollars. Spending costs of NAFTA will include: budget offsets that must be found in order to replace lost tariff revenues; training and income support for dislocated workers; environmental and infrastructure costs; and, the proposed U.S. contribution to the new North American Development Bank [NADBank].

The Joint Economic Committee warns that NAFTA could cost $20 billion over the next 10 years. The direct costs of implementing NAFTA over the next 5 years could be 30 percent higher than the $2.7 billion administration estimate for the first 5 years due to understated lost revenue and uncounted payments to fund the NADBank. The JEC cites that their estimates are conservative and do not reflect additional State or local spending, the total social and economic costs or the ripple effects on workers and communities indirectly affected by NAFTA and the potential downward pressure on U.S. wages.

The choice between no job or a job with higher taxes is not what American workers want. Today, our economy is still in the dumps and jobs are the No. 1 concern. This NAFTA continues the threat against our workers that their jobs are not secure. This NAFTA does not provide assurances for strengthened fair trade, it simply applies currently flawed fair trade laws to a new situation. Cheating by foreign companies goes on right here in our own back yard. Under NAFTA our back yard is even bigger. Offering more opportunity to undercut American companies and put Americans out of work is not something that I can support.

I believe NAFTA will hurt the working men and women of New York. I sincerely hope that I am wrong, but I remain convinced that in the foreseeable future, NAFTA is not good for the people I represent, and I will vote against it.●

DR. HAROLD ELIOT VARMUS, DIRECTOR, NATIONAL INSTITUTES OF HEALTH

● Mr. DURENBERGER. Mr. President, I rise in support of Dr. Harold Eliot Varmus as the Director of the National Institutes of Health. Dr. Varmus is an accomplished scientist and modern day "renaissance man." His knowledge will be put to good use at the NIH.

As the Director of the NIH, Dr. Varmus will be taking the helm of an organization with a nearly $11 billion budget. The NIH is the centerpiece for biomedical research in this country. NIH's grants to researchers in academia and industry, and its own cadre of top-flight scientists, have greatly contributed to American leadership in basic research.

But it is also because of this leadership that I do not believe the NIH should stand on the sidelines of the health care reform debate. I would go as far as to say it cannot. The quality of medical care patients receive is irreversibly linked to the successes of our basic medical research.

The purpose of scientific research conducted at the NIH is to benefit patient care and human health. Biomedical research should never lose sight of that goal. But health care reform is also teaching us that human health demands much more than basic biomedical or biochemical science.

As the NIH Director, Dr. Varmus will face the challenge of the current health care policy environment to determine innovative, effective, and appropriate patient treatments. The challenge requires a visionary strategic plan—a recommendation that his predecessor, Dr. Healy, took up, but a recommendation that has never been followed through at the NIH.

That strategic planning should include nurturing of the highly innovative and rapidly growing field of biomedical engineering research. Biomedical engineering has contributed to the development of new medical devices that have revolutionized patient care. I requested that a study on the status of biomedical engineering be conducted by the NIH because of the fundamental importance of this field in our basic science arsenal.

The NIH seems to shy away from research on treatment outcomes. Maybe part of a strategic plan should include development of these research capabilities? I believe that with impending health care reform, the NIH cannot afford to ignore this critical area. At the least, the NIH should try to coordinate its basic research with outcomes measurements conducted by other agencies in the Department of Health and Human Services.

In the complex organization of the NIH, Dr. Varmus also will be faced with continuing problems of morale of senior Government scientists, potential and real conflicts of interest between publicly funded research and private industry, appropriate participation in clinical trials, and issues of fair allocation of NIH resources among many competing constituencies. And in recent years, there have been allegations of scientific and sexual misconduct and racial prejudice. These problems demand sensitivity and deft managerial skills. The NIH cannot risk the appearance of a damaged institution if it is to continue to be a leader in basic research.

The NIH directorship—as I am sure Dr. Varmus is aware—carries an enormous responsibility. That role is even greater because of the times. I encourage Dr. Varmus in his new role to define the NIH's role in health care reform and not to lose sight of creativity in research. NIH has made the United States a leader in basic research. Let NIH be the building block for the higher quality health care we all seek.●

A SALUTE TO SESAME STREET

● Mr. SIMON. Mr. President: Today is indeed a special day: the beginning of the 25th birthday season featuring the longest street in the world. I am talking about "Sesame Street", the well-loved and most widely viewed children's program in the world. This week, Sesame Street and the Children's Television Workshop [CTW] begin

marking a quarter century of entertaining and educating young children all over the world.

Sesame Street began as an experiment in educational programming. Part of the reason why the show has been so successful has been its ability to change. CTW has added new characters and expanded the series' curriculum goals to meet the changing needs of children growing up in our fast-moving society. One of the series' really creative and exciting components is its race-relations curriculum, now in its fourth year: this year the emphasis is on Asian-American culture.

One thing that hasn't changed over the years is the basic mission of CTW. Like Sesame Street itself, CTW has only expanded. The Workshop began by experimenting with the use of television to help educate children, particularly those children who were from more disadvantaged backgrounds. Now the workshop uses other media, including print, software, and outreach programs, to add to the effectiveness of Sesame Street and its other educational theories, and to reach children wherever they are found, in and outside the classroom.

In fact, in my own State of Illinois, the Sesame Street Preschool Education Program, or Sesame Street PEP, is reaching thousands of preschoolers, introducing them to a lifelong love of learning.

As parents, grandparents, aunts, uncles, and legislators, we owe a round of applause and our deepest gratitude to Sesame Street and the Children's Television Workshop for showing our kids, and ourselves, that learning can be fun and relevant to kids all over the world and that television is a wonderfully powerful medium for doing good.

Mr. President, in addition to my own statement, I would like to have printed in full in the RECORD the following articles from today's New York Times and USA Today.

The articles follow:

[From the USA Today, Nov. 22, 1993]

MAKING KIDS AND LEARNING FEEL AT HOME

(By Donna Gable)

The safest street in the world stretches from the inner cities of the USA across the ocean on the Middle East and beyond.

It's not on any map, but you can get there from here. And no matter the name—Sasamstrasse in Germany; Plaza Sesamo in Latin America; Rechov Sumsum in Israel; of Iftah Ya Simsim in Kuwait—Sesame Street has always been a protected place for kids to play and learn. From the early days when it taught tots their ABCs and 1-2-3s, to today's life lesson in race relations, Sesame Street is a reflection of our times for the eyes of children.

Today, the Emmy-winning PBS children's series turns a corner, metophorically and physically, as it begins its 25th season. But the Street is not just growing up, it's growing out. For the first time, we get to see what's "Around the Corner" from the familar brownstone and Mr. Hooper's Store.

Executive producer Michael Lorman says the set was designed as a cuddly S-shaped cul-de-sac "so there are no streets to cross." There's a dance studio, a thrift shop, a playground, a home care center, and The Furry Arms, a Muppet hotel "where everyone stays when they're in town."

And while there are newcomers—including Zoe, "a bright orange 3-year-old monster girl that smiles from ear to ear"—they're all old friends on the Street.

Dr. Valerie Lovelace, assistant vice president/director of research, says the new set is "a way through which we can show the contributions that families make to children's success in school and life."

Three fresh faces—Angela (Angel Jemmott) and Jamal (Jou Jou Papailler), a black couple, and their 6-month-old, Kayla—are related to series regulars Susan and Gordon.

"We want to show the family as a socializing agent, the most important part of a child's life." Lovelace says. The knowledge gained from the show's race relations curriculum "will guide our thinking on families, in terms of looking at their diversity."

Through Celina (*Miss Salgon's* Annette Calud), an Asian-American dance instructor, the show will explore issues like exclusion and name-calling.

Today's season opener is a backdrop for the myriad Muppets and others who parade down the lane. First lady Hillary Rodham Clinton stops by to christen the new season and inspire Cookie Monster to rap about the importance of eating more than cookies to stay healthy.

Upcoming celebrity guests who will stay at The Furry Arms include poet Maya Angelou, singer Garth Brooks and actress/comedian Lily Tomlin.

"These celebrities have helped draw the parent to the child's side . . . and they sit and watch Sesame Street together," says Peggy Charren, founder of Action for Children's Television. "Research shows when children and parents watch together they learn more."

Ruth Buzzi—who joins the cast as Ruthie, the offbeat owner of Finders Keepers, which offers such collectibles as Cinderella's glass slippers and Jack and Jill's legendary pail—credits the show's stable of "creative, ingenious and nutty writers" for the show's longevity.

"Writing comedy every day, day in day out, is not all laughs," says Buzzi, who compares the cadre of scriptmeisters with those of her *Rowan & Martin's Laugh-In* days. "After a while your brain dies out. The only way to keep the momentum going and keep it fresh is to have a LOT of writers."

Charren says the program "could've been a wonderful model for the people in the commercial broadcast world. We'd hoped it would send a message to them: that you can do it right and still win. But what was their response? 'Let PBS do it.'"

The *Street* has always been safe but it hasn't been a blind alley or a dead end. Since 1969, it's evolved from an experimental educational program for preschoolers to a multimedia educational institution seen in 90 countries.

And even though the conventional wisdom is that *Barney* has taken the spotlight, the word on the *Street*—from the top down—is "there's room for everybody."

It doesn't matter whether kids tune in to a big yellow bird or a purple dino, says Loman, "as long as they're learning and having fun."

We don't look at Barney as being in competition with us because we're both on PBS," he says. Besides, "We'd rather have them watch Barney than a violent or nonsensical cartoon on another channel."

Sonia Manzano, who has played Maria on the show since its third season, agrees. "Kids have the right to have more than one show to choose from. Adults have lots of choices . . . and still complain there's nothing on."

Besides, the show has more important things than Barney's bite to focus on, such as continuing its 25-year legacy.

And everyone agrees, the days have been a little less sunny without Jim Henson, the mastermind behind the Muppet menagerie, who died suddenly in 1990.

And in strolling down the Street, you cannot overlook his touch. Puppeteer Kevin Clash, who won an Emmy for breathing life into a fuzzy, red Muppet named Elmo, says Henson's death "was a difficult loss."

"Jim loved coming to Sesame Street and putting on Ernie and Kermit. I miss that immensely," says Clash, who grew up watching Sesame Street and "dreamt of working" with the brilliant Muppet-making man-boy.

"The love that's behind the scenes and comes across on camera—that's Jim. And some days when something goes really right. Jim's there. You can feel it."

Clash—who also portrays Baby Sinclair, the tiny dino on ABC's sitcom Dinosaurs—hope his 11-month-old daughter, Shannon, will someday don a fuzzy alter-ago.

"I'm envious of Elmo. I'd love to keep that positive. But when you become an adult, sometimes things can get you down," he says. "It's great to be able to cover yourself with these characters and become young again."

The most important lesson, he says, may be "how to find your way back" to the Sesame Street inside us all.

Manzano says she's looking forward to the next 25 years.

"If this show is the only thing I ever do in my career, that's not a bad credit," she says. "When I looked back at my life I could say, 'I lived a good a life. I lived on a nice street.'"

[From the New York Times, Nov. 22, 1993]

IT'S 25 AND STILL THINKING LIKE A CHILD

(By John J. O'Connor)

Known as the longest street in the world, stretching in one form or another around the globe, "Sesame Street" celebrates its 25th birthday today with a characteristic eye on the future and a meandering stroll to a new playground that it calls "just around the corner." The Children's Television Workshop's pioneering blend of carefully researched education and quality entertainment has lost none of its imaginative freshness. Hillary Rodham Clinton, flanked by Big Bird and Rosita, drops by today in a gesture of richly deserved tribute.

The survival of "Sesame Street" has involved struggle and occasional controversy. In the 1970's, the BBC rejected the program, ostensibly because of its ultra-American, hard-sell teaching techniques: Britons were later allowed to watch the series, seemingly without ill effect. When the project was conceived in the 1960's by Joan Ganz Cooney and Lloyd Morrisset, children's television was a generally sorry affair, with cartoons at one end and dull instructional classes at the other. The Children's Television Workshop created something entirely new: an education program that was great fun to watch.

The program is aimed at all preschoolers, but is especially eager to reach disadvantaged children whose early exposure to school-related skills might be limited. The underlying theory is that more than half of a child's lifetime intellectual abilities are

formed by the age of 5. Lessons are delivered, for the most part, by showing, not by lecturing. In the show's multicultural society, children of all sorts mix easily with one another and, of course, with furry creatures representing all colors of the rainbow. The memorable duet of Ray Charles and Kermit the Frog on "Bein' Green" was anything but an accident.

So today, as Big Bird leads a parade of youngsters and Muppets to the new playground, it's hardly surprising to discover that the new faces in the crowd look like an illustration for a United Nations brochure. Tarah (Tarah Lynne Schaeffer) is a 9-year-old whose physical disability keeps her in a wheelchair. All of the newcomers are being introduced this week, and will be developed more fully in future episodes.

Meanwhile, the scene on Sesame Street is punctuated with brief taped segments that might offer a lesson on a letter or number, an illustration of concepts (Zero Mostel's take on "Big" and "Little" is a series classic), or a vignette with an understated point. Today, for instance, two girls are found waking up in a bedroom that is obviously middle-class comfortable. One girl is black, the other is white. The white girl is the visitor. This season, Asian-American cultures are being highlighted. Among the scheduled guests: the tennis star Michael Chang.

When Children's Television Workshop researchers went to day-care centers and asked children what they would like to see on the show, the most frequent answer was a place to play. The new playground, which required moving the production to the larger quarters of the Kaufman Studios in Astoria, Queens, should satisfy the most demanding of young viewers. In the course of the hour, the First Lady urges those watching to eat fruits and vegetables, get plenty of exercise and rest. In a rap song, Cookie Monster admits that nobody should eat just cookies. And the show ends with an announcement that this edition of "Sesame Street" was brought to you by the letters C and O, and by the number 3. Talk about enlightened sponsorship.

The Children's Television Workshop has moved well beyond "Sesame Street" as seeking feasible ways to support its many activities, it has branched into television specials, videos, books and even items like a Cookie Monster cookie jar. There have been critics of this commercialization inside and outside the organization, David V.B. Britt, its president, disagrees, though he says perhaps the name should be changed to the Children's Media Workshop.

Sadly, as one of the brightest jewels in public television's now lopsided crown, "Sesame Street" has failed in one crucial sense, one that is beyond its control. Despite its demonstrable success, television executives and politicians have largely failed to follow up with adequately financed projects of similar caliber for young audiences. the level of education in the nation today is abysmal. All those preschoolers so lovingly prepared are being betrayed by schools impoverished on just about every level. "Sesame Street" has shown how to proceed with intelligence and style. Perhaps some day. . . .

Meanwhile, let's get on with the next 25 years.●

COMMENDING TRIO PROGRAMS

● Mr. WOFFORD. Mr. President, I would like to draw my colleagues' attention to five extraordinary Pennsylvania students who have recently received special recognition awards from the Pennsylvania Association of Educational Opportunity Programs. This organization represents the over 100 Pennsylvania TRIO programs. As my colleagues all know, TRIO programs provide services to traditionally underrepresented students. In Pennsylvania and across the country, TRIO programs enable students to reach their fullest potential.

Doris Goodman is a senior psychology student at Clarion University. Doris is a returning adult student with a disability. She is also the mother of two teenage children. Despite her many challenges she is a member of the several student organizations and served as cochair of a regional conference on adult learners—all while maintaining a 3.95 grade point average.

Monique Henderson was a member of the first Upward Bound class at Harcum Junior College. She participated throughout her 4 years of high school. Monique was honored as the outstanding Upward Bound student in 1992. This spring she will be a freshman at Howard University.

Cheryl Honick is a nontraditional student who returned to school after 14 years. She is married and the mother of five children under the age of 12. Cheryl is a third-year student at California University of Pennsylvania, where she has been an active participant in the Student Support Services Program.

Albert Prado participated in the Upward Bound Program at Wilkes University for 3 years while he was a student at Coughlin High School. He was an honor student, served as cocaptain of the soccer and volleyball teams and was president of the Spanish Club. Albert is currently a freshman at East Stroudsburg University.

Daniel Uribe is a junior at the University of Pennsylvania, where he participates in the Student Support Services Program. Daniel is a representative to the United Minority Council, where he serves as the students' voice to the administration of the university on various issues related to minority students.

Mr. President, the TRIO Program enables students to reach their fullest potential. I ask my colleagues to join me in congratulating each of these extraordinary Pennsylvanians for their accomplishments. We should expect great things from them in the future.●

VIETNAM WOMEN'S MEMORIAL

● Mr. DURENBERGER. Mr. President, earlier this month we celebrated the culmination of a decade's worth of effort to honor the courage and excellence of the American women who served our country in Vietnam. We unveiled the Vietnam Women's Memorial here in Washington, DC.

It is well known that Vietnam marked a turning point in the history of the United States. What is less well known—and therefore stands in special need of commemoration—is that America's women played a very important role in the Vietnam conflict.

A Minneapolis lawyer named Donna Marie Boulay—a Vietnam veteran who served back in 1967–68—contacted me about her project to honor these underrecognized women of courage who helped defend our country in the Vietnam era.

In 1987, I introduced a resolution in the Senate to create a memorial to these 10,000 American women. With the strong advocacy of D.M. Boulay, and the cooperation of Senator ALAN CRANSTON of California and others—we were able to get the project on track.

After I became involved in the project, I started receiving mail from Vietnam veterans all over America who supported the idea. Many who wrote expressed a theme that I found especially compelling—they said that they would not be here today if it were not for the women who served so ably in Vietnam.

Now, 6 years later, we have inaugurated the completed monument—a sculpture depicting three servicewomen caring for a wounded GI.

The unveiling of this memorial ought to be a source of inspiration and pride in all our American servicewomen. It is America's way of saying thank you to the women who laid down their lives for us in Vietnam, and continue to do so much in order that we might enjoy the blessings of liberty.●

SENATOR KASTEN'S ANALYSIS OF PRESIDENT CLINTON'S HEALTH CARE NUMBERS

● Mr. MACK. Mr. President, earlier today Senator NICKLES and I introduced The Consumer Choice and Health Care Security Act of 1993. This bill would achieve health care reform in a far superior fashion than the plan recommended by President Clinton.

The flaws in the President's plan are numerous. One of those flaws is its claimed effect on the deficit. In a recent oped appearing in the San Diego Union-Tribune, our former colleague from Wisconsin, Senator Robert Kasten, concludes that "Clinton's health care figures don't compute." This article is well worth the attention of Senators, and I ask that it be printed in the CONGRESSIONAL RECORD in its entirety.

The article follows:

CLINTON'S HEALTH CARE FIGURES DON'T COMPUTE

(By Robert W. Kasten and Cesar V. Conda)

On Oct. 1, the American middle-class was introduced to the first major installment of "Clintonomics." The federal gasoline tax was increased by 4.3 cents per gallon as part of the president's deficit-cutting plan (the so-called "rich" have already paid their "fair share" in taxes because Clinton retroactively raised the top tax rates effective

last Jan. 1). And now, the Clintons have proposed a substantial increase in "sin taxes" and employer insurance mandates to finance a federal takeover/overhaul of the nation's health care system.

Unfortunately, both the Clinton budget and health care reform plans are built on a foundation of quicksand. By imposing harmful disincentives and higher costs on the economy, the tax financing mechanisms will raise less additional tax revenue than the administration estimates—and in some cases, actually reduce net tax revenue—leaving a multibillion dollar deficit hole in the federal budget.

Furthermore, given Clinton's proclivity to raise taxes before cutting spending, he may well opt to implement a more dangerous tax to fill these financial gaps—the value added tax (VAT).

The reason budget projections rarely hold up is because the government's estimators and accountants live in the fantasy world of static revenue analysis. Their economic models rarely account for the real world impact that higher taxes and other government-imposed burdens have on human behavior and economic activity—and as a result, their revenue estimates often miss the mark.

For example, in the case of the recent gas tax increase, the government estimators totally ignored the fact that higher gasoline taxes would raise costs at all stages of production for businesses, thereby reducing economic growth. The Institute for the Research on the Economics of Taxation estimated the 4.3-cent gas tax hike will reduce gross domestic product by some $16 billion and jobs by 110,000 by 1998. The result is that only $5 billion will be raised in net additional tax revenue over five years instead of the $24 billion estimated.

Also during the budget debate, Harvard economist Martin Feldstein argued forcefully that the sharp jump in marginal tax rates in the Clinton budget would collect only one-fourth of the projected $100-plus billion five-year revenue gain. That's because high-income individuals would work fewer hours and load their portfolios with tax-exempt municipal bonds in order to reduce their taxable incomes and avoid the higher marginal tax rates.

Congress should have learned its lesson when it imposed a 10 percent excise tax on expensive boats in 1990, only to destroy thousands of boat manufacturing jobs and actually reduce net tax revenues for the government. As Jack Kemp, former congressman and Cabinet member, cogently put it, "Virtually every time the government has raised tax rates, the federal deficit has grown even larger."

As with its budget plan, the Clinton administration has disregarded the dampening effect of its health care proposal on the economy and tax revenues. Consequently, the financing mechanisms, to borrow the words of Sen. Daniel P. Moynihan, D-NY., "are a fantasy."

First of all, the proposed tax increase of 75 cents a pack on cigarettes would raise less than half of the $15 billion revenue pickup estimated by the administration, according to professor Robert D. Tollison of George Mason University. Tobacco makes up about 2 percent of the Consumer Price Index and a large tax increase on cigarettes would increase the index by as much as 1 percentage point. This in turn would increase government spending on inflation-adjusted programs such as Social Security and foods stamps, and cut tax revenue collected from the standard deduction for federal income taxes.

The employer mandates also would end up depressing the economy and tax revenue. Under the plan, employers would pay for an employee's health insurance equal to 3.5 percent of payroll for businesses with less than 50 employees and 7.9 percent for all others. Businesses would be forced to pass along the added costs to consumers and workers through higher prices, lower wages, and fewer jobs.

Hillary Rodham Clinton recently said that she can't "save every undercapitalized small business in America." But the employer mandates in her health plan would make it more difficult for viable, capitalized small businesses to keep their doors open.

The plan also contains another anti-job provision: In order to qualify for the federal government subsidies that would keep mandated costs to no more than 3.5 percent of payroll, small businesses would limit their size to no more than 50 workers. Employers at or near the threshold would be induced to shed full-time jobs.

The International Mass Retail Association sponsored a recent nationwide survey which found that any employer mandate would put 1.9 million jobs at risk of being eliminated. Other reputable studies predict job losses as high as 3.1 million. Even Laura Tyson, the chairwoman of the president's Council of Economic Advisors, now admits that the burdensome employer mandates in the Clinton health plan could cost as many as 600,000 jobs in its early years.

Fewer people working in taxpaying jobs and more people on unemployment compensation programs mean less tax revenue, more government spending and bigger deficits. According to economist Feldstein, the Clinton health plan as it now stands would probably reduce tax revenues by at least $50 billion per year.

To fill these gaping financing holes, President Clinton is likely to resurrect the idea of a valued added tax. Such a tax has long been attractive to politicians because of its ability to generate sizable tax revenues. But as the European experience has shown, it could be a fatal attraction; a VAT tends to hide the true cost of government, and eventually lead to high and oppressive levels of taxation and spending over time. As former Treasury Secretary William Simon put it, a VAT "would rob us blind."

Instead of new and higher taxes, Congress should support the bipartisan efforts of legislators such as Sen. Bob Kerrey, D-Neb., Rep. Bob Andrews, D-N.J., and Rep. Bill Zeliff, R-N.H., to advance additional spending reductions to cut the deficit. This effort must include a serious effort to reform entitlement programs. Before proceeding with health care reform, Congress should demand realistic cost estimates that factor in the negative impact of the Clinton health plan's taxes and mandates on the economy.

As the old saying goes, "there's no free lunch." The American public must be made aware of the real economic costs of the Clinton agenda.●

REPEAL OF SANCTIONS AGAINST SOUTH AFRICA

● Mr. SIMON. Mr. President, I am pleased to report, along with Senator KASSEBAUM, that both the Senate and the House have now acted to pass H.R. 3225, the South African Democratic Transition Support Act.

Passage of this bill sends a crucial message of support for the democratic transition in South Africa. It is a direct response to Nelson Mandela's call for the international community to lift the remaining economic sanctions against South Africa, so that a newly elected majority government will be able to run the country in a climate of growing economic prosperity. This bill completes the process of sanctions repeal begun under President Bush.

South Africa needs this bill. It paves the way for lending from international financial institutions for critical social infrastructure projects, which will help narrow the gap in the standard of living between whites and blacks in South Africa.

This bill also helps South Africa begin the process of re-engaging in global trade, by encouraging the United States Government to expand its trade relations. And it gives U.S. businesses the green light to consider reinvesting in South Africa—investment that is essential to the survival of a truly democratic South Africa. United States companies will now be able to compete with the Europeans, Japanese and others who have already removed their sanctions.

This bill recognizes the fact that both black and white leaders have shown that the democratic transition in South Africa is irreversible. Negotiators have approved an interim constitution that supports a majority-led government and includes bill of rights protections for all South Africans. Preparations are underway for general elections in April 1994. Change is underway, and South Africa is entering a new era—an era that will reap benefits for the South African people and to the entire sub-Saharan region.

I urge President Clinton to move quickly to sign this bill into law. I also urge those State and local entities with remaining sanctions legislation to move quickly toward repeal. South Africa is changing for the better, but we must assist that change as best and as promptly as we can.●

RESTRICTING GIFTS, MEALS, AND TRAVEL PROVIDED TO MEMBERS OF CONGRESS

● Mr. LAUTENBERG. Mr. President, on May 5 of this year, I offered an amendment to the lobby disclosure bill which was adopted 98 to 1. Ninety-eight of our colleagues voted for an amendment which expressed our sense that the Senate should limit the acceptance of gifts, meals, and travel by Members and staff in a manner substantially similar to the restrictions applicable to executive branch officials. These 98 said we should do that as soon as possible but certainly not later than the end of this year's session.

Well, Mr. President, that was 6 months ago. And while hearings were

held in July, there has been no concrete action taken to move this matter forward in the Senate.

That does not surprise me, Mr. President. But it does make me very frustrated. And I suspect it frustrates the American people.

Let me make clear, Mr. President, that I am not here to place blame. All I want is what the public wants—action!

There is an impression that some are quietly resisting this reform, and don't want change. But there are others who support reform. In particular, I would like to take the opportunity to thank Senator LEVIN for holding this hearing in July, and for his cosponsorship of my gift ban bill. I appreciate it.

But, Mr. President, we do need to act! Americans are demanding a stop to business as usual here in Washington. And part of the business they want to see gone is the coziness of special interest influence on legislators. The free tickets to shows or sporting events. The lavish dinners at expensive restaurants. The free trips to expensive luxury resorts around the world.

It is clear, Mr. President, that the Senate rules on the acceptance of gifts, meals, and travel are, to put it mildly, far too lax. We do have a limit—but it is virtually meaningless. We say that Senators can only accept gifts worth up to $250 from any person. However, gifts worth less than $100 are exempted from that limit and do not even have to be disclosed. And some gifts—like meals—are not counted at all, no matter how much they cost. So, essentially, there is not a real limit.

It does not have to be that way. And it is not that way in the executive branch. Those officials, in general, may not accept gifts from anyone who does business with the official's agency, nor from anyone who has interests that may be substantially affected by the performance of the employee's official duties.

Those rules have not caused a collapse of government. The executive branch has not ceased functioning. Such rules help. They do not hurt. And they ought to be in place in the Senate.

First, there is a need to respond to public cynicism and restore the people's trust in the Congress. Second, there is a need to reduce the power of special interests, and to make government more responsive to the needs of ordinary Americans.

Let me address the perception problem first.

Mr. President, Americans today distrust government, and are angry! They think that Members are captives of the wealthy and powerful, and not really concerned about ordinary people. In their view, Congress is out of touch in part because Members enjoy an assortment of special perks and privileges that are unavailable to the general public, and that appear to influence policy.

That view is understandable.

Consider this analogy. Let us say you are a baseball fan. You pay hundreds of dollars to fly to the World Series to see your favorite team compete. And then you find out that the umpires just came back from a luxury trip to the Caribbean—paid for by the opposing team.

Now, those umpires might insist that their free trip will not influence their work. They may claim to be fine, ethical people who care about the good of the game. They may say that their judgments will not be colored by the gifts they received.

And not a fan in the country would believe them.

Well, Mr. President, that's how most Americans feel when they see special interest lobbysts winning and dining Members of Congress. They think the deck is stacked against them. They do not think it is fair. And they do not respect a system which operates that way.

Mr. President, fair or not, as long as the public believes that Congress is beholden to special interests, our credibility, and our ability to lead, is undercut.

Mr. President, democracy cannot function in an atmosphere of distrust. But that is the environment which surrounds us. It is an atmosphere polluted by perceptions of misused power and abused perks. It is losing the faith of the American people and interfering with our ability to govern.

That brings me to the next point.

The need to reform our rules on gifts, meals, and travel goes beyond a perception problem. This is not just a figment of the public's imagination. It's real. And it has to be addressed.

When I was a CEO in the private sector, I had a rule. Purchasing agents could not accept gifts from suppliers. It was not an unusual rule. Lots of companies have it. They have it because gifts create a potential for undue influence.

Gifts influence behavior in the private sector. And they can influence behavior in Congress as well.

Now I know many of my colleagues do not believe that. Members, they say, are not selling their votes for the price of a meal, or a trip to Barbados.

They are probably right. But that is just not the point.

The point is this: when lobbyists take a Senator to dinner, they are not buying a vote—but they are not just buying a meal. They are buying access. And access is power.

Ordinary citizens do not have that access. They cannot just take their Senator to a quiet dinner at an expensive restaurant and explain what it is like to be unemployed and out of unemployment compensation benefits. They cannot take their Congressman to a ballgame to discuss the problems they have making ends meet or educating their kids. And they certainly cannot spend a relaxing weekend at a tropical resort, playing golf with key legislators while discussing a complicated provision in a tax bill.

Mr. President, after you have been in Congress for a while, it is easy to forget how hard it is to get access to Members. But we have a whole industry here in Washington that exists largely to give its clients that kind of access. Many lobbyists get paid huge salaries not because of their policy expertise, but because they can get people in high places to return their phone calls, and listen to what they have to say.

Mr. President, corporations do not spend thousands of dollars so that Members of Congress can play golf in the Caribbean because they think the world will be a safer place if Members can practice sinking putts from 30 feet. They think the world will be a safer place if Members of Congress agree with them on issues. And they want to talk to Members about those issues. They do that at dinner, on golf courses, at sporting events. They are paying for access. They are paying for clout.

The current system of influence peddling creates a bias in the political system as a whole. A bias against the interest of ordinary Americans, and in favor of narrow special interests who are represented by lobbyists here in Washington. And that is what needs to change.

Mr. President, the restrictions I have proposed are hardly radical—executive branch employees already live under similar rules. Under my proposal, there is no limit on the number of meals or trips that Members can take with lobbyists—they just have to pay their own way.

Obviously, Mr. President, we need to do more than limit gifts, meals, and travel. We need to overhaul our campaign finance laws, toughen regulation of lobbyists, close the revolving door, and fundamentally change the policymaking environment here on Capitol Hill. But we need to start.

Mr. President, we cannot put this issue off forever. The Senate has committed itself to acting promptly. We said we would act this year. But we have not. That is one reason people don't trust us, do not believe us, often do not respect us. And that is one reason I am not going to let this issue go away. We have to act, and soon.•

TRIBUTE TO ZORADER CURRENCE

• Mr. METZENBAUM. Mr. President, I rise today to pay tribute to a remarkable woman. Ms. Zorader Currence of Canton, OH.

Ms. Currence was recently honored by Maxwell House as a real hero; a select group of individuals—only 50 from across the country—who selflessly donate their time making others' lives better.

Mr. President, this woman is a tribute to the human spirit, and a reminder that so many of us fall short in our individual efforts to aid those less fortunate than we. Many of us contribute to a cause, or volunteer an hour here or an hour there, or do what we can on the issues that concern us most.

Zorader Currence has made helping others the work of her life. In her ycuth, Zorader struggled as a single parent to raise 10 children and made certain that every one of those children graduated from high school.

When those children had been educated and instilled with the values taught by their mother's example, Zorader turned her attention to the larger community in which she lived.

Today, at the age of 83, Zorader Currence remains a vibrant member of her community. She participates in the Meals on Wheels Program, delivering hot meals to house-ridden individuals. She spends hours cheering up the lonely in nursing homes, and she is a mother mentor, a model parent for a 15-year-old mother.

She also drives to the Stark County jail to visit female inmates.

For one inmate's family, she provides Sunday dinners and looks after the children.

I am proud to know Zorader Currence, and I trust that her example will inspire many to reach out to those in need.

I ask that an article recently published by the Akron Beacon Journal be submitted into the RECORD.

I urge everyone to read it, and I hope many will be inspired by her example.

The article follows:

[From the Akron Beacon Journal]

WOMAN, 83, KEEPS ON GIVING

(By Lisa Biank-Fasig)

CANTON—About 25 years ago, Zorader Currence picked up a stranded woman in California and took her home—to Ohio.

She worked and worked, and when she made enough money she gave it to the woman so she could return to her home, in New York.

That's just the way Currence is.

In fact, she said, she's always been that way.

"I've always wanted to be a missionary, from a child," she said. "But my mother died when I was 11 and I never saw my dad," who died when she was an infant. One of 14 children, she married as soon as she was old enough. "Got married like somebody crazy," she said. "And had 10 children."

But she and her husband separated, and for more than 15 years she had to raise her children alone.

"But the Lord let me live long enough to do some of the things that I really wanted to do." And she started doing them as soon as she could, when she was about 78.

Today, Zorader Currence, 83, is on a mission. From a mauve armchair in her living room, embraced by dozens of framed family photographs, she counts off various activities, and thinks of more as she describes each.

She is involved with Meals on Wheels, visits female inmates at the Stark County Jail once a week, stops at two area nursing homes to talk with the folks, is a "Mother Mentor"—a role model for a 15-year-old mother—and on Sundays takes children to and from Bible school.

She wants to visit Africa and see the people. She is especially interested in the elderly and children.

Also, she cares for the young family of one of the inmates she met at the prison. She takes them meals on Sundays, takes the children to Sunday school and drives the husband to visit his wife.

She also persuaded him to join the church and be baptized, she said.

"She's a very nice girl," she said of the inmate. "I told her, 'We've all made mistakes.'"

The inmate's mistake, Currence said, was "smoking that stuff."

Of all her activities, Currence likes visiting the nursing homes best, something she does not do through the church or an organization, but on her own.

"There's a lot of lonely people in there. They need somebody to talk to."

She has made friends on her Meals on Wheels route as well.

"It's fun. A lot of them are just waiting for that meal."

Suzanne DeHoff of Meals on Wheels, Stark and Wayne counties, called Currence a "people-helping individual that stops at little."

"It's like the mail, almost," she said, meaning Currence delivers in any weather. "She has a bond with these people, a commitment."

The Rev. Edward E. Kirtdoll, of Canton's Jerusalem Baptist Church, has known Currence as a member for eight years.

"She's an excellent, outstanding woman," he said. "She's a tremendous stabilizer. She's had that kind of an influence in my life as a pastor."

"She's an encourager" who has led young women prisoners to go to church. "She's also a giver. Most people are receivers. (But) she's constantly looking for people she can give things to."

Currence's heart is full. She said this is the best time of her life.

"I've always wanted to do what I'm doing. It's just given me joy that I'm able to make somebody else smile."

Not that her family accomplishments aren't rewarding. She's proud to say that she never went on welfare while raising her children, who all graduated from high school.●

SEVEN ETHNIC ALBANIANS ARRESTED FOR TEACHING SCHOOL

● Mr. RIEGLE. Mr. President, recent events in the former Yugoslavia have shocked Americans throughout this country, and rightly so. Ongoing human rights abuses in Kosovo contradict the dangerous and misguided notion that the carnage will begin and end in Bosnia. Left unchecked, the consequences of this spreading conflict for the United States, Europe, and the entire Balkan region will be catastrophic. Thus, we must closely monitor the situation in order to try to prevent the further spread of war.

Our first test may lie in the Kosovo region where ethnic Albanians compose over 90 percent of the population but Serbia claims long-time historical ties. Already, the violence has begun. A potent example of the rising tension in the Kosovar region of the former Yugoslavia occurred last month. On October 18 and 19, Serbian police forces arrested seven ethnic Albanians who were providing private Albanian language lessons to their school-aged children. These men are well respected doctors, professors, priests, and contributing members of their community: Father Ambroz Ukaj; Prof. Pal Sokoli; Prof. Gjergj Sokoli; Prof. Gjon Komoni; Prof. Luz Berisha; Dr. Tome Komoni; Mr. Hazry Proshi.

All were arrested and taken to the Gjakova police station where they were subjected to 3 days of severe mental and physical abuse. They have since been taken to the prison in Pec where they are still being detained. Although they have not been formally charged with any crime, they are allegedly accused of violating article 116 of the Penal Code of the Federal Republic of Yugoslavia—threatening the territorial integrity of the country.

The Serbian notion that giving lessons is somehow subversive and indicative of secessionist activity demonstrates flawed logic. Indeed, according to Helsinki Watch the vast majority of ethnic Albanians do not attend public schools because they provide only segregated, second-rate education. Private school education has been forced underground. Lashing out against private schoolteachers only serves to foster feelings of fear and oppression which may well create a more viable secessionist movement if Serbia does not allow its ethnic Albanian community to live with dignity.

The October arrests are but one example of the worsening situation in Kosovo. Human rights monitors from the Conference on Security and Cooperation in Europe [CSCE], were forced to leave Kosovo in July of this year and Amnesty International observers were recently barred from entering. Denying access to international human rights observers has cleared the way for heightened repression, and has provoked fears that Kosovo Albanians will be the next target of Serbia's ethnic cleansing.

If we are to have any impact in stemming the increasing violence in the Balkans we must make a firm stand against the human rights abuses currently occurring in Kosovo. The full range of rights which Serbs enjoy must also be extended to the ethnic Albanian community, and our Government must do all it can to ensure that that occurs.●

THE FOOD STAMP PROGRAM ON INDIAN RESERVATIONS

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent to proceed to S. 1777, introduced by Senator PRESSLER, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 1777) to extend the suspended implementation of certain requirements of the food stamp program on Indian reservations, to suspend certain eligibility requirements for the participation of retail food stores in the food stamp program, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PRESSLER. Mr. President, I rise today to offer legislation that would further delay implementation of two provisions in the law that address State administration of the Food Stamp Program. Specifically, the provisions that would be delayed were enacted as part of the 1990 farm bill. The first would require States to stagger food stamp issuance for families living on reservations. This provision has never been implemented. Originally, this provision would have gone into effect January 31, 1994. The legislation I am offering today would delay implementation until March 15, 1994, and enable current practices to be maintained.

The second provision would exempt reservation households from the Food Stamp Program's State option of monthly income reporting. Again, this provision was to have been implemented after January 31, 1994. This legislation also would delay implementation until March 15, 1994.

Finally, this bill would continue the eligibility of certain retail stores until March 15, 1994. It is my understanding that without this legislation, approximately 26,000 stores would be disqualified from participating in the Food Stamp Program. This extension is important for those retailers in South Dakota that would be affected otherwise.

Frankly, Mr. Chairman, I am disappointed that I have to offer yet another extension. This is the second time this year that I have had to settle for an extension rather than resolve this issue for those affected by the Food Stamp Program. We were so close to an agreement this evening, but it was not to be.

Two provisions that were placed in the 1990 Farm bill at the 11th hour, with no hearings or Committee deliberations have been researched by the General Accounting Office, and a Joint Hearing by the Committee on Indian Affairs and Agriculture has been held. This has led to some positive changes being made in the Food Stamp Program. I am optimistic that further discussions will lead to continued improvement in Federal food programs for all recipients, including those living on Indian reservations.

I will continue to work with my colleagues, including my friend from Vermont, the chairman of the Agricultural Committee, Senator LEAHY, on legislation to resolve the issue for all parties concerned.

Mr. President, I understand this has been cleared on both sides of the aisle, and therefore, urge its immediate adoption. It is my hope the House will act expeditiously on this legislation and send it to the President for signature.

The PRESIDING OFFICER. Without objection, the bill is deemed having been read the third time, and passed.

So the bill (S. 1777) was deemed read the third time, and passed, as follows:

S. 1777

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

SECTION 1. REPORTING AND STAGGERED ISSUANCE FOR HOUSEHOLDS ON RESERVATIONS.

Section 908(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 7 U.S.C. 2015 note and 7 U.S.C. 2016 note) is amended by striking "January 31, 1994" both places it appears and inserting "March 15, 1994".

SEC. 2. CONTINUING ELIGIBILITY OF CERTAIN RETAIL FOOD STORES.

Notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on March 15, 1994, an establishment or house-to-house trade route that is otherwise authorized to accept and redeem coupons under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) on the date of enactment of this Act may not be disqualified from participation in the food stamp program solely because the establishment or trade route does not meet the definition of "retail food store" under section 3(k)(1) of such Act (7 U.S.C. 2012(k)(1)).

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I understand that S. 1770 was introduced earlier today; is that correct?

The PRESIDING OFFICER. The Senator is correct.

MEASURE READ FOR THE FIRST TIME—S. 1770

Mr. BIDEN. Mr. President, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1770) to provide comprehensive reform of the health care system of the United States, and for other purposes.

Mr. BIDEN. Mr. President, I ask for its second reading.

The PRESIDING OFFICER. Is there objection?

Mr. KEMPTHORNE. I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

Mr. BIDEN. Mr. President, I understand that S. 1775 was introduced earlier today; is that correct?

The PRESIDING OFFICER. Yes.

MEASURE READ FOR THE FIRST TIME—S. 1775

Mr. BIDEN. I ask that the bill be read for the first time.

The legislative clerk read as follows:

A bill (S. 1775) to ensure individual and family security through health care coverage for all Americans.

Mr. BIDEN. Mr. President, I ask for its second reading.

The PRESIDING OFFICER. Is there objection.

Mr. KEMPTHORNE. I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

AMENDING THE CLAYTON ACT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 664, a bill to change the date the FTC must publish the monetary reporting thresholds being held at the desk; that the bill be read the third time, and passed; that the motion to reconsider be laid upon the table; that any statements appear at the appropriate place in the RECORD.

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

So the bill (S. 664) was deemed read the third time, and passed, as follows:

S. 664

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

SECTION 1. TECHNICAL AMENDMENT OF THE CLAYTON ACT.

Section 8(a)(5) of the Clayton Act (15 U.S.C. 19(a)(5)) is amended by striking "October 30" and inserting "January 31".

MEASURE INDEFINITELY POSTPONED—S. 1627

Mr. BIDEN. Mr. President, I ask unanimous consent that calendar No. 309, S. 1627, be indefinitely postponed.

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

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

Mr. BIDEN. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3321, a bill to provide flexibility to States in carrying out low-income home energy assistance program, just received from the House; that the bill be deemed read the third time, passed, and the motion to reconsider laid on the table and that any statements relating there to be placed in the RECORD at the appropriate place.

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

So the bill (H.R. 3321) was deemed read the third time, and passed.

Mr. SARBANES. Mr. President, I rise in support of H.R. 3321, increased State flexibility in the Low-Income Home Energy Assistance Program. This bill would improve the workings of a program that provides help with utility bills to many low-income families living in federally assisted housing.

A measure was included in the Housing and Community Development Act of 1992 which was intended to improve access to State-run energy assistance programs for residents of public and federally assisted housing. The legislation generally prohibits State programs from discriminating against tenants in assisted housing who receive energy assistance in the form of utility allowances rather than Low-Income Home Energy Assistance Program [LIHEAP] grants. It also prohibits these programs from denying assistance to otherwise eligible tenants in public and assisted housing.

In implementing the provision with respect to a Federal program, Low-Income Home Energy Assistance [LIHEAP], some States have run into problems. They have interpreted it to require them to provide large grants to assisted housing tenants, even if they already receive adequate utility allowances through other sources. This interpretation results in some tenants receiving over-generous subsidies, while others are denied assistance altogether due to inadequacy of funds.

In other cases, tenants have been disadvantaged by the LIHEAP rules. Many States supplement LIHEAP benefits through other programs. Some means-tested programs use receipts of LIHEAP benefits to determine eligibility. Tenants who receive their energy assistance through utility allowances, rather than LIHEAP, are sometimes unable to access these programs or receive reduced benefits even though their needs and circumstances are the same.

The bill fixes these problems by clarifying that States have the authority to tailor LIHEAP grant amounts to the needs of the recipient families. At the same time, it retains the general prohibition against discrimination against qualified tenants of assisted housing for the purposes of other means-tested programs. This is to ensure that any special program rules or supplemental benefits available to LIHEAP recipients will be available to assisted housing residents, even if their energy assistance is provided through utility allowances rather than LIHEAP grants.

Mr. BOND. Mr. President, I urge my colleagues to support H.R. 3321, a bill to provide increased flexibility to states in carrying out the Low-Income Home Energy Assistance Program [LIHEAP]. This bill contains a provision which is identical to a provision I helped to include in S. 1299, the Housing and Community Development Act of 1993, which passed the Senate on November 18, 1993. It is important legislation that makes needed reforms to LIHEAP to ensure that low-income families receive the appropriate and necessary amount of assistance for the payment of utility costs.

This bill corrects an unintended consequence of a provision contained in the Housing and Community Development Act of 1992. The 1992 provision generally prohibits state programs from discriminating against tenants in assisted housing who receive utility assistance rather than LIHEAP assistance. In implementing this requirement, some States have determined that they must provide grants to assisted housing tenants, even where these tenants already receive adequate utility assistance. This has resulted in some tenants receiving "double-dipping" of assistance, while other eligible low-income tenants receive no LIHEAP assistance because of a lack of funding. This bill addresses this problem by clarifying that States may provide LIHEAP assistance according to the needs of the eligible low-income families.

COMMUNITY DEVELOPMENT OBJECTIVES FOR THE CITY OF SLIDELL, LA

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1769, a bill introduced earlier today by Senators JOHNSTON and BREAUX relating to a statement of community development objectives for the city of Slidell, LA.

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

The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 1769) to make a technical amendment, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BIDEN. Mr. President, I ask unanimous consent that it be in order to send three amendments to the desk and they be considered en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1236

AMENDMENT NO. 1237

AMENDMENT NO. 1238

Mr. BIDEN. Mr. President, I send three amendments to the desk and ask for their immediate consideration, en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. WOFFORD and Mr. SPECTER, Mr. RIEGLE, and Mr. D'AMATO, proposes respectively amendments numbered 1236, 1237, and 1238, en bloc.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1236

At the appropriate place insert the following:

INCREASE OF CDBG PUBLIC SERVICES CAP

(A) IN GENERAL.—Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by striking "and" after the penultimate comma; and

(2) by inserting before the semicolon at the end the following: ", and except that of any amount of assistance under this title (including program income) in fiscal year 1994 to the City of Pittsburgh, Pennsylvania, such city may use not more than 20 percent in each such fiscal year for activities under this paragraph".

AMENDMENT NO. 1237

At the appropriate place insert the following:

SECTION 23 CONVERSION PROJECTS.

(a) SECTION 23 CONVERSION.—

(1) AUTHORIZATION.—Notwithstanding contracts entered into pursuant to section 14(b)(2) of the United States Housing Act of 1937, the Secretary is authorized to enter into obligations for conversion of Leonard Terrace Apartments in Grand Rapids, Michigan, from a leased housing contract under section 23 of such Act to a project-based rental assistance contract under section 8 of such Act.

(2) REPAYMENT REQUIRED.—The authorization made in paragraph (1) is conditioned on the repayment to the Secretary of all amounts received by the public housing agency under the comprehensive improvement assistance program under section 14 of the United States Housing Act of 1937 for the Leonard Terrace Apartment project and the amounts, as determined by the Secretary, received by the public housing agency under the formula in section 14(k) of such Act by Reason of the project.

AMENDMENT NO. 1238

At the appropriate place insert the following:

SEC. 308. FIRE SAFETY IN FEDERALLY ASSISTED HOUSING.

Section 31(c)(2)(A)(i) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(2)(A)(i)) is amended by adding "(for equivalent level of safety)" after "system".

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc.

The amendments (Nos. 1236, 1237, and 1238) were agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the bill is deemed read a third time and passed.

So the bill (S. 1769) was deemed read for the third time and passed, as follows:

(The bill, S. 1769, will appear in a subsequent issue of the RECORD.)

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay that motion on the table. The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 1687

Mr. BIDEN. Mr. President, I ask unanimous consent that a star print be made of S. 1687, the Environmental Flexible Funding Act of 1993, to reflect the changes I now send to the desk.

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

PREVENTIVE HEALTH AMENDMENTS OF 1993

Mr. BIDEN. Mr. President, I submit a report of the committee of conference on H.R. 2202, the preventive health amendments of 1993 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes for the two Houses on the amendment of the Senate to the bill (H.R. 2202) to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer, having met, after full and free conference, have agreed to recommend and do recommend to their respective House this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 20, 1993.)

Mr. KENNEDY. Mr. President, I urge the Senate to approve the conference report on H.R. 2202, the Preventive Health Amendments of 1993. Its purpose is to reauthorize vital public health programs and launch needed new preventive health initiatives.

This legislation reaffirms our strong support for the early detection and disease prevention activities of the Centers for Disease Control and Prevention. It is designed to achieve a healthier America as we move toward the 21st century.

The rise of tuberculosis in recent years is placing a heavy and unexpected additional burden on the health care system. Thirty thousand new active cases are reported each year in the United States, with over 1,700 deaths, up from 22,000 in 1985. The most ominous development is the alarming increase in drug-resistant highly infectious strains of the disease that have caught the country unprepared.

This legislation supports preventive health services for the prevention, control, and elimination of tuberculosis. It will support development of an improved diagnostic test for TB. It will upgrade the capability of TB laboratories, ensure that TB services are provided to needy populations, and maintain effective TB public health, treatment compliance, follow-up and evaluation activities. It will establish a TB drug and device research program at the FDA.

For fiscal year 1994, the bill authorizes $200 million for the TB Control and Treatment Program and $50 million for basic research activities at NIH. These authorizations represent an investment in our efforts to prevent and eliminate tuberculosis in the United States. The legislation will help State and major city health departments to identify persons with TB and those at highest risk of acquiring the disease. Programs will be better targeted for treatment and prevention, and their effectiveness will be evaluated.

This legislation authorizes $50 million for the Injury Prevention and Control Program of the Centers for Disease Control and Prevention. This measure will support research and other programs on injuries resulting from motor vehicle accidents, falls, poisonings, burns, drownings, and causes of violence, including homicide and suicide. These funds will establish a family and interpersonal violence prevention program and identify effective strategies to prevent violence within the family and among acquaintances.

This bill will also support a national campaign to prevent violence against women. It will build upon existing efforts by the CDC to create a comprehensive violence prevention program. This campaign will be a vital step toward reducing violence targeted at women by demonstrating and evaluating promising intervention strategies, by conducting a nationwide education, training, and public awareness effort, and by expanding our knowledge base through data collection and research.

This bill authorizes $150 million for the early detection of breast and cervical cancer. The funds will enable States to provide life-saving breast and cervical cancer screening services for women at risk, particularly low-income, the elderly, and minority women. In addition, this measure will establish mechanisms through which the States can monitor the quality and interpretation of screening procedures. The bill establishes a women's preventive health service demonstration project.

This legislation also authorizes $85 million for the CDC's Sexually Transmitted Diseases Program. This measure will strengthen the quality of STD services, prevent the complications from the disease and help reduce the rising rates of STD.

Other important provisions in the bill include the reauthorization of the special population program at the National Center of Health Statistics, extension of the trauma care systems program at the Health Services and Resource Administration, and issuance of a biennial Surgeon General report on nutrition and health.

Each of these measures is justified by sound public health considerations. Early detection and prevention of injury and illness can play a vital role in improving public health, especially the health of women. In cases of violence against women, injury, TB, and sexually transmitted diseases, prevention is a key component of any successful health care strategy. The early detection and treatment of breast and cervical cancer saves lives.

The CDC has been and continues to be the Nation's wisest disease prevention investment. With the passage of this measure, we will recognize the vital importance of prevention to the Nation's health. I urge the Senate to approve this essential bipartisan legislation.

Mr. HATCH. Mr. President, at a time when the Congress and the Nation are focusing attention on health care reform, it is important that we move ahead with real programs that actually help people. For that reason, I believe it is significant that we are acting on this important reauthorization at this time.

This bill is important because H.R. 2202 addresses several health challenges facing both Utah and the United States, including the ongoing tragedy of breast and cervical cancer and the growing crisis of tuberculosis.

It is significant because it shows the Congress' commitment to practical, tangible programs that can significantly benefit those suffering from these diseases.

Each year in Utah, 18 out of every 100,000 women dies due to breast cancer. By adopting language I introduced to the Senate in S. 1317, the Breast and Cervical Cancer Information Act of 1993, this legislation provides a needed focus on measures designed to recognize and treat cancers unique to women. Coupled with the heightened research emphasis by NIH on women's health concerns that I and my colleagues have called for, we are finally beginning to target these diseases in an appropriate manner.

I am also pleased that the language I authored to increase tuberculosis services has been incorporated into this legislation. Utah, like the rest of our Nation, is facing a potential epidemic of new tuberculosis cases. Only by aggressively targeting this diseases now can we hope to avert a potential future crisis. This legislation is an important step toward treating and containing tuberculosis.

While I regret that my provision to provide a small authorization for renovation of tuberculosis treatment facilities was dropped from the final report, I nevertheless recognize it is not a reflection on the merits of the proposal, but rather is an inevitable result of our constrained resources.

Mr. President, in conclusion, all of us have already heard a great deal of rhetoric regarding health care reform This legislation takes us past the speeches and gives us an opportunity to implement basic, proven, preventive programs that are the foundation of reform. I urge my colleagues to support this important reauthorization.

Mr. BIDEN. Mr. President, I ask unanimous consent that the conference report be agreed to; the motion to reconsider be laid upon the table; and any statements thereon appear in the RECORD at the appropriate place as though read.

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

So the conference report was agreed to.

CLARIFICATION OF REGULATORY OVERSIGHT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3514, a bill to clarify the regulatory oversight exercises by the REA with respect to certain electric borrowers, just received from the House, that the bill be read three times, passed and the motion to reconsider laid upon the table; that any statements relating thereto be placed in the RECORD at an appropriate place.

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

So the bill (H.R. 3514) was deemed read three times and passed.

NATIONAL FIREFIGHTERS DAY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 272, a joint resolution designating October 29 as National Firefighters Day, just received from the House; that the resolution be read three times, passed, that the preamble be agreed to; that the motion to reconsider be laid upon the table and that any statements appear at the appropriate place in the RECORD.

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

So the joint resolution (H.J. Res. 272) was deemed read three times and passed.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MANAGEMENT REORGANIZATION ACT OF 1993

Mr. BIDEN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 2876, the National Aeronautics and Space Administration Management Reorganization Act of 1993, and that the Senate then proceed to its immediate consideration.

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

The legislative clerk read as follows:

A bill (H.R. 2876) to promote and support management reorganization of the National Aeronautics and Space Administration.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1239

(Purpose: To make a perfecting amendment)

Mr. BIDEN. Mr. President, on behalf of Senator GLENN, I send an amendment to the desk and ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table.

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

So the amendment (No. 1239) was agreed to, as follows:

In section 2(b) of the bill, insert ", subject to the availability of appropriations provided in advance for this purpose," before "may be offered".

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 2876), as amended, was passed.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE COURT ANNEXED ARBITRATION BILL

Mr. BIDEN. Mr. President, I ask unanimous consent that Secretary of the Senate be directed to request the House of Representatives to return to the Senate the bill S. 1732, the court annexed arbitration bill, and that upon the return of the papers the following amendment to the bill be agreed to and the motion to reconsider be laid upon the table without any intervening action or debate.

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

So the following amendment was agreed to.

Add the following after section 1:

SEC. 2. TREATMENT OF EXPIRED PROVISIONS.

Chapter 44 of title 28, United States Code, and the item relating to that chapter in the table of chapters at the beginning of part III of such title, shall be effective on or after the date of the enactment of this Act as if such chapter and item had not been repealed by section 906 of the Judicial Improvements and Access to Justice Act, as such section was in effect on the day before the date of the enactment of this Act.

MINERAL EXPLORATION ACT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 322, the Mineral Exploration Act, just received from the House, that all after the enacting clause be stricken and the text of S. 775, as passed the Senate be inserted in lieu thereof, that the bill be read a third time, passed; that the motion to reconsider be laid upon the table and that any statements appear at the appropriate place in the RECORD

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

So the bill (H.R. 322) was deemed read a third time and passed.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees.

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

The Chair appointed Mr. JOHNSTON, Mr. BUMPERS, Mr. AKAKA, Mr. BRADLEY, Mr. WALLOP, Mr. MURKOWSKI, and Mr. CRAIG conferees on the part of the Senate.

BONE MARROW DONOR PROGRAM

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate turn to the consideration of S. 1774, introduced earlier today by Senators KENNEDY and KASSEBAUM relative to the Bone Marrow Donor Program; that the bill be read a third time and passed; the motion to reconsider laid on the table; and any statements thereon appear at the appropriate place in the RECORD as though read.

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

So the bill (S. 1774) was deemed read a third time and passed, as follows:

S. 1774

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 "Bone Marrow Donor Program Reauthorization Act of 1993".

SEC. 2. REAUTHORIZATION.

(a) ESTABLISHMENT OF REGISTRY.—Section 379(a) of the Public Health Service Act (42 U.S.C. 274k(a)) is amended by adding at the end thereof the following: "With respect to the board of directors—

"(1) each member of the board shall serve for a term of 5 years, except that the terms

of each member who is serving on the date of enactment of the Bone Marrow Donor Program Reauthorization Act of 1993 shall expire at times determined by the Secretary, in consultation with the board;

"(2) a member of the board may continue to serve after the expiration of the term of such member until a successor is appointed; and

"(3) to ensure the continuity of the board, not more than one-fifth of the board shall be composed of newly appointed members each year.".

(b) PROGRAM FOR RECRUITMENT OF DONORS.—Section 379(b) of such Act (42 U.S.C. 274k(b)) is amended—

(1) in paragraph (5) to read as follows:

"(5) establish a program for the recruitment of bone marrow donors that includes the compilation and distribution of informational materials and processes to educate and update potential donors;";

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5), the following new paragraph:

"(6) regularly update the Registry to account for changes in potential donor status;".

(c) INFORMATION AND EDUCATION PROGRAM.—Section 379 of such Act (42 U.S.C. 274k) is amended—

(1) by redesignating subsection (j) as subsection (k);

(2) by inserting after subsection (i), the following new subsection:

"(j) INFORMATION AND EDUCATION PROGRAM.—

"(1) IN GENERAL.—The Secretary may award grants to, and enter into contracts with, public or nonprofit private entities for the purpose of increasing bone marrow donation by enabling such entities to—

"(A) plan and conduct programs to provide information and education to the public on the need for donations of bone marrow;

"(B) train individuals in requesting such donations; and

"(C) test and enroll marrow donors.

"(2) PRIORITIES.—In awarding grants and contracts under paragraph (1), the Secretary shall give priority to carrying out the purposes described in such paragraph with respect to minority populations."; and

(3) in subsection (k) (as so redesignated), by striking "1991" and all that follows and inserting "1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

(d) PATIENT ADVOCACY AND CASE MANAGEMENT.—

(1) IN GENERAL.—Section 379 of such Act (42 U.S.C. 274k), as amended by subsection (c), is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j), the following new subsection:

"(k) PATIENT ADVOCACY AND CASE MANAGEMENT.—

"(1) ESTABLISHMENT.—The Secretary shall by grant or contract establish and maintain an office of patient advocacy and case management that meets the requirements of this subsection.

"(2) PROVISIONS RELATING TO GRANTS AND CONTRACTS.—

"(A) APPLICATION.—To be eligible for a grant or contract under this subsection an entity shall prepare and submit to the Secretary for approval an application that shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

"(B) LIMITATIONS.—A grant or contract under this subsection shall be for a period of 3 years. No grant or contract may exceed $500,000 for any such year.

"(3) FUNCTIONS.—The office established under paragraph (1) shall—

"(A) be headed by a director who shall serve as an advocate on behalf of—

"(i) individuals who are registered with the Registry to search for a biologically unrelated bone marrow donor; and

"(ii) the physicians involved;

"(B) establish and maintain a system for patient advocacy that directly assists patients, their families, and their physicians in a search for an unrelated donor;

"(C) provide individual case management services to directly assist individuals and physicians referred to in subparagraph (A), including—

"(i) individualized case assessment, tracking of preliminary search through activation, and follow up when the search process is interrupted or discontinued;

"(ii) informing individuals and physicians of progress made in searching for appropriate donors; and

"(iii) identifying and resolving individual search problems or concerns;

"(D) collect and analyze data concerning the number and percentage of individuals proceeding from preliminary to formal search and the number and percentage of patients unable to complete the search process; and

"(E) survey patients to evaluate how well such patients are being served and make recommendations for streamlining the search process.

"(4) EVALUATION.—

"(A) IN GENERAL.—The Secretary shall evaluate the system established under paragraph (1) and make recommendations to Congress concerning the success or failure of such system in improving patient satisfaction, and any impact the system has had on assisting individuals in proceeding to transplant.

"(B) REPORT.—Not later than April 1, 1996, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report concerning the evaluation conducted under subparagraph (A), including the recommendations developed under such subparagraph.".

(2) REGISTRY FUNCTIONS.—Section 379(b)(2) of such Act (42 U.S.C. 274k(b)(2)) is amended by striking "establish" and all that follows through "directly assists" and inserting "cooperate with the patient advocacy and case management office established under subsection (j) and make available information on (A) the resources available through the National Bone Marrow Donor Program, (B) the comparative costs incurred by patients prior to transplant, and (C) the marrow donor registries that meet the standards described in subsection (c)(3) and (d)(1), to assist".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 1995.

Mr. KENNEDY. Mr. President, S. 1595 reauthorizes the National Bone Marrow Donor Registry. For persons suffering from leukemia, aplastic anemia, and related diseases, a bone marrow transplant can mean the difference between life and death.

But finding a suitable bone marrow donor is far more difficult than matching blood types. In the past, it was virtually impossible to find a suitable match if none was available in the patient's family. But all that has changed in recent years. In 1988, Congress passed the Health Omnibus Program Extension Act, requiring the Secretary of the Department of Health and Human Services [HHS] to establish a national registry of volunteer bone marrow donors. Over 1 million potential donors are now listed on the registry, and the prospect of finding suitable matches has been dramatically increased.

This bill builds on that success. It will establish a program to recruit more bone marrow donors through the distribution of information and educational materials. The Secretary of HHS may award grants or contract with organizations to increase donations. Priority will be given to education and training for minorities and other populations which have the greatest difficulty in finding matches in the current registry. The number of minority donors on the registry has increased substantially in recent years, but a large disparity still exists.

To assist patients, families, and their physicians in seeking a donor, the Secretary will establish, by grant or contract, an office of patient advocacy and case management. This grant or contract may be awarded as of April 1, 1995. The services provided by the office will include reviewing individual cases, tracking preliminary searches, informing patients and physicians of progress locating appropriate donors, and identifying and resolving individual search problems and concerns.

The tragic deaths of William Gold, Allison Atlas, and Joanne Johnson have reminded us again how important these services are. Dr. Gold testified before the House of Representatives this year, and eloquently urged us to do more to put the patient's interests first. Allison's father and Joanne's mother brought their concerns to the Senate Labor and Human Resources Committee in 1990 about the need to strengthen the donor program. We mourn their loss, and we hope this bill will accomplish its life-saving goal of improving the current system.

I particularly commend the leadership of Senator KASSEBAUM on this legislation. She has worked with great skill and dedication in developing this measure, and I look forward to the passage of this bill by the Senate.

I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

SUMMARY OF THE BILL

S. 1774 extends for three years the National Bone Marrow Donor Registry, a registry of volunteer donors administered by the Department of Health and Human Services to

help patients find unrelated donors for bone marrow transplants. Under this bill, $15 million is authorized for the National Registry during fiscal year 1994, and such funding as may be necessary in fiscal years 1995 and 1996.

In addition to extending appropriations authority, the legislation makes the following changes to the Bone Marrow Donor Program:

Limits the terms of National Bone Marrow Donor Registry board members to five years. The Secretary shall consult with the board to determine the expiration cycle of current board member terms.

Requires the Secretary to establish and maintain by separate grant or contract an office of patient advocacy, as of April 1, 1995 to be headed by a director who will advocate on behalf of patients seeking an unrelated bone marrow donor, and their physicians.

Expands the responsibilities of the patient advocacy office to provide individual case management services, inform patients and physicians of the status of the search progress, and to identify and resolve search problems.

Requires the Secretary to assess this patient advocacy office and report by April 1, 1996, to the House Committee on Energy and Commerce and to the Senate Committee on Labor and Human Resources.

Require the Registry to establish a bone marrow donor recruitment program, including creating informational materials and procedures to educate and update potential donors.

Require the Registry to be updated regularly to account for changes in donor status.

Enable the Secretary to award grants or contracts to public or nonprofit organizations to increase bone marrow donation. These contracts may include programs to provide public information and education on the need for bone marrow donation, training people to requests donation, and testing and enrolling bone marrow donors. The Secretary shall give priority to programs for increasing donors among minority populations.

BACKGROUND AND NEED

For people suffering from leukemia, aplastic anemia, and related diseases, a bone marrow transplant can mean the difference between life or death. In contrast to matching blood types, finding a suitable donor for a bone marrow donor is much more difficult. The first place to look is in the patient's family, where matches are found 20 percent of the time. If no suitable donor is found, the only hope is to find a compatible donor from the public at large.

The National Organ Transplant Act of 1984 (P.L. 98-507) required the Secretary to study the feasibility of establishing a national registry of voluntary bone marrow donors and included the authority to establish such a registry. The Health Omnibus Program Extension Act of 1988 required the establishment in the Department of Health and Human Services of a national registry of voluntary bone marrow donors.

The Transplant Amendments of 1990 extended for three years the program of the National Bone Marrow Donor Registry. The Registry was required to maintain a system for patient advocacy to directly assist patients and their families and physicians. During hearings on the bone marrow donor program the Committee learned that the lack of patient advocacy services was a serious problem. The Committee considers patient advocacy to be an essential component of Registry activities, and is concerned to hear continuing complaints in this area.

The bill further strengthens the patient advocacy responsibilities of the National Registry and requires the Secretary to maintain by separate grant or contract this expanded office of patient advocacy, as of April 1, 1995. The Committee strongly supports the importance of patient advocacy to meet the needs of patients in search of a bone marrow transplant and believes that a separate competitive bid process will provide the best services for patients in search of a transplant. Increasing the number and diversity of donors on the national registry is the most direct way to improve patients' chances of a successful bone marrow transplant. However, for a patient and their family, the system can sometimes be complex to navigate alone as they wait for news cf a potential bone marrow donor.

It concerns the Committee that some patients may not fully utilize the resources of the entire bone marrow transplant system due to lack of understanding of the resources and assistance available. The bill will expand the patient advocacy office to provide patients and their physicians with individual case management services, to inform them of the status of their search progress, and to identify and resolve search problems. The Committee understands and supports the need for confidentiality of potential donors, but the Registry must also provide patients awaiting transplants, their families, and physicians, access of a responsive advocate to turn to when a problem or concern arises.

In addition, the Committee is concerned that some potential bone marrow donors may not fully understand the procedures and implications of agreeing to be a bone marrow donor. This bill will require the Registry to establish a bone marrow donor recruitment program, including creating informational materials and procedures to educate and update potential donors. It will also require the Registry to be updated regularly to account for changes in donor status.

Unlike other Public Health Service Advisory Boards, the Bone Marrow Donor Registry has routinely reappointed, rather than alternating, membership on its Board of Directors. As a means of bringing new members and different opinions to the board, this bill sets the term of board members on the Bone Marrow Donor Registry at five years and requires the Secretary to establish staggered terms to assure that one-fifth of the Board members are replaced each year through election. Current Board members may continue until a successor has been appointed.

LIME RESEARCH, PROMOTION, AND CONSUMER INFORMATION ACT OF 1990

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 56, a concurrent resolution to make corrections in the enrollment of S. 1766, the Lime Research, Promotion, and Consumer Information Act of 1990, submitted earlier today by Senator LEAHY; that the concurrent resolution be agreed to and the motion to reconsider laid upon the table.

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

So the concurrent resolution (S. Con. Res. 56) was agreed to, as follows:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the text of the bill (S. 1766) to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the Lime Board, and for other purposes, the Secretary of the Senate shall make the following corrections.

In section 4(b)(1)—

(1) strike "'The Secretary'" and insert "'Members'"; and

(2) strike "'shall—'" and insert "'appointed—'".

ARSON PREVENTION ACT OF 1993

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 331, S. 798, the arson prevention bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 798) to amend the Federal Fire Prevention and Control Act of 1974 to establish a program of grants to States for arson research, prevention, and control, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 1727, the House companion, and that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 798, be inserted in lieu thereof, that the bill be advanced to third reading, passed, and the motion to reconsider laid upon the table; that upon disposition of H.R. 1727, the Senate measure be returned to the Calendar.

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

So the bill (H.R. 1727), as amended, was deemed read a third time and passed.

Mr. GORTON. Mr. President, I am pleased to join with my colleague, Senator RICHARD BRYAN, in urging passage of the Arson Prevention Act of 1993. As chairman, and ranking Republican of the Consumer Subcommittee, Senator BRYAN and I have worked on a number of initiatives to address the Nation's fire problems. Once again, the ferocity of the recent fires in California demonstrate the terrible destruction that fire causes.

The United States has one of the worst fire records of any country in the industrialized world. More than 2.4 million fires are reported every year and millions more go unreported. Fires result in over 6,000 deaths annually, 30,000 injuries, and billions of dollars of property losses. The Nation's fire service is comprised of approximately 1.2 million professional and volunteer firefighters. These dedicated men and

women have one of the most important, yet one of the most hazardous, jobs in our country today.

The Arson Prevention Act will provide for the development of advanced courses on arson prevention. The bill allows for the expansion of arson investigator training programs at the National Fire Academy and the Federal Law Enforcement Training Center. It establishes a demonstration program of 10 competitive grant awards to States or consortiums of States to improve training of police and fire fighters to combat arson. At least 25 percent of the grant must be funded by a non-Federal source. The act authorizes $4 million in fiscal year [FY] 1994 and 1995 for grants, It also authorizes $2 million in fiscal year 1995 for an expansion of the arson investigator training programs at the Federal Law Enforcement Training Center.

Washington State has known the destruction of fire, both in our forests and in our urban areas. This year, the outbreak of arson fires in north King and south Snohomish county in my State has focused our attention on the need for expanded arson investigator training and support of arson fire tracking systems. Families and individuals deserve to feel safe and secure in their neighborhoods. Arson fires not only threaten lives, but devastate local communities. This legislation is a positive move to expand coordinated efforts between law enforcement agencies to prevent future arson fires.

I urge the Senate to adopt this important measure before adjourning for the year.

Mr. BRYAN. Mr. President, I am proud to present today, for consideration by the full Senate S. 798, the Arson Prevention Act of 1993.

Senator GORTON and I introduced this legislation on April 20 of this year. On November 9, the Commerce Committee voted unanimously to have the legislation reported. A similar bill, introduced by Congressman BOUCHER, already has been passed by the House.

This legislation establishes a grant program to assist States in their efforts to combat arson. According to reports by the U.S. Fire Administration, arson is responsible for 25 percent of the estimated 2.4 million fires in the United States each year, and the leading cause of fire deaths. During the Consumer Subcommittee's hearing on this issue on November 18, fire experts and Federal law enforcement authorities stated that one of the most effective ways to combat arson is through improved arson research and training programs. They indicated their full support for S. 798.

I am glad that the full Senate is considering this legislation, and urge all of my colleagues to vote in support of this bill.

COAST GUARD AUTHORIZATION ACT OF 1993, PASSENGER VESSEL SAFETY ACT OF 1993

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 325, S. 1052, the Coast Guard authorization.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1052) to authorize for appropriations for fiscal year 1994 for the Coast Guard, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1993".

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1994.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1994, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,609,747,000, of which—

(A) $25,000,000 shall be derived from the Oil Spill Liability Trust Fund; and

(B) $32,250,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $414,000,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $25,000,000, to remain available until expended, of which $4,457,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $548,774,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $12,940,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities, $23,057,000, to remain available until expended.

(b) FISCAL YEAR 1995.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1995, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,711,762,000, of which—

(A) $26,000,000 shall be derived from the Oil Spill Liability Trust Fund; and

(B) $33,500,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $596,000,000, to remain available until expended, of which $20,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $25,750,000, to remain available until expended, of which $4,600,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $579,500,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $13,289,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard Facilities, $23,749,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) AUTHORIZED MILITARY STRENGTH LEVEL.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 39,138 as of September 30, 1994 (of which not more than 6,400 shall be commissioned officers), and 39,138 as of September 30, 1995 (of which not more than 6,400 shall be commissioned officers). The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) AUTHORIZED LEVEL OF MILITARY TRAINING.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,986 student years for fiscal year 1994 and 1,986 student years for fiscal year 1995.

(2) For flight training, 114 student years for fiscal year 1994 and 114 student years for fiscal year 1995.

(3) For professional training in military and civilian institutions, 338 student years for fiscal year 1994 and 338 student years for fiscal year 1995.

(4) For officer acquisition, 955 student years for fiscal year 1994 and 955 student years for fiscal year 1995.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. ELIMINATION OF PERMANENT CEILING ON NUMBER OF COMMISSIONED OFFICERS.

(a) ELIMINATION OF CEILING.—Section 42 of title 14, United States Code, is amended by striking subsection (a), and by redesignating subsections (b) through (e) as subsections (a) through (d), respectively.

(b) CONFORMING AMENDMENTS.—(1) Section 42(d) of title 14, United States Code, as redesignated by subsection (a) of this section, is amended by striking "subsection (c)" and inserting in lieu thereof "subsection (b)".

*(2) The section heading for section 42 of title 14, United States Code, is amended by striking "**Number and distribution**" and inserting in lieu thereof "**Distribution**".*

*(3) In the analysis for chapter 3 of title 14, United States Code, the item relating to section 42 is amended by striking "**Number and distribution**" and inserting in lieu thereof "**Distribution**".*

SEC. 202. INCREASED GRADE FOR CHIEF OF STAFF.

(a) AUTHORITY FOR GRADE OF VICE ADMIRAL.—(1) Chapter 3 of title 14, United States Code, is amended by inserting immediately after section 50 the following new section:

"§50a. Chief of Staff

"(a) The President may appoint, by and with the advice and consent of the Senate, a Chief of Staff of the Coast Guard who shall rank next after the area commanders and who shall perform such duties as the Commandant may prescribe. The Chief of Staff shall be appointed from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for such appointment.

"(b) The Chief of Staff shall, while so serving, have the grade of vice admiral with the pay and allowances of that grade. The appointment and grade of the Chief of Staff shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.".

(2) The analysis for chapter 3 of title 14, United States Code, is amended by inserting immediately after the item relating to section 50 the following new item:

"50a. Chief of Staff.".

(b) ELIMINATION OF UNNECESSARY SENIORITY EXCEPTION.—Section 41a(b) of title 14, United States Code, is amended by striking ", except that the rear admiral serving as Chief of Staff shall be the senior rear admiral for all purposes other than pay".

(c) CLERICAL AMENDMENTS.—Section 41a of title 14, United States Code, is amended—

(1) in subsection (c), by striking "his" and inserting in lieu thereof "that person's"; and

(2) in subsection (d), by striking "he" and inserting in lieu thereof "that officer", and by striking "his" and inserting in lieu thereof "that officer's".

SEC. 203. CONTINUITY OF GRADE OF ADMIRALS AND VICE ADMIRALS.

(a) RETIREMENT.—(1) Section 51 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(d) An officer serving in the grade of admiral or vice admiral shall continue to hold that grade—

"(1) while being processed for physical disability retirement, beginning on the day of the processing and ending on the day that officer is retired, but not for more than 180 days; and

"(2) while awaiting retirement, beginning on the day that officer is relieved from the position of Commandant, Vice Commandant, Area Commander, or Chief of Staff and ending on the day before the officer's retirement, but not for more than 60 days.".

(2) Section 51 of title 14, United States Code, is further amended—

(a) in subsections (a) and (b), by striking "as Commander, Atlantic Area, or Commander, Pacific Area" each place it appears and inserting in lieu thereof "in the grade of vice admiral"; and

(b) in subsection (c), by striking "his" and inserting in lieu thereof "that officer's".

(b) ELIMINATION OF UNNECESSARY PROVISION FOR CHIEF OF STAFF.—Section 290 of title 14, United States Code, is amended—

(1) in subsection (a), by striking "or in the position of Chief of Staff" in the second sentence; and

(2) in subsection (f), by striking "Chief of Staff or" each place it appears.

(c) CONFORMING AMENDMENT RELATING TO RETIREMENT OF COMMANDANT.—Section 46(a) of title 14, United States Code, is amended by striking "shall, at the expiration of his term, be retired with the grade of admiral." and inserting in lieu thereof "shall be retired with the grade of admiral at the expiration of the appointed term, except as provided in section 51(d) of this title.".

(d) CONFORMING AMENDMENTS RELATING TO RETIREMENT OF VICE COMMANDANT.—(1) Section 47 of title 14, United States Code, is amended—

(A) by striking subsections (b), (c), and (d); and

(B) in subsection (a)—

(i) by striking "(a)" at the beginning; and

(ii) by striking the last sentence and inserting in lieu thereof "The appointment and grade of a Vice Commandant shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.".

(2) The section heading for section 47 of title 47, United States Code, is amended by striking "; **retirement**".

(3) The item relating to section 47 in the analysis for chapter 3 of title 14, United States Code, is amended by striking "; **retirement**".

(e) CONFORMING AMENDMENTS RELATING TO AREA COMMANDERS.—Section 50 of title 14, United States Code, is amended—

(1) in subsection (a) by striking "his" and inserting in lieu thereof "that area commander's"; and

(2) in subsection (b) by striking the last sentence and inserting in lieu thereof "The appointment and grade of an area commander shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.".

SEC. 204. VOLUNTEER SERVICES.

Section 93 of title 14, United States Code, is amended—

(1) by striking "and" at the end of subsection (r);

(2) by striking the period at the end of subsection (s) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subsection:

"(t) enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals, and accept and utilize voluntary services, notwithstanding section 1342 of title 31, United States Code, to provide for the maintenance and improvement of natural and historic resources on, or to benefit natural and historic research on, Coast Guard facilities, subject to the requirement that—

"(1) a person providing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code, with respect to compensation for work-related injuries, and chapter 171 of title 28, United States Code, with respect to tort claims; and

"(2) a cooperative agreement under this subsection shall provide for the Commandant and the other party or parties to the agreement to—

"(A) contribute funds on a matching basis to defray the cost of programs, projects, and activities under the agreement; or

"(B) furnish services on a matching basis to carry out such programs, projects, and activities; or

"(C) both contribute funds as described in subparagraph (A) and furnish services as described in subparagraph (B); and".

SEC. 205. RESERVE RETENTION BOARDS.

Section 741(a) of title 14, United States Code, is amended by striking "and are not on active duty and not on an approved list of selectees for promotion to the next higher grade" and inserting in lieu thereof "except those officers who are on extended active duty, are on a list of selectees for promotion, will complete 30 years' total commissioned service by 30 June next following the date on which the retention board is convened, or have reached age 59 by the date on which the retention board is convened".

TITLE III—NAVIGATION SAFETY AND WATERWAY SERVICE MANAGEMENT

SEC. 301. NORTH ATLANTIC ROUTES.

Sections 3 and 5 of the Act of June 25, 1936 (46 U.S.C. App. 738b and 738d), are repealed.

SEC. 302. TECHNICAL AMENDMENT FOR BOAT SAFETY ACCOUNT.

Section 9503(c)(4)(A)(ii) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)(A)(ii)) is amended—

(1) by striking "No" at the beginning of subclause (II) and inserting in lieu thereof "Subject to subclause (III), no"; and

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

"(III) CALCULATION OF AMOUNT IN ACCOUNT.—Amounts previously appropriated from the Aquatic Resources Trust Fund for carrying out the purposes of section 13106 of title 46, United States Code, but not distributed, shall not be included when calculating whether the Boat Safety Account exceeds the limit established in subclause (II).".

SEC. 303. UNMANNED SEAGOING BARGES.

Section 3302 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(m) A seagoing barge is not subject to inspection under section 3301 of this title if the vessel is—

"(1) unmanned; and

"(2) does not carry oil in bulk or a reportable or harmful quantity of a hazardous material.".

TITLE IV—ENGINEERING AND DEVELOPMENT AMENDMENTS

SEC. 401. COAST GUARD FAMILY HOUSING.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§670. Procurement authority for family housing

"(a) The Coast Guard, on behalf of the United States, is authorized, where appropriate—

"(1) subject to the availability of appropriations sufficient to cover its full obligations, to acquire real property or interests therein by purchase, lease for a term not to exceed 5 years, or otherwise, for use as Coast Guard family housing units, including the acquisition of condominium units, which may include the obligation to pay maintenance, repair, and other condominium related fees; and

"(2) for adequate compensation, by sale, lease, or otherwise, to dispose of any real property or interest therein used for Coast Guard family housing units; except that such disposition shall be made by the General Services Administration in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(b) In procuring real property and interests therein under subsection (a) of this section, the Coast Guard may use procedures other than competitive procedures in circumstances which are set forth in section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)).

"(c)(1) For the purposes of this section, a multiyear contract is a contract to lease Coast Guard family housing units for more than 1, but not more than 5, fiscal years.

"(2) The Coast Guard may enter into multiyear contracts under subsection (a) of this section whenever the Coast Guard finds that—

"(A) the use of such a contract will promote the efficiency of the Coast Guard family housing program and will result in reduced total costs under the contract; and

"(B) the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic.

"(3) A multiyear contract authorized under subsection (a) of this section shall contain cancellation and termination provisions to the extent necessary to protect the best interests of the United States, and may include consideration of both recurring and nonrecurring costs. The contract may provide for a cancellation payment to

be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"670. Procurement authority for family housing.".

SEC. 402. AIR STATION CAPE COD IMPROVEMENTS.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, as amended by this title, is further amended by adding at the end the following new section:

"§671. Air Station Cape Cod improvements

"The Coast Guard may spend or obligate appropriated funds for the repair, improvement, restoration, or replacement of those federally or non-federally owned support buildings, including appurtenances, which are on leased or permitted real property constituting Coast Guard Air Station Cape Cod, located on Massachusetts Military Reservation, Cape Cod, Massachusetts.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, as amended by this title, is further amended by adding at the end the following new item:

"671. Air Station Cape Cod improvements.".

SEC. 403. LONG-TERM LEASE AUTHORITY FOR AIDS TO NAVIGATION.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, as amended by this title, is further amended by adding at the end the following new section:

"§672. Long-term lease authority for navigation and communications systems sites

"(a) The Coast Guard, on behalf of the United States, is authorized, subject to the availability of appropriations, to enter into lease agreements to acquire real property or interests therein for a term not to exceed 20 years, inclusive of any automatic renewal clauses, for aids-to-navigation sites, vessel traffic service sensor sites, or National Distress System high level antenna sites. The lease agreements shall include cancellation and termination provisions to the extent necessary to protect the best interests of the United States. Cancellation payment provisions may include consideration of both recurring and nonrecurring costs associated with the real property interests under the contract. The lease agreements may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.

"(b) In procuring real property and interests therein under subsection (a) of this section, the Coast Guard may use procedures other than competitive procedures in circumstances which are set forth in section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)).

"(c)(1) The Coast Guard may enter into multiyear lease agreements under subsection (a) of this section whenever the Coast Guard finds that—

"(A) the use of such a lease agreement will promote the efficiency of the aids-to-navigation program, vessel traffic service program, or National Distress System program and will result in reduced total costs under the agreement;

"(B) the minimum need for the real property or interest therein to be leased is expected to remain substantially unchanged during the contemplated lease period; and

"(C) the estimates of both the cost of the lease and the anticipated cost avoidance through the use of a multiyear lease are realistic.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, as amended by this title, is further amended by adding at the end the following new item:

"672. Long term lease authority for navigation and communications system sites.".

TITLE V—RESEARCH

SEC. 501. AUTHORITY FOR EDUCATIONAL RESEARCH GRANTS.

(a) IN GENERAL.—Chapter 9 of title 14, United States Code, is amended by adding at the end the following new section:

"§196. Participation in Federal, State, or other educational research grants

"Notwithstanding any other provision of law, the Coast Guard Academy may compete for and accept Federal, State, or other educational research grants, except that no such award may be accepted for the acquisition or construction of facilities, or for the routine functions of the Academy.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 9 of title 14, United States Code, is amended by adding at the end the following new item:

"196. Participation in Federal, State, or other educational research grants.".

SEC. 502. COOPERATIVE AGREEMENT AUTHORITY.

Section 93 of title 14, United States Code, as amended by section 204 of this Act, is further amended by adding at the end the following new subsection:

"(u) enter into cooperative agreements with other Government agencies for purposes of contracting with the National Academy of Sciences.".

TITLE VI—PASSENGER VESSEL SAFETY

SEC. 601. SHORT TITLE.

This title may be cited as the "Passenger Vessel Safety Act of 1993".

SEC. 602. DEFINITION OF PASSENGER.

Section 2101(21) of title 46, United States Code, is amended to read as follows:

"(21) 'passenger'—

"(A) on a vessel, other than a vessel referred to in subclause (B), (C), or (D) of this clause, means an individual carried on the vessel except—

"(i) the owner or an individual representative of the owner or, in the case of a vessel under charter, an individual charterer or individual representative of the charterer;

"(ii) the master; or

"(iii) a member of the crew engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for on board services;

"(B) on an offshore supply vessel, means an individual carried on the vessel except—

"(i) an individual as described in subclause (A)(i), (A)(ii), or (A)(iii) of this clause;

"(ii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

"(iii) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

"(iv) an individual employed in a phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel;

"(C) on a fishing vessel, fish processing vessel, or fish tender vessel, means an individual carried on the vessel except—

"(i) an individual as described in subclause (A)(i), (A)(ii), or (A)(iii) of this clause;

"(ii) a managing operator;

"(iii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner; or

"(iv) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; and

"(D) on a sailing school vessel, means an individual carried on the vessel except—

"(i) an individual as described in subclause (A)(i), (A)(ii), or (A)(iii) of this clause;

"(ii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iii) an employee of the demise charterer of the vessel engaged in the business of the demise charterer; or

"(iv) a sailing school instructor or sailing school student.".

SEC. 603. DEFINITION OF PASSENGER VESSEL.

Section 2101(22) of title 46, United States Code, is amended to read as follows:

"(22) 'passenger vessel' means a vessel of at least 100 gross tons—

"(A) that is carrying more than 12 passengers, including at least one passenger for hire;

"(B) that is chartered and carrying more than 12 passengers; or

"(C) that is a submersible vessel carrying at least one passenger for hire.".

SEC. 604. DEFINITION OF SMALL PASSENGER VESSEL.

Section 2101(35) of title 46, United States Code, is amended to read as follows:

"(35) 'small passenger vessel' means a vessel of less than 100 gross tons—

"(A) that is carrying more than 6 passengers, including at least one passenger for hire;

"(B) that is chartered, with the crew provided or specified by the owner or the owner's representative, and carrying more than 6 passengers;

"(C) that is chartered, with no crew provided or specified by the owner or the owner's representative, and carrying more than 12 passengers; or

"(D) that is a submersible vessel carrying at least one passenger for hire.".

SEC. 605. DEFINITION OF UNINSPECTED PASSENGER VESSEL.

Section 2101(42) of title 46, United States Code, is amended to read as follows:

"(42) 'uninspected passenger vessel' means an uninspected vessel—

"(A) of at least 100 gross tons—

"(i) that is carrying not more than 12 passengers, including at least one passenger for hire; or

"(ii) that is chartered, with the crew provided or specified by the owner or the owner's representative, and carrying not more than 12 passengers; or

"(B) of less than 100 gross tons—

"(i) that is carrying not more than 6 passengers, including at least one passenger for hire; or

"(ii) that is chartered, with the crew provided or specified by the owner or the owner's representative, and carrying not more than 6 passengers.".

SEC. 606. DEFINITION OF PASSENGER FOR HIRE.

Section 2101 of title 46, United States Code, is amended by inserting immediately after clause (21) the following new clause:

"(21a) 'passenger for hire' means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.".

SEC. 607. DEFINITION OF CONSIDERATION.

Section 2101 of title 46, United States Code, is amended by inserting immediately after clause (5) the following new clause:

"(5a) 'consideration' means an economic benefit, inducement, right, or profit, including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage by monetary contribution or donation of fuel, food, beverage, or other supplies.".

SEC. 608. DEFINITION OF OFFSHORE SUPPLY VESSEL.

Section 2101(19) of title 46, United States Code, is amended by inserting "individuals in addition to the crew," immediately after "supplies," and by striking "and is not a small passenger vessel".

SEC. 609. DEFINITION OF SAILING SCHOOL VESSEL.

Section 2101(30)(B) of title 46, United States Code, is amended by striking "at least 6" and inserting in lieu thereof "more than 6".

SEC. 610. DEFINITION OF SUBMERSIBLE VESSEL.

Section 2101 of title 46, United States Code, is amended by inserting immediately after clause (37) the following new clause:

"(37a) 'submersible vessel' means a vessel that is capable of operating below the surface of the water.".

SEC. 611. EXEMPTION AUTHORITY.

Section 2113 of title 46, United States Code, is amended to read as follows:

"§2113. Authority to exempt certain vessels

"If the Secretary decides that the application of a provision of part B, C, F, or G of this subtitle is not necessary in performing the mission of certain vessels engaged in excursions or an oceanographic research vessel, or not necessary for the safe operation of certain vessels carrying passengers, the Secretary by regulation may—

"(1) for an excursion vessel, issue a special permit specifying the conditions of operation and equipment;

"(2) exempt an oceanographic research vessel from that provision under conditions the Secretary may specify; and

"(3) establish different operating and equipment requirements for uninspected passenger vessels described in section 2101(42)(A) of this title.".

SEC. 612. EQUIPMENT AND STANDARDS FOR UNINSPECTED PASSENGER VESSELS.

Section 4105 of title 46, United States Code, is amended—

(1) by redesignating the existing text as subsection (a); and

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

"(b) Within 24 months after the date of enactment of this subsection, the Secretary shall, by regulation, require certain additional equipment (including liferafts or other lifesaving equipment), or establish construction standards or additional operating standards, for the uninspected passenger vessels described in section 2101(42)(A) of this title.".

SEC. 613. APPLICABILITY DATE FOR REVISED REGULATIONS.

(a) APPLICABILITY DATE FOR CERTAIN CHARTERED VESSELS.—Revised regulations governing small passenger vessels and passenger vessels (as the definitions of those terms in section 2101 of title 46, United States Code, are amended by this Act) shall not, before the date that is 6 months after the date of enactment of this Act, apply to such vessels when chartered with no crew provided.

(b) EXTENSION OF PERIOD.—The Secretary of the department in which the Coast Guard is operating shall extend for up to 30 additional months or until issuance of a certificate of inspection, whichever occurs first, the period of inapplicability specified in subsection (a) if the owner of the vessel concerned carries out the provisions of subsection (c) to the satisfaction of the Secretary.

(c) CONDITIONS FOR EXTENSION.—To receive an extension authorized by subsection (b), the owner of the vessel shall—

(1) make application for inspection with the Coast Guard within 6 months after the date of enactment of this Act;

(2) make the vessel available for examination by the Coast Guard prior to the carriage of passengers;

(3)(A) correct especially any hazardous conditions involving the vessel's structure, electrical system, and machinery installation, such as (i) grossly inadequate, missing, unsound, or severely deteriorated frames or major structural members; (ii) wiring systems or electrical appliances without proper grounding or overcurrent protection; and (iii) significant fuel or exhaust system leaks;

(B) equip the vessel with lifesaving and fire fighting equipment, or the portable equivalent, required for the route and number of persons carried; and

(C) verify through stability tests, calculations, or other practical means (which may include a history of safe operations) that the vessel's stability is satisfactory for the size, route, and number of passengers; and

(4) develop a work plan approved by the Coast Guard to complete in a good faith effort all requirements necessary for issuance of a certificate of inspection as soon as practicable.

(d) OPERATION OF VESSEL DURING EXTENSION PERIOD.—The owner of a vessel receiving an extension under this section shall operate the vessel under the conditions of route, service, number of passengers, manning, and equipment as may be prescribed by the Coast Guard for the extension period.

SEC. 614. CERTIFICATE OF DOCUMENTATION FOR THE VESSEL LISERON.

(a) AUTHORITY TO ISSUE CERTIFICATE.—Notwithstanding section 12106 of title 46, United States Code, section 8 of the Passenger Vessel Act of 1886 (46 App. U.S.C. 289), and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel LISERON, United States official number 971339.

(b) SPECIAL RULE.—Solely for the application of regulations promulgated under part B of subtitle II of title 46, United States Code, the Secretary of Transportation shall deem the vessel LISERON, United States official number 971339, to measure less than 100 gross tons, if and only if the vessel—

(1) does not undergo a major conversion as defined in section 2101(14a) of title 46, United States Code, subsequent to the date of enactment of this Act; and

(2) does not engage in the carriage of passengers on an international voyage.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. HERON NECK LIGHTHOUSE.

(a) AUTHORITY TO CONVEY.—(1) The Secretary of the department in which the Coast Guard is operating (hereafter in this title referred to as the "Secretary") shall convey to the Island Institute, Rockland, Maine, by an appropriate means of conveyance, all right, title, and interest of the United States Government in and to property comprising the Heron Neck Lighthouse; except that the Coast Guard shall retain all right, title, or interest in any historical artifacts, such as any lens or lantern, on the property conveyed pursuant to this section.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) The property conveyed pursuant to this section may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museums, gift shops, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such additional conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States Government for as long as they are needed for this purpose;

(B) the Island Institute may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States Government;

(C) there is reserved to the United States Government the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States Government shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigational aids; and

(E) the United States Government shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The Island Institute shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—The Island Institute shall maintain the Heron Neck Lighthouse in accordance with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and other applicable laws.

(d) DEFINITION.—For purposes of this section, the term "Heron Neck Lighthouse" means the Coast Guard lighthouse located on Green Island, Vinalhaven, Maine, including—

(1) the attached keeper's dwelling, ancillary buildings, the associated fog signal, and boat ramp; and

(2) such land as may be necessary to enable the Island Institute to operate at that lighthouse a nonprofit center for public benefit.

SEC. 702. CAPE COD LIGHTHOUSE PLANNING AND DESIGN STUDIES.

(a) COMPLETION OF STUDIES.—(1) Not later than 6 months after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall complete the necessary planning studies, including selection of a relocation site, identified in the Coast Guard's strategy document for relocation of the Cape Cod Lighthouse (popularly known as the "Highland Light Station"), located in North Truro, Massachusetts.

(2) Not later than 18 months after the date of enactment of this Act, the Secretary shall complete the design studies identified in the Coast Guard's strategy document for relocation of the Cape Cod Lighthouse.

(b) USE OF AMOUNTS FOR STUDIES.—Of amounts appropriated under the authority of this Act for acquisition, construction, rebuilding, and improvement, the Secretary may use up to $600,000 for conducting the studies required under subsection (a).

SEC. 703. TRANSFER OF LIGHTHOUSES.

(a) AUTHORITY TO TRANSFER.—(1) The Secretary may convey by any appropriate means to the Washington State Parks and Recreation Commission all right, title, and interest of the United States Government in and to property comprising one or more of the Cape Disappointment Lighthouse, North Head Lighthouse, and Point Wilson Lighthouse.

(2) The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Cape Disappointment Lighthouse, North Head Lighthouse, or Point Wilson Lighthouse pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States Government if the property, or any part thereof—

(A) ceases to be used as a center for public benefit for the interpretation and preservation of maritime history;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States Government;

(B) the Washington State Parks and Recreation Commission may not interfere or allow interference in any manner with such aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States Government the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States Government shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation;

(E) the United States Government shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property; and

(F) the property shall be rehabilitated and maintained by the owner in accordance with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(4) The Washington State Parks and Recreation Commission shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) DEFINITIONS.—For purposes of this section, the term—

(1) "Cape Disappointment Lighthouse" means the Coast Guard lighthouse located at Fort Canby State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard; and

(B) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of the maritime history;

(2) "North Head Lighthouse" means the Coast Guard lighthouse located at Fort Canby State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard;

(B) ancillary buildings; and

(C) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of maritime history; and

(3) "Point Wilson Lighthouse" means the Coast Guard lighthouse located at Fort Worden State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard;

(B) two ancillary buildings; and

(C) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of maritime history.

SEC. 704. LOWER COLUMBIA RIVER MARINE FIRE AND SAFETY ACTIVITIES.

The Secretary is authorized to expend out of the amounts appropriated for the Coast Guard for fiscal year 1994 not more than $421,700 and for fiscal year 1995 not more than $358,300, for the lower Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Marine Fire and Safety Association.

SEC. 705. SOUTHEAST REGIONAL FISHERIES LAW ENFORCEMENT TRAINING CENTER.

The Coast Guard shall establish the Southeastern Regional Fisheries Law Enforcement Training Center in the Seventh Coast Guard District in Charleston, South Carolina. The purpose of the Southeastern Regional Fisheries Law Enforcement Training Center shall be to increase the skills and training of Coast Guard fisheries law enforcement personnel and to ensure that such skills and training address the unique characteristics and complex management requirements of the fisheries of the Southeastern United States.

SEC. 706. FISHING AND FISH TENDER VESSELS.

Section 5209(b)(2) of the Oceans Act of 1992 (46 U.S.C. 2101 note) is amended by striking "without charge" and "owned by the same person".

SEC. 707. NATIONAL SAFE BOATING WEEK.

The Act of June 4, 1958 (36 U.S.C. 161), is amended by striking "week commencing on the first Sunday in June" and inserting in lieu thereof "week ending on the last Saturday before Memorial Day".

SEC. 708. OUTER CONTINENTAL SHELF CIVIL PENALTIES.

Section 24(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1350(b)) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)"; and

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

"(3)(A) If a person fails to comply with or violates a regulation issued under this Act by the Secretary of the department in which the Coast Guard is operating, that person is liable, without regard to the requirement of the expiration of a period allowed for corrective action, to the United States Government for a civil penalty of not more than the amount provided in paragraph (1) for each day of the continuance of that failure or violation.

"(B) The Secretary of the department in which the Coast Guard is operating is authorized to assess the amount of the civil penalty for which a person is liable for failure to comply with or for violating a regulation issued under this Act by the Secretary of the department in which the Coast Guard is operating. The assessment of the civil penalty shall be by written notice and after an opportunity for a hearing.

"(C) In determining the amount of the penalty, the Secretary of the department in which the Coast Guard is operating shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

"(D) The Secretary of the department in which the Coast Guard is operating may compromise, modify, or remit, with or without consideration, a civil penalty under this Act until referring the assessment to the Attorney General.

"(E) If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary of the department in which the Coast Guard is operating may refer the matter to the Attorney General for collection in an appropriate district court of the United States.".

SEC. 709. WATCHSTANDING ON CERTAIN VESSELS.

Section 8301(b) of title 46, United States Code, is amended by inserting ", or a vessel used only to respond to a discharge of oil or a hazardous substance," immediately after "offshore supply vessel" each place it appears.

SEC. 710. LOS ANGELES-LONG BEACH VESSEL TRAFFIC SERVICE.

The Coast Guard is authorized to provide personnel support for the interim vessel traffic information service in the Ports of Los Angeles and Long Beach operated on behalf of the State of California by the Marine Exchange of Los Angeles-Long Beach Harbors, Inc., a California nonprofit corporation (hereinafter referred to as "Marine Exchange"). The Coast Guard shall be reimbursed for all costs associated with providing such personnel in accordance with a reimbursable agreement between the Coast Guard and the State of California. Amounts received by the Coast Guard as reimbursements for its costs shall be credited to the appropriation for operating expenses of the Coast Guard. The United States Government assumes no liability for any act or omission of any officer, director, employee, or representative of the Marine Exchange or of the State of California, arising out of the operation of the vessel traffic information service by the Marine Exchange, and the Coast Guard shall have the same protections and limitations on such liability as are afforded to the Marine Exchange under California law.

AMENDMENT NO. 1240

(Purpose: To make an amendment in the nature of a substitute)

Mr. BIDEN. Mr. President, I send to the desk a Hollings-Stevens substitute amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] for Mr. HOLLINGS and Mr. STEVENS proposes an amendment numbered 1240.

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

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

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

Mr. HOLLINGS. Mr. President, today I rise in support of the Coast Guard Authorization Act of 1993. This legislation provides the core authorization for the Coast Guard for fiscal year (FY) 1994. The authorization is consistent with the administration's budget request of $3.812 billion for FY 1994, and represents approximately a four percent

overall increase from the level appropriated in FY 1993. As in previous years, the Coast Guard budget does not fully reflect the magnitude of duties performed by this branch of the Armed Services. The funding levels authorized will require the Coast Guard to continue running a tight ship, particularly given its numerous responsibilities. As I have started before, when the Coast Guard was first established in 1790, its mission was straightforward—to prevent smuggling and collect tax revenues. Since that time, its responsibilities have been expanded significantly to include search and rescue, fisheries law enforcement, drug interdiction, aids to navigation, marine safety, and marine environmental protection. The proposed funding levels in the legislation before us today are the minimum needed by the Coast Guard to carry out its many missions.

Mr. President, today the Senate is considering an amendment in the nature of a substitute for S. 1052. Let me provide a summary of the provisions in this substitute. Title I provides authorizations of appropriations for the Coast Guard. Funding levels for FY 1994 are as follows:

[In millions of dollars]

	Enacted fiscal year 1993	Authorization fiscal year 1994
Operating expenses	$2,558	$2,612
Acquisition, construction, and improvement	340	418
Environmental compliance	22	23
Research and development	28	25
Retired pay	520	549
Alteration of bridges	13	13

Over two-thirds of the Coast Guard's budget supports operating expenses. This account provides for the operation and maintenance of the multi-purpose vessels, aircraft, and shore vessels used to carry out the Coast Guard's missions.

The authorization for capital improvements in this substitute will be used for major improvements such as vessel and aircraft acquisition and rehabilitation, information management, and construction and improvement at shore and offshore facilities. Some major initiatives continuing through the next year are replacement of seagoing and coastal buoy tenders, motor lifeboats, and the icebreaker. Also included is funding for the vessel traffic services (VTS) system, a modern part surveillance system that reduces the risk of collisions and groundings. The funding for VTS responds to a 1992 "Port Needs Study" released by the Coast Guard, which identified high-risk ports that would benefit from VTS implementation.

The substitute contains $549 million in FY 1994 for payments to the retired military personnel of the Coast Guard, Coast Guard Reserve, and former Lighthouse Service members. Other funding authorizations in the legislation include environmental compliance and restoration, research and development, Coast Guard facility improvements, navigation and rescue support, and bridge alteration. Spending for environmental compliance is needed to bring current and former Coast Guard facilities into conformance with national environmental standards. Title I also contains the Coast Guard's authorized military strength levels.

Title II of the substitute authorizes personnel management improvements such as the elimination of the permanent ceiling on commissioned officers, brings Coast Guard flag officer personnel management into conformance with other branches of the uniformed services, raises the rank of the Vice Commandant, and allows volunteer organizations to help to maintain the historic value of Coast Guard facilities such as lighthouses.

Title III of the substitute authorizes long-term lease authority of housing or condominiums for personnel, and of navigation and communications systems sites. The substitute authorizes improvements to Coast Guard Air Station Cape Cod, allows the Coast Guard Academy to compete for educational research grants, authorizes acquisition of and improvements in oil spill response equipment, authorizes changes to the definition of unmanned seagoing barges, allows the Coast Guard to enter into cooperative agreements with other government agencies and the National Academy of Sciences, authorizes the establishment of a Coast Guard Fisheries Law Enforcement Training Center in the Southeast Atlantic region and in the Gulf of Mexico region, and improves the manning efficiency of oil spill recovery operations. This title provides an exemption to the Immigration and Nationality Act, under certain circumstances in Alaska. This exemption is necessary because of the isolated location of many Alaskan fishing communities and the frequent nonavailability of United States longshore workers. This title provides authority to the Coast Guard to transfer lighthouses in Washington State and Maine to state or local interests. This title also authorizes the Coast Guard and the Secretary of the Interior to complete a planning study for the relocation of the Cape Code Lighthouse.

Title IV of the substitute permits the Coast Guard to improve employment documentation procedures of merchant seaman.

Title V of the substitute is the Passenger Vessel Safety Act of 1993. Under current law, Coast Guard regulations require documented vessels carrying six or more passengers-for-hire to meet safety standards and to be inspected. By contrast, safety standards for private recreational vessels are lower, and no inspection is required. Passenger vessel requirements do not apply to boats chartered without a crew, referred to as bare-boat charters, because the charterer is acting in the capacity of owner. Now, short-term charters, such as a dinner cruise for 100–200 people, are being offered as "bare-boat" charters, and as a result, inspection and safety requirements are not implicated. This title corrects that potentially dangerous situation.

Title VI of the substitute permits the Secretary of Transportation to issue Jones Act exemption certificates of documentation for 53 vessels, and limited waivers for several others.

Title VII of the substitute authorizes renewal, until May 1, 1994, of the Agreement between the Government of the United States and the Government of the Russian Federation on Mutual Fisheries Relations. This agreement expired on October 28, 1993. This title also expresses the sense of the Congress that the United States should take appropriate measures to conserve the resources of the "Doughnut Hole" of the Bering Sea.

Title VIII of the substitute authorizes the Atlantic Coastal Fisheries Cooperative Management Act. The purpose of this title is to conserve Atlantic coastal fisheries by strengthening federal-state partnerships. The substitute provides federal and state managers with the tools needed to accomplish that goal. It provides that the Secretary of Commerce develop and implement a program to support the interstate fishery management efforts of the Atlantic State Marine Fisheries Commission's (Commission). In addition, the Secretary of Commerce would be authorized to impose necessary restrictions on fishing in federal waters. The substitute authorizes federal assistance to support the Commission and the states in carrying out their respective responsibilities. It provides for appropriations of $3 million for fiscal year 1994, $5 million for fiscal year 1995, and $7 million for fiscal year 1996. In addition, the legislation amends the Interjurisdictional Fisheries Act to authorize funding for the interstate fisheries commissions through fiscal year 1995. Finally, the legislation extends indefinitely the provisions of the Atlantic Striped Bass Conservation Act.

Title IX of the substitute permits the Secretary of Transportation to convey two vessels from the National Defense Reserve Fleet to any nonprofit organization that operates and maintains a Liberty Ship or Victory Ship as a memorial to merchant mariners.

Mr. President, I commend the Coast Guard for the manner in which it performs its missions. In time or war or peace, the Coast Guard is called upon to defend and promote this country's interests at sea. As we saw during this past summer's river floods, the Coast Guard also conducts search and rescue operations and provides disaster relief even into the heartland of America. I ask my colleagues to recognize this service by joining me in supporting Coast Guard authorization legislation.

Mr. CHAFEE. Mr. President, I would like to direct two questions to the distinguished chairman of the Commerce, Science, and Transportation Committee. My first question is whether the passage of this Act in any way affects the jurisdiction of the Environment and Public Works Committee with respect to the Atlantic Striped Bass Conservation Act?

Mr. HOLLINGS. Nothing in this Act would affect the shared jurisdiction of the Environment Committee and the Commerce Committee over the Atlantic Striped Bass Conservation Act.

Mr. CHAFEE. My second question is whether anything in this Act—other than the provision repealing the sunset of the moratorium authority—amends or otherwise affects the provisions of the Atlantic Striped Bass Conservation Act?

Mr. HOLLINGS. Nothing in this Act, other than the provision you have mentioned, affects the Atlantic Striped Bass Act.

Mr. CHAFEE. I yield to my colleague, the distinguished Chairman of the Environment and Public Works Committee.

Mr. BAUCUS. I would like to direct another question to the distinguished Chairman of the Commerce Committee. Is it the Senator's understanding that nothing in this Act impedes, limits, or otherwise affects the existing authorities or responsibilities of the U.S. Fish and Wildlife Service with respect to U.S. fisheries, particularly anadromous fish species?

Mr. HOLLINGS. Yes, that is correct, nothing in this Act would change the existing authorities or responsibilities of the Fish and Wildlife Service. In addition, it is my understanding that the National Marine Fisheries Service and the Fish and Wildlife Service currently have a close working relationship regarding issues affecting coastal fishery resources. This bill should encourage ongoing cooperative efforts and improve coordination between the two federal agencies, as well as with the States.

Mr. BAUCUS. I thank the Senator for the clarification.

The PRESIDING OFFICER. Without objection, the substitute amendment is agreed to.

So the amendment (No. 1240) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there is no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 2150, the House companion, and that the Senate then proceed to its immediate consideration, that all after the enacting clause be stricken and the text of S. 1052, as amended, be inserted in lieu thereof, that the bill be advanced to third reading, passed and the motion to reconsider laid upon the table.

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

So the bill (H.R. 2150), as amended, was deemed read a third time and passed.

Mr. BIDEN. Mr. President, I ask unanimous consent that S. 1052 be returned to the calendar.

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

WAR IN THE PACIFIC NATIONAL HISTORICAL PARK ACT OF 1993

Mr. BIDEN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (H.R. 1944) a bill to provide for additional development at War in the Pacific National Historical Park, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1944) entitled "An Act to provide for additional development at War in the Pacific National Historical Park, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. FINDINGS.

Congress finds that—

(1) June 15 through August 10, 1994, marks the 50th anniversary of the Mariana campaign of World War II in which American forces captured the islands of Saipan and Tinian in the Northern Marianas and liberated the United States Territory of Guam from Japanese occupation;

Mr. AKAKA. Would the Senator from Wyoming yield for a question.

Mr. WALLOP. I would be pleased to yield to my friend from Hawaii.

Mr. AKAKA. The other body removed section 3(B)(o) from the legislation which required the Secretary to submit a list of names to the appropriate committees which are to appear on the monument authorized in subsection (1). My question to the ranking member of the Committee on Energy and Natural Resources is will this action taken by the other body preclude the National Park Service from constructing a monument listing by individual name, those people of Guam, living and dead, who suffered personal injury, forced labor, forced marches, internment or death incident to enemy occupation of Guam between December 8, 1941 and August 10, 1944.

Mr. WALLOP. It is my understanding that the National Park Service already has a design to accomplish what the Senator has just described. The provisions in this legislation would not preclude or deny the Service from utilizing this design or registry to honor the loyalty of the people of Guam as well as the heroism of the American forces that liberated Guam. I believe that my friend from Hawaii shares my view that the Park Service should move forward with an appropriate monument to these heroes. It is long overdue.

Mr. AKAKA. I do share the Senator's views on this matter and I thank the Senator from Wyoming for his response.

Mr. KEMPTHORNE. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL READ THE FIRST TIME—S. 1779

Mr. BIDEN. Mr. President, I understand that S. 1779 was introduced earlier today; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1779) to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice health care, and to ensure and protect the health care of all Americans.

Mr. BIDEN. Mr. President, I ask for second reading.

The PRESIDING OFFICER. Is there objection?

Mr. KEMPTHORNE. I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read a second time on the next legislative day.

BILLS READ FOR A SECOND TIME—H.R. 334, H.R. 881, AND S. 1751

The PRESIDING OFFICER. The clerk will read those bills which have been read a first time a second time.

The assistant legislative clerk read as follows:

A bill (H.R. 334) to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes.

A bill (H.R. 881) to prohibit smoking in Federal buildings.

A bill (S. 1751) to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

Mr. KEMPTHORNE. Mr. President, I object to any further consideration of those measures.

The PRESIDING OFFICER. Objection is heard.

Those three bills will be placed on the calender under rule XIV.

UNANIMOUS-CONSENT REQUEST—H.R. 1025

Mr. BIDEN. Mr. President, I now ask unanimous consent that, when the Senate receives the conference report on H.R. 1025, the Brady handgun bill, it be immediately considered and agreed to and the motion to reconsider be laid upon the table, with the preceding all occurring without any intervening action or debate.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Is the conference report before the Senate?

The PRESIDING OFFICER. It is not before the Senate.

Mr. DOLE. So we are asked to deem it passed when it arrives, is that the shorthand?

Mr. BIDEN. If the Senator will yield, Mr. President; yes.

Mr. DOLE. On behalf of myself, Senators BOND, COCHRAN, COVERDELL, CRAIG, D'AMATO, DOMENICI, FAIRCLOTH, HELMS, HUTCHISON, KEMPTHORNE, NICKLES, PRESSLER, SIMPSON, SMITH, STEVENS, WALLOP, GRAMM, BREAUX, and SHELBY, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, parliamentary inquiry. I assume, when the conference report gets here, the majority leader or his designee can move to take up the conference report, is that right?

The PRESIDING OFFICER. The motion to proceed to consideration of the conference report would be in order.

Mr. DOLE. You could have the yeas and nays on that, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Will that motion be made this evening?

The PRESIDING OFFICER. The Chair has no way of knowing that.

Mr. BIDEN. Mr. President, speaking on behalf of the majority leader, I do not think it is the intention of the majority leader, if that comes back tonight, to make that motion tonight.

As I understand, there is going to be a request that when we adjourn, we adjourn until 10 tomorrow morning. I expect, if and when the report comes back, that the majority leader would make that motion.

He has further indicated to me that if there is objection at that time, after your having seen the conference report, that he would then not ask the Senate to proceed to adjourn sine die and that he would file a cloture motion and would ask us to come back next week to seek to end what would then be a filibuster on the—may or may not be a filibuster on the conference report to the Brady bill.

Mr. DOLE. Mr. President, I do not see how it could be a filibuster if you do not vote on cloture.

Mr. BIDEN. Mr. President, that is why I corrected myself—may or may not be.

Mr. DOLE. The press is very eager to accuse Republicans of filibustering. I wish they were just as eager to get the conferees to support the Senate's position.

There are seven major changes made in the conference, not one of them in accordance with the Senate bill. The bill is now worse than either the House-passed bill or the Senate-passed bill.

Republicans were never consulted. We proceeded to act in good faith and permitted the bill to come up the other night. The reward we got was—zero.

Mr. BIDEN. Mr. President, the Senator, the Republican leader, was understandably necessarily not present at that conference. Let me tell him what finally did happen.

The distinguished and very knowledgeable and articulate Senator from Alaska, Senator STEVENS, indicated that he would not agree to what the House had proposed as it related to changes in the sunsetting provision or any other provision relating to standards; that he would consider the possibility of changing some provisions that related to the second title which had to do with transfer of control over the sale of antique weapons, face-to-face sales, and a few other things.

I then asked the Senator was that—the only Republican there, the only Republican Senator there—whether or not there was any ability to compromise on the major two points, that is sunsetting and the standards? He said there was no possibility; zero. It was a nonnegotiable position.

At which time I indicated that I thought we should just go ahead and vote. The House offered a compromise, the entire—I offered a motion that was different than the House had proposed. The House rejected it. The House then offered a position. The Senate Democrats and Republicans objected to it.

Then the distinguished Congressman from New Jersey, Representative HUGHES, offered another proposal whichall Republicans and Democrats on the House side accepted and the three Democratic conferees accepted and both Republican Senators at that time present objected to.

The distinguished spokesperson for the Republicans at the conference indicated that if there were any changes at all along the lines the House wanted on the two most important provisions, that there would be no bill. He made it clear from the very beginning when we sat down before any motion was made. And it was a position that all of the members of the House conference, Republican and Democrat, rejected, and 3 of the 5 conferees, the 3 Democrats, objected to.

That is how we got to this point.

The PRESIDING OFFICER (Mr. GRAHAM). The minority leader.

Mr. DOLE. It is not precisely the way I heard it. I might ask the Senator from Delaware, what was the waiting period in the House bill before the instant check?

Mr. BIDEN. The sunset provision? Five years.

Mr. DOLE. No, the waiting period before the instant check. Was it not 30 months, then it was 24 months, and in the Senate bill you came back with 5 years, outside the scope of the conference? You, in effect, did away with the instant check for 5 years so the 18 million people out there, felons and others, are going to acquire guns because we are postponing the waiting period for 5 years. Somebody is going to be a victim because the conferees just changed the whole law—they changed everything.

Mr. BIDEN. The Senator is correct. The House bill originally had 30 months. The Senate bill, I believe, had 24 months.

Mr. DOLE. How do you get 60 when you have 30 and 24? You would think you would maybe get 27.

Mr. BIDEN. Because that is what the House offered, that is what the entire House voted for, and we supported that in order to get the Brady bill out of conference.

Mr. DOLE. I must say we can argue this in the morning but it seems to me we spent a lot of time, 4 or 5 days, and I thought in good faith on both sides. Apparently you learn a lot around here if you stay long enough, and I learned a lot in the past 48 hours. That will not happen again. But we thought we had been in good faith. We thought we had negotiated all these things, the Senator from Delaware, the Senator from Ohio, the majority leader, and any other Senator over there who had a problem. Now we find out that the 5 provisions we thought we had agreed on in the Senate were taken out plus the sunset, which the chairman announced even before the conference—but after the agreement—that he would not stick with 30 seconds. And now we have, in effect, done away with the instant check for 5 years.

So we are sort of back just to a waiting period, which was the original Brady bill, which was introduced several years ago. So I must say I do not believe under these conditions cloture will be invoked this year or next year,

if that is what the Democrats insist upon. If they want an issue—we thought they wanted a bill, so we relented Saturday evening. We thought our conferees—the conference did not last but a few minutes, 30, 40 minutes. There was not much of a struggle, as I understand, in the conference.

But we will see what happens tomorrow when the majority leader moves to take up the conference report and the yeas and nays are ordered.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, there were a number of other provisions in the Senate bill that were not in the House bill in title II. Three out of the five were taken out. Two of them remain. And the provision on the 5-year sunsetting, which is what originally a majority of the Senate voted for, and then the Republicans filibustered and then we reached the compromise—and I wanted to be real clear before we went because I did not want to be put in the position that the leader is attempting to put me in now, suggesting that a majority of the Senate really was committed to that provision. It was a way to get it out of here. Everybody knew that. That is why I said it before the vote, so no one would have any misunderstanding about it. And, so the one change that did take place was the change relative to the standards.

It was offered and rejected by the Republicans at the conference as well, that there be a compromise on the Senate language on the standards.

Senator STEVENS indicated that he would not, the Republicans would not countenance any change at all whatsoever on the standards, period.

So the first offer of the House to change the standards, to cut it in half, as you would say "to split the difference," was rejected. Then the House came back with a second proposal which was to eliminate the standards along the lines the Senator said, and that was unanimously agreed to by the Republicans in the House and the Democrats in the House and we accepted it. We did not have the votes for anything else.

Mr. DOLE. We will squabble about this later but I already had a call from one Republican conferee who had been through the Brady bill forever but thought we were rather shabbily treated in the conference.

Mr. BIDEN. If the Senator will yield, I wish that gentleman had spoken up. If I am not mistaken, he signed the conference report. I was told in the conference all the members of the conference were to sign that; that there was no dissent whatsoever in the conference. Maybe they did or did not sign it, but no one on the Republican side—when I asked whether or not was the House in agreement with the proposal they were making, the chairman and the ranking Republican indicated that they were.

I am not a mind reader. If one of the Senators—one of the House Members, Republican House Members, thought they were being treated shabbily, I have never known a House Member who would not speak up at a conference.

Mr. DOLE. This reminds me of the 1991 crime bill where the Democrats called everybody together on Sunday afternoon and in 2 hours stripped every Republican amendment and ended up with a Democratic bill.

We have the same thing tonight. If that is what the chairman wishes, that is what he has. He will have to get cloture. Maybe it can be done. If the majority leader wants to bring back the Senate that is up to him.

We thought we acted in good faith. We gave in on Saturday night; we said, OK, let us go. We took a lot of criticism from some of my colleagues on this side.

We had not had a filibuster—they keep using the word. Everything was done by agreement around here all week but there have been filibusters in some of the papers. It was all done by agreement. All done after hours and hours and days and days of negotiations, on both sides of the aisle, which we thought would produce a pretty good bill.

I regret that we have what we have before us. I have been around here all day. I have been fairly actively involved in all this. Nobody contacted me, except the Senator from Ohio, Senator METZENBAUM, said he was going to a press conference this morning. He called to tell me that. That is the only contact I had.

We feel there has been no effort to contact Republicans prior to the conference; that the Democrats went there, as did the chairman, with a proposal. Nobody contacted us. We are trying to accommodate the majority. I think, as I have said, the longer you are here the more you learn, and I have learned a great deal.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I am learning a great deal here, too. I thought the people I was supposed to contact were the people in the conference. I did not know what the House was going to propose. I thought the House's offer was going to be different from what they originally sent to us in the conference. I did not contact the majority leader nor the Republican leader, nor would I have any reason to.

I did contact and did speak to and did accommodate and did talk throughout the conference with the senior Republican Member, Senator STEVENS, whom I have never known not to be able to take care of himself and the issue. The Senator from Alaska made it clear that unless we accept precisely what the Senate language was with regard to sunsetting and with regard to standards which the House made clear they would not accept, including the Republicans on the House conference, that there would be no bill. That is what the Senator said. I will be happy to get him a transcript. I assume there is a transcript of the conference. If there is not, I am sure his staff can relay that to him. That is exactly what happened.

And this is like what happened in the crime bill in this one respect: We went to the 1991 crime bill. It had the Brady bill in it, and my Republican friends and the then ranking member said if the Brady bill survives, if the Brady bill is going to be in the crime bill, there will be no crime bill.

It is somewhat interesting to me that—was it the assault weapons or the Brady bill? I think it was Brady. It becomes very clear. We are talking about good faith here. The good faith was that you had 57 U.S. Senators voting for a position that 43 did not like. I respect that. It is true, there was no official filibuster, but it was made clear we would not be able to vote up or down unless we negotiated an agreement and/or got 60 votes.

We voted twice to try to get 60 votes to break the filibuster. Our Republican colleagues were kind enough to allow us to vote those votes twice in one day rather than over a 4-day period. That was an accommodation. We appreciate it very much. But the bottom line was the same. Forty-three Members of the Senate concluded they did not like what a majority of the House had done and what a majority of the Senate had done. That is their right.

We got to conference. The same thing prevailed. There was clearly going to have to be an accommodation beyond the Senate position because 43 Members of the Senate concluded that in order to allow us to even get to conference we would have to change the bill the way they wanted it, which was their right.

To then suggest that because 435 Members of the House, represented by a conference, do not accept the position of a minority in the Senate, that that somehow is dealing in bad faith is beyond me. It is also beyond me that we are in a position now, after 5 years—I said 5, someone corrected me, 7 years—we are still debating the Brady bill.

So I acknowledge my Republican friends are totally within their rights not to let us proceed to a conference report.

Let me put it this way: Why do we not just proceed to the conference report and determine whether or not the entirety of the U.S. Senate thinks we acted in bad faith? If they did, then 51 Senators will vote that way.

Mr. DOLE. You do not have a conference report. It is not here.

Mr. BIDEN. When we get a conference report. Let us proceed and if, in fact, the majority of the Senate thinks that is not what they want, then fine, we will go back to conference again, obviously. If the House passes it—and they may not; they may not pass the conference report. Let us find out.

But this notion that, when someone disagrees with a minority point of view around here, they are operating in bad faith is a novel notion to the Senator from Delaware as well.

So let us lay it where it is: When the conference report comes back, if the Republican leader and/or his designee or anyone objects to proceeding to the conference report, they are fully within their rights, and I respect that. But that does not mean anything other than a minority of 535 people in the Congress do not want to proceed. That is all it means. It does not mean anything else. It does not mean anything more. It does not mean anything less. So that is what it is. Nothing more, nothing less. I respect them to do it. It is their right to do that when the conference report comes back, if a conference report comes back. But as the Republican leader said, we will have plenty of time to debate that when it comes back, if it comes back.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I would like to make something very clear, and I appreciate what the distinguished chairman has said, but as the other Republican conferee, not only did I vote against the measure that was adopted, but I have not and will not sign the conference report. Neither did the Senator from Alaska.

Now it is no secret I do not support the Brady bill. What took place in the conference, which will be seen once the conference report arrives here in the Senate, is that there have been sweeping changes in what was adopted by the U.S. Senate. There is no way I can, nor will I, abide by any unanimous consent agreement to accept the conference report. I believe the Senators must vote again on that conference report.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I think the Senator has stated it accurately, but let us just restate it in another way, in everyday language.

Both the Senator from Alaska and the distinguished acting leader were conferees, both voted against the Senate bill, both voted against the Senate position, and one of the two spoke up in the conference and said they could not vote for anything anyway, period, no matter what the conference did. They were not going to vote for it.

So the Senator from Delaware is a little bit confused because, if both representatives of the Republican Party at the conference indicated that no matter what we agreed to—at least one of them, let me be precise—one of them said he would not vote for anything that the conference came forward with and then went forward and said, but others may as long as we adhere to the Senate position on the first part on title I.

They did not sign the conference report because they do not like what was agreed to in the conference by Republicans and Democrats on the House side and Democrats on the Senate side. Does that mean they would have signed the conference report had we agreed to a position that was closer to their position? Or would they only sign a conference report if it eliminated the Brady bill? This is a little unusual to have—the Republican leader is accurately pointing out that I said before the fact that I would not attempt to hold the 4 years plus 1 year extension by the Attorney General as a sunsetting provision because I did not want anyone to operate under any disillusionment about that. He suggests that is bad faith.

Well, if that is bad faith, what is it to have the Republican spokesperson in the conference saying there is nothing, under any circumstances, would he agree to; nothing.

I see staff saying "not true." Let me amend that. I recall his saying that he was not for the Brady bill, he was for an instant check provision like the one he offered 5 years earlier. If we accepted what he offered 5 years earlier, presumably that would have been acceptable to him. But it was neither reflected in the Senate version nor in the House version.

I will point out that I asked the Senator, the Republican leader of the conference, would there be any agreement at all, is there any compromise he can accommodate with regard to standards in sunsetting? And let the RECORD be corrected if I am wrong, but my recollection is what I heard. He said no, no.

So it was a take-it-or-leave-it position on the two most important provisions that were in disagreement, both of which provisions the House disagreed with the Senate provision and both Republicans and Democrats in the House disagreed with the Republican position.

Again, I respect the Senator from Alaska. He has been an old and personal friend for 20 years. And I also know him never to bluff, not in my experience. So when he said that, we all took him very seriously.

I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I know that nothing will be accomplished tonight by continuing this exchange as to what may have taken place at the conference. I wish the Senator from Alaska were here so that he could certainly speak on his own behalf as to what he was saying.

But I know very clearly he took the document and he separated it and he held in one hand title I, which is the Brady bill, which is the bill that was passed by the Senate, and I believe his point was that this is what the Senate passed, and if this is what is agreed to, then in all likelihood, this is what will become the law.

Then he held up the rest of it and said, "There is no compromise here."

So whether or not the Senator from Alaska was stating about how he might personally vote, I think he was making it very clear that there was the Senate position, the Senate measure that had been adopted. Now, at the appropriate time, when the Senators return to vote on this, if that in fact is what is going to take place, then I think the Senator can make that clear.

Mr. BIDEN. Mr. President, I agree it does not make a lot of sense to prolong it, and in fairness to the acting leader, he was not able to be there in the very beginning of the conference, and so I do not say this to correct him in terms of debate. I say this to ask him to inquire of staff and other Republicans who were there.

What the Senator did, precisely, as I recall it, was he took the bill and he pulled title I and title II apart. This is toward the end of the conference. He, Senator STEVENS from Alaska, held up title I, the Senate version of the Brady bill, as he referred to it. He said there can be no compromise on this at all, period. Take it or leave it. He implied, as the Senator suggested, that he would not vote even for that but that he thought maybe Republican Senators would vote for that. You could get a bill. That he would not be for that, but he thought—he thought—that that could pass.

Then he held up title II, the 7 provisions that the Republicans and Democrats negotiated, and he said we can reach some compromise on these pieces.

Now, we did reach some compromise on those pieces, maybe not to his liking. We eliminated 3 provisions in title II essentially and kept 2, roughly. You can argue whether there is 5 or 7 and whether funding was part of it and the rest. But we did agree on that.

The House said, Senator—and as a matter of fact, the distinguished Congressman from New York said at the outset when the Senator from Alaska said a similar thing, he said, Senator, we are tired of the Senate coming dictating to us and saying something's not negotiable. And all his colleagues agreed with that.

So title I, that is the Brady bill, title I, the Republican spokesman at the conference said, is not negotiable, and

title I, the House members said, that is not acceptable. And they made two offers. The first offer they made, all the Senate rejected it, Republicans and Democrats.

They made a second offer with regard to title I. The Democrats accepted it. All the House Members accepted it. To the best of anyone's knowledge—and the room was loaded with press and loaded with observers. Maybe they saw something I did not see, some body language, but there was no verbal utterance by anyone. That is what we accepted.

Now, where I come from, that means the majority will prevailed after a give and take, when one person says there will be no give, only take. That is what the Senator from Alaska said, and I respect his position. But let us understand what it was. Title I, he said, no, we will take it as is: Senate version, no changes, not negotiable. The house said thank you very much, Senator from Alaska, we are not buying it. That is what happened.

So I say again, we will have plenty of time to debate this, and I suspect we may debate it and debate it and debate it and be back on this Brady bill next year, unfortunately. But that remains to be seen. We will see what the House does, and then obviously it will be up to the majority leader and Republican leader to decide how to proceed from there.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I am not going to prolong this. I cannot talk as long as the Senator from Delaware. But I would just say that it is unfortunate because this does dim the chances of passing the Brady bill this year.

I think what people forgot in the conference was those who supported the Brady bill and those who permitted it to come to a vote. It does not make any difference that we had conferees who were opposed to the bill. So what. There were other people involved. Everybody knew they were involved. They voted against cloture, voted for the bill. There were 7 Republicans. So there certainly was awareness of other interests that were not even consulted.

But we can argue that all night long. The point is I could not, there is no way I could consent to deem the conference report passed. There is no way I could consent tomorrow to let the majority leader move to consideration of the conference report, I do not think, without the yeas and nays. And I am not certain how many Senators are in town tomorrow. So we will see what happens tomorrow.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE. I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

FRIENDSHIP ACT

Mr. BIDEN. Mr. President, I ask unanimous consent the Senate turn to consideration of Calendar No. 229, S. 1672, a bill to revise the obsolete laws related to the cold war; that the bill be read a third time; that the Senate then turn to the consideration of the House companion, H.R. 3000; that all after the enacting clause be stricken and the text of S. 1672 be substituted in lieu thereof; the bill read a third time and passed; the motion to reconsider laid on the table and any statements thereon appear in the RECORD at the appropriate place as though read, and that Calendar No. 299 be indefinitely postponed.

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

So the bill (H.R. 3000), as amended, was passed.

Mr. PELL. Mr. President today, the Senate is considering a bill to revise obsolete provisions enacted during the cold war. The bill was reported favorably by the Foreign Relations Committee on Thursday, November 18.

The purpose of this bill is not to rewrite history, but rather to amend or repeal laws that impede our relations with Russia, Ukraine, and the other countries of the former Soviet Union. I believe that it is important to demonstrate to the New Independent States our willingness to update our laws to reflect new international realities, and to demonstrate our continuing support for the reform process.

President Clinton has placed a high priority on doing just that, and I believe that we must do our part to ensure that when the President travels to Moscow in January, he will be able to tell President Yeltsin that our laws are up to date.

In many instances, the Friendship Act amends provisions of law to reflect the fact that the Soviet Union has dissolved. In other cases, the bill repeals provisions of law that are no longer relevant. It also contains a section which lists statutes that still remain in force, but which should not be construed as connoting an adversarial relationship between the United States and the New Independent States.

The text we are considering is fully supported by the administration. It has undergone a very thorough review, conducted under the leadership of Senators MITCHELL and DOLE, with the participation of all Senate committees with an interest in legislation affected by the bill. That consultation process began last spring, and in preparing this legislation, we have taken into account the suggestions and concerns of all the relevant committees. I am hopeful that we can move quickly to adopt this legislation.

I would add that this bill includes a provision offered by Senator HELMS and accepted by the Foreign Relations Committee, to authorize a privately funded memorial to honor the victims of communism. As we remove the relics of the cold war from our legislation, I would like to make clear that the intent of this memorial is not to single out any particular country as the perpetrator of crimes, but rather to honor all the victims of international communism.

I ask unanimous consent that a section-by-section analysis of the bill as well as the text of the underlying laws repealed or amended by this bill be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLES

Section 1 provides short titles of the "Act for Reform in Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine and the Other New Independent States" or the "FRIENDSHIP Act" for purposes of this legislation.

SECTION 2—TABLE OF CONTENTS

Section 2 provides a table of contents for this act.

SECTION 3—DEFINITION

Section 3 provides that the terms "independent states of the former Soviet Union" and "independent states" have the same meaning as those contained in section 3 of the FREEDOM Support Act of 1992, i.e. Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

TITLE I—POLICY OF FRIENDSHIP AND COOPERATION

SECTION 101—PURPOSE

Section 101 sets out the purpose of the bill, which is to amend or repeal numerous statutory provisions that restrict or otherwise impede normal relations between the United States and Russia, Ukraine, and the other independent states of the former Soviet Union, and to demonstrate for reformers and democrats in those new states that the people of the United States support the process of reform. It stipulates that all of the provisions subject to revision or repeal were appropriate at the time of passage, and that it is not the purpose of the bill to re-write or erase history or to forget those who suffered under communist repression.

SECTION 102—FINDINGS

Section 102 sets forth a series of findings regarding the new spirit of cooperation and partnership between the United States and Russia, the United States and Ukraine, and the United States and the other independent states of the former Soviet Union. These findings emphasize the importance of U.S. cooperation with these countries. The findings note that many Cold War statutes remain in force, and that the repeal or revision of these provisions can play an important

role in fostering and strengthening the bonds of trust and friendship as well as mutually beneficial trade and economic relations, between the United States and the independent states.

SECTION 103—STATUTORY PROVISIONS THAT HAVE BEEN APPLICABLE TO THE SOVIET UNION

Section 103 notes the fundamental changes that have taken place since the enactment of many of the statutes that still remain in force regarding the Soviet Union, some of which do not refer specifically to the Soviet Union. Several such statutes are not repealed or revised by this legislation. Section 103(c) stipulates that such provisions should not be construed as being directed against Russia, Ukraine, or the other independent states of the former Soviet Union, connoting an adversarial relationship between the United States and those states, or signifying or implying in any manner unfriendliness toward these countries. These statutes include: section 216 of the State Department Basic Authorities Act of 1956 (concerning travel restrictions on personnel of certain countries and organizations), section 136 of the Foreign Reauthorization Act, Fiscal Years 1986 and 1987 (concerning Soviet Employees at U.S. diplomatic and consular missions in the Soviet Union), section 804 of that Act (concerning policy toward the application of the Yalta Agreement), section 1222 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (concerning U.S. policy on Angola), the Multilateral Export Control Enhancement Amendments Act, the "Captive Nations Week" resolution, the Communist Control Act of 1954, provisions in the Immigration and Nationality Act, section 2 of the joint resolution entitled "A joint resolution to promote peace and stability in the Middle East," and section 43 of the Bretton Woods Agreement.

TITLE II—TRADE AND BUSINESS RELATIONS

SECTION 201—POLICY UNDER THE EXPORT ADMINISTRATION ACT

Section 201 repeals congressional findings contained in section 2(11) of the Export Administration Act, regarding acquisition by the Soviet Union of national security sensitive goods, while leaving intact language in the other paragraphs of section 2 that sets forth the importance of considering the contribution certain exports can have to the military potential of foreign countries. Section 201 also sets out findings regarding the shootdown of Korean Airlines Flight 7, including that the Export Administration Act continues to carry language indicating that the United States should continue to object to exceptions to the International Control List for the Union of Soviet Socialist Republics in light of the KAL tragedy, even though the "no exceptions" policy was rescinded by President Bush in 1990. This section also repeals section 3(15) of the Export Administration Act, which states that it is the policy of the United States to continue to object to exceptions to the International Control List for the Soviet Union. The United States is currently engaged in discussions on how best to reform the COCOM export control regime in light of the new relationship with the independent states. Because the COCOM regime is multilateral, reform in this area must focus on diplomatic rather than legislative efforts.

SECTION 202—REPRESENTATION OF COUNTRIES OF EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION IN LEGAL COMMERCIAL TRANSACTIONS

Section 202 amends section 951 of title 18 of the U.S. Code to eliminate country-specific exceptions for the independent states of the former Soviet Union, as well as Hungary, Poland and the Czech and Slovak Republics. Section 951 of title 18 requires agents of foreign governments, acting in the United States, to notify the Attorney General of their agency relationship. Failure to do so is subject to a criminal penalty. The statute makes exceptions from this registration requirement for accredited diplomats and other officially acknowledged government representatives, and members of their staffs who are not United States citizens and makes exceptions for persons engaged in legal commercial transactions. Under section 203, the President shall determine, in light of changing relationships, which countries pose threats to the national security interests of the United States that require application of the notification provisions of section 951 to commercial representatives of foreign governments.

SECTION 203—PROCEDURES REGARDING TRANSFERS OF CERTAIN DEPARTMENT DEFENSE-FUNDED ITEMS

Section 203(a) repeals section 223 of the National Defense Authorization Act for Fiscal Years 1988 and 1989, which prohibits the transfer of military technology developed with funds appropriated or otherwise made available for the Strategic Defense Initiative unless the president makes a determination regarding the transfer and the Congress approves such a transfer.

Section 203(b) repeals section 709 of the Department of Defense Appropriations Authorization Act, 1975, which subjects exports to controlled countries of goods, technology, and industrial techniques developed as a result of certain research and development programs to special review procedures.

SECTION 204—SOVIET SLAVE LABOR

Section 204 repeals section 1906 of the Omnibus Trade and Competitiveness Act of 1988, which expresses the sense of Congress that the President should express to the Soviet Union the moral opposition of the United States to the slave labor policies of the Soviet Union.

TITLE III—CULTURAL, EDUCATIONAL AND EXCHANGE PROGRAMS

SECTION 301—MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961

Section 301 amends the Mutual Educational and Cultural Exchange Act of 1961 to reflect the fact that the Soviet Union has dissolved.

SECTION 302—SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

Section 302 amends the Soviet-Eastern European Research and Training of 1983 to redesignate the Soviet-Eastern European Studies Advisory Committee as the Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union, and to reflect the fact that the Soviet Union has dissolved.

SECTION 303—FASCELL FELLOWSHIP ACT

Section 303 amends the title heading of section 1002 of the Fascell Fellowship Act to reflect the fact that the Soviet Union has dissolved.

SECTION 304—BOARD FOR INTERNATIONAL BROADCASTING

Section 304(a) repeals section 307 of the Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985, regarding the establishment of a separate Baltic Division of Radio Free Europe/Radio Liberty.

Section 304(b) amends section 308 of that Act regarding the jamming of Voice of America and Radio Free Europe/Radio Liberty broadcasts to include more general language objecting to the jamming of broadcasts by all countries.

SECTION 305—SCHOLARSHIP PROGRAMS FOR DEVELOPING COUNTRIES

Section 305 repeals sections 602(6) and (7) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, which describe the risk that scholarship programs by Soviet-bloc governments entail in increasing the likelihood that potential future leaders of the developing world will be educated in Soviet-bloc countries.

SECTION 306—REPORT ON SOVIET PARTICIPANTS IN CERTAIN EXCHANGE PROGRAMS

Section 306 repeals section 126 of the Department of State Authorization Act, Fiscal Years 1982 and 1983, under which the Secretary of State is required to submit annually to Congress a list of Soviet nationals participating during the upcoming year in certain exchanges, and to include a determination that these programs will not jeopardize U.S. national security interests.

TITLE IV—ARMS CONTROL

SECTION 401—ARMS CONTROL AND DISARMAMENT ACT

Section 401 amends various provisions of the Arms Control and Disarmament Act to reflect the fact that the Soviet Union has dissolved.

SECTION 402—ARMS EXPORT CONTROL ACT

Section 402 amends sections 94(b)(3)(B) and 95(5) of the Arms Export Control Act related to transfers of certain limited equipment under the Conventional Forces in Europe (CFE) Treaty to NATO members by replacing references to the Warsaw Pact countries with references to the countries of the Eastern Group of States Parties to the CFE Treaty.

SECTION 403—ANNUAL REPORTS ON ARMS CONTROL MATTERS

Section 403 repeals the reporting requirements contained in section 1002 of the Department of Defense Authorization Act, 1986 and sections 906 and 907 of the National Defense Authorization Act, Fiscal Year 1989.

SECTION 404—JOINT RESOLUTION ON U.S.-SOVIET DIRECT COMMUNICATION LINK

Section 404 amends Public Law 99-85 to reflect the fact that the direct communication link is now with Russia.

TITLE V—PROVISIONS RELATED TO DIPLOMATIC RELATIONS

SECTION 501—PERSONNEL LEVELS AND LIMITATIONS

Section 501 repeals various provisions relating to levels of and limitations on Soviet personnel at diplomatic facilities in the United States.

Section 501(a) repeals a provision of the Intelligence Authorization Act for Fiscal Year 1990 which expresses the sense of Congress that the reciprocal ceilings on U.S. and Soviet personnel should not be increased unless it was essential for the functioning of the U.S. mission in the Soviet Union.

Section 501(b) repeals a provision of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 which requires a report on whether the number of personnel of Soviet state trading companies should be reduced.

Section 501(c) repeals a provision of the Intelligence Authorization Act, Fiscal Year 1988 which requires a report regarding the admission of any Soviet national employed at a foreign mission or international organization over the objections of the FBI.

Section 501(d) repeals a provision of the Intelligence Authorization Act, Fiscal Year 1987 which requires a semiannual report on personnel levels at the Soviet mission to the United Nations.

Section 501(e) repeals a provision of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 regarding diplomatic reciprocity and equivalence of personnel at U.S. and Soviet diplomatic missions.

SECTION 502—OTHER PROVISIONS RELATED TO OPERATION OF EMBASSIES AND CONSULATES

Section 502 repeals or amends various provisions related to the operation of embassies and consulates in the United States by the Soviet Union.

Section 502(a) amends amending provisions of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, including the repeal of the requirement to submit a comprehensive plan setting forth current and future space requirements for the U.S. mission in Moscow and the repeal of a requirement to submit a report on the extent to which U.S. assets were compromised in the March, 1991 fire at the U.S. Embassy in Moscow.

Section 502(b) repeals a provision of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 requiring a report on the extent to which U.S. security may have been breached by Soviet firefighters in the March 1991 fire at the U.S. embassy complex.

Section 502(c) repeals a provision of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 which allows the Soviet mission to the United States to occupy, on the basis of reciprocity, a consulate facility in the United States.

Section 502(d) repeals a provision of the National Defense Authorization Act, Fiscal Year 1989 which requires an additional report on the capabilities of the Soviet Government to intercept U.S. communications from facilities on Mount Alto.

Section 502(e) repeals provisions of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 regarding restrictions on the use by the Soviet Government of the consulate on Mount Alto.

Section 502(f) repeals provisions of the National Defense Authorization Act, Fiscal Years 1988 and 1989 which requires a report on the present and future capabilities of the Soviet Government to intercept U.S. communications from facilities on Mount Alto.

Section 502(f) repeals a provision of the National Defense Authorization Act, Fiscal Year 1987 which requires a report on the effect of espionage activities in the United States conducted by the Soviet Union.

SECTION 503—FOREIGN SERVICE BUILDINGS ACT

Section 503 repeals section 4(j) of the Foreign Service Buildings Act, 1926 which authorizes $30 million, which is available until expended, for activities in the Soviet Union.

TITLE VI—PROVISIONS RELATED TO OCEANS AND ENVIRONMENT

SECTION 601—ARCTIC RESEARCH AND POLICY ACT

Section 601 amends the Arctic Research and Policy Act of 1984 to eliminate congressional findings referring to the Soviet Union, including language that tied the importance of the Arctic to its critical role in national defense as the only common border with the Soviet Union.

SECTION 602—FUR SEAL MANAGEMENT

Section 602 amends section 102 of the Fur Seal Act of 1966 to reflect the fact that the Soviet Union has dissolved.

SECTION 603—GLOBAL CLIMATE PROTECTION

Section 603 amends section 1106 of the Global Climate Protection Act of 1987, which states that, in light of the leadership roles of the United States and the Soviet Union in this area, the President should accord climate protection a high priority on the U.S. bilateral agenda with the Soviet Union. Section 603 changes the reference to indicate that climate protection should be accorded a high priority on the U.S. agenda with each of the independent states of the former Soviet Union.

TITLE VII—REGIONAL AND GENERAL DIPLOMATIC ISSUES

SECTION 701—UNITED NATIONS ASSESSMENTS

Section 701 amends the congressional findings contained in section 717 of the International Security and Development Cooperation Act of 1981, which call for the President to undertake a diplomatic initiative to obtain payment by the Soviet Union of all its outstanding financial obligations to the United Nations. Section 701 includes more general language which calls for appropriate diplomatic initiatives to ensure that all members make payments of all their outstanding financial obligations to the United Nations

SECTION 702—AFGHANISTAN

Section 702 repeals section 1241 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 regarding Afghanistan and the Soviet role in that country.

SECTION 703—ANGOLA

Section 703 repeals section 405 of the International Security Assistance and Arms Export Control Act of 1976 regarding Angola and the Soviet role in that country.

SECTION 704—SELF DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES

Section 704 amends section 1206(1) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, relating to self-determination for Latvia, Lithuania, and Estonia, to delete a reference to the Soviet Union.

SECTION 705—OBSOLETE REFERENCES IN FOREIGN ASSISTANCE ACT

Section 705(1) replaces the references in the policy language of section 501 of the Foreign Assistance Act to "international communism and the countries it controls," the need to "defeat Communist or Communist-supported aggression," and the importance of giving priority to the needs of countries in danger of "becoming victims of active Communist or Communist-inspired aggression or those countries in which the internal security is threatened by Communist-inspired or Communist-supported internal subversion." General references to hostile countries are substituted.

Section 705(2) replaces the reference in section 614 of the Foreign Assistance Act to victims of "active Communist or communist-supported aggression" with a reference to "active aggression."

Section 705(3) revises section 620(h) of the Foreign Assistance Act, which, as amended by this section, calls upon the President to adopt regulations and establish procedures to insure that the United States foreign aid is not used in a manner that promotes the foreign aid projects or activities of countries listed in section 620(f) of the Foreign Assistance Act.

SECTION 706—REVIEW OF POLICY TOWARD THE SOVIET UNION

Section 706 repeals section 24 of the International Security Assistance Act of 1978, which expresses the sense of Congress that the President should make a full review of policy toward the Soviet Union.

TITLE VIII—INTERNAL SECURITY PROVISIONS; WORLDWIDE COMMUNIST CONSPIRACY

SECTION 801—CIVIL DEFENSE

Section 801(a) amends section 501(b)(2) of the Federal Civil Defense Act of 1950 to delete references to the Soviet Union.

Section 801(b) contains an exception stating that the amendment made by subsection (a) shall not apply if, before the date of enactment of this Act, title V of the Federal Civil Defense Act of 1950 has been repealed.

SECTION 802—REPORT ON SOVIET PRESS MANIPULATION IN THE UNITED STATES

Section 802 repeals section 147 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, which requires an unclassified report to Congress on Soviet and communist misinformation and press manipulation in the United States.

SECTION 803—SUBVERSIVE ACTIVITIES CONTROL ACT

Section 803 repeals most of the provisions of title I of the Internal Security Act of 1950, as amended, In this Act Congress found, for example, that "there exists a world Communist movement which, in its origins, its development, and its present practice, is a worldwide revolutionary movement whose purpose it is, by treachery, deceit, infiltration into other groups (government and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world through the medium of a worldwide Communist organization". This and related findings are repealed.

The Internal Security Act imposed a variety of restrictions on Communist and Communist-front organizations, and created the Subversive Activities Control Board. Many of these provisions have already lapsed or been ruled to have various constitutional infirmities. The criminal provisions prohibiting disclosure of classified information by government officials to agents of foreign governments would be retained, with confirming changes to reflect other modifications contained in this section. In addition, the general provision allowing the Secretary of Defense and military commanders to impose security restrictions on military facilities also would be retained.

SECTION 804—REPORT ON SOVIET AND INTERNATIONAL COMMUNIST BEHAVIOR

This section repeals Section 155 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 which required the Secretary of State to prepare a report on the advisability of establishing a permanent office in the Department of State to study Soviet and international Communist behavior.

TITLE IX—MISCELLANEOUS

SECTION 901—BALLISTIC MISSILE TESTS NEAR HAWAII

Section 901 repeals section 1201 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, which expresses the sense of Congress regarding tests of intercontinental ballistic missiles near the Hawaiian Islands by the Soviet Union during 1986.

SECTION 902—NONDELIVERY OF INTERNATIONAL MAIL

Section 902 repeals section 1203 of the Foreign Relations Authorization Act, Fiscal years 1988 and 1989, which expresses the sense of Congress regarding the systematic nondelivery of international mail by the Government of the Soviet Union.

SECTION 903—STATE-SPONSORED HARASSMENT OF RELIGIOUS GROUPS

Section 903(a) amends section 1204 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, which expresses the sense of Congress regarding the harassment of Christians and other religious believers in the Soviet Union and Eastern Europe to state that the United States should oppose harassment of all religious groups in all countries.

Section 903(b) repeals section 1202 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, which expresses the sense of Congress on Soviet restrictions on emigration, religion, and the exercise of cultural rights.

Section 903(c) repeals section 805 of the Foreign Relations Authorization Act, Fiscal years 1986 and 1987, which expresses the sense of Congress regarding the violation of the human rights of Pentecostals in the Soviet Union.

SECTION 904—MURDER OF MAJOR ARTHUR NICHOLSON

Section 904 repeals section 148 of the Foreign Relations Authorization Act, Fiscal years 1986 and 1987, which expresses the sense of Congress that the United States should declare one or more senior Soviet defense attaches in the United States persona non grata unless the Soviet Union has formally apologized for the murder of Major Arthur Nicholson, Jr.

SECTION 905—MONUMENT TO HONOR VICTIMS OF COMMUNISM

Section 905 authorizes the creation of a memorial in the District of Columbia of an appropriate international memorial to honor victims of communism.

Section 905(a) sets out findings, including that international communist regimes have brutally suppressed the human rights and freedom of more than 40 captive nations and been responsible for the deaths of more than 100 million victims.

Section 905(b) authorizes the National Captive Nations Committee, Inc. to construct, maintain, and operate in the District of Columbia an appropriate international memorial to honor victims of communism. It encourages the National Captive Nations Committee, Inc. to create an independent entity to construct, maintain, and operate the memorial, and to include as active participants organizations representing all groups that have suffered under communism. This section states that the design, location, inscription, and construction of the memorial shall be subject to the requirements of "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its enfirons, and for other purposes."

Section 905(c) stipulates that no Federal funds may be used to pay any expense of the establishment of the memorial.

Section 905(d) directs that excess funds received for the establishment of the memorial shall be transmitted to the Secretary of the Treasury.

CHANGES IN EXISTING LAW

TITLE I—POLICY OF FRIENDSHIP AND COOPERATION

Existing laws referenced in this title are not amended or repealed. Several laws are cited under the finding that they "should not be construed as being directed against * * * the independent states of the former Soviet Union, connoting an adversarial relationship * * * or signifying or implying in any manner unfriendliness * * *" These laws are attached.

APPLICATION OF TRAVEL RESTRICTIONS TO PERSONNEL OF CERTAIN COUNTRIES AND ORGANIZATIONS

SEC. 216.[132] (a) REQUIREMENT FOR RESTRICTIONS.—The Secretary shall apply the same generally applicable restrictions to the travel while in the United States of the individuals described in subsection (b) as are applied under this title to the members of the missions of the Soviet Union in the United States.

[132] 22 U.S.C. 4316. Sec. 216 was added by sec. 162(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1357). Sec. 162(b) of the same Act made subsec. (a) of sec. 216 effective 90 days after enactment.

(b) INDIVIDUALS SUBJECT TO RESTRICTIONS.—The restrictions required by subsection (a) shall be applied with respect to those individuals who (as determined by the Secretary) are—

(1) the personnel of an international organization, if the individual is a national of any foreign country whose government engages in intelligence activities in the United States that are harmful to the national security of the United States;

(2) the personnel of a mission to an international organization, if that mission is the mission of a foreign government that engages in intelligence activities in the United States that are harmful to the national security of the United States; or

(3) the family members or dependents of an individual described in paragraphs (1) and (2);

and who are not nationals or permanent resident aliens of the United States.

(c) WAIVERS.—The Secretary, after consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, may waive application of the restrictions required by subsection (a) if the Secretary determines that the national security and foreign policy interests of the United States so require.

(d) REPORTS.—The Secretary shall transmit to the Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives, not later than six months after the date of enactment of this section and not later than every six months thereafter, a report on the actions taken by the Secretary in carrying out this section during the previous six months.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "generally applicable restrictions" means any limitations on the radius within which unrestricted travel is permitted and obtaining travel services through the auspices of the Office of Foreign Missions for travel elsewhere, and does not include any restrictions which unconditionally prohibit the members of missions of the Soviet Union in the United States from traveling to designated areas of the United States and which are applied as a result of particular factors in relations between the United States and the Soviet Union.[133]

(2) the term "international organization" means an organization described in section 208(b)(1); and

(3) the term "personnel" includes—

(A) officers, employees, and any other staff member, and

(B) any individual who is retained under contract or other arrangement to serve functions similar to those of an officer, employ, or other staff member.

SEC. 136.[21] SOVIET EMPLOYEES AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN THE SOVIET UNION.

[21] 22 U.S.C. 3943 note. In a memorandum to the Secretary of State on October 24, 1991, the President determined "that implementation of section 136(a) of the [Foreign Relations Authorization] Act [, Fiscal Years 1986 and 1987] poses undue practical and administrative difficulties. Consistent with this determination, you are authorized to employ Soviet nationals in nonsensitive areas of the New Embassy Compound in Moscow under strict monitoring by cleared Americans. Further, I delegate to you the responsibility vested in me by section 136(b) of the Act to report to the Congress on circumstances relevant to this determination. Such responsibility may be redelegated within the Department of State." (Presidential Determination 92-4 of October 24, 1991; 56 F.R. 56567, November 6, 1991).

The Secretary of State, in Department of State Public Notice 1531 of December 2, 1991 (Delegation of Authority No. 191; 56 F.R. 64830), delegated to the Deputy Secretary of State the reporting function requested in sec. 136(b).

[22] 22 U.S.C. 3904.

[23] 22 U.S.C. 3927.

(a) LIMITATION.—To the maximum extent practicable, citizens of the Soviet Union shall not be employed as foreign national employees at United States diplomatic or consular missions in the Soviet Union after September 30, 1986.

(b) REPORT.—Should the President determine that the implementation of subsection (a) poses undue practical or administrative difficulties, he is requested to submit a report to Congress describing the number and type of Soviet foreign national employees he wishes to retain at or in proximity to United States diplomatic and consular posts in the Soviet Union, the anticipated duration of their continued employment, the reasons for their continued employment, and the risks associated with the retention of these employees.

TITLE VII—ARMS CONTROL AND DISARMAMENT[43]

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TITLE VIII—MISCELLANEOUS PROVISIONS[44]

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SEC. 804. POLICY TOWARD APPLICATION OF THE YALTA AGREEMENT.

(a) FINDINGS.—The Congress finds that—

(1) during World War II, representatives of the United States, Britain, and the Soviet Union took part in agreements and understandings concerning other peoples and nations in Europe;

(2) the Soviet Union has not adhered to its obligation undertaken in the 1945 Yalta agreement to guarantee free elections in the countries involved, specifically the pledge for the "earliest possible establishment of free election of governmental responsive to the wills of the people and to facilitate where necessary the holding of such elections";

(3) the strong desire of the people of Central and Eastern Europe to exercise their national sovereignty and self-determination and to resist Soviet domination has been demonstrated on many occasions since 1945, including armed resistance to the forcible Soviet takeover of the Baltic Republics and resistance in the Ukraine as well as in the German Democratic Republic in 1953, in Hungary in 1956, in Czechoslovakia in 1968, and in Poland in 1956, 1970, and since 1980;

[43] Title VII contained amendments to the Arms Control and Disarmament Act. For freestanding provisions of this title, see page 1122.

[44] Title VIII amended the National Emergencies Act, the Trading With the Enemy Act, and the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act. Freestanding provisions are presented below, together with sec. 803, which amended sec. 39 of the Trading With the Enemy Act, Sec. 39 of the amended Act does not appear elsewhere in this volume.

[45] 98 Stat. 2649.

(4) it is appropriate that the United States express the hopes of the people of the United States that the people of Central and Eastern Europe be permitted to exercise their national sovereignty and self-determination free from soviet interference; and

(5) it is appropriate for the United States to reject any interpretation or application that, as a result of the signing of the 1945 Yalta executive agreements, the United States accepts and recognizes in any way Soviet hegemony over the countries of Eastern Europe.

(b) POLICY.—The United States does not recognize as legitimate any spheres of influence in Europe and it reaffirms its refusal to recognize such spheres in the present or in the future, by repudiating any attempts to legitimize the domination of East European nations by the Soviet Union through the Yalta executive agreement.

(2) The United States proclaims the hope that the people of Eastern Europe shall again enjoy the right to self-determination within a framework that will sustain peace, that they shall again have the right to choose a form of government under which they shall live, and that the sovereign rights of self-determination shall be restored to them in accordance with the pledge of the Atlantic Charter and with provisions of the United Nations Charter[46] and the Helsinki Final Act of the Conference on Security and Cooperation in Europe;[47]

[46] 55 Stat. 1600.

[47] 59 Stat. 1031.

SEC. 1222. UNITED STATES POLICY ON ANGOLA.

(a) FINDINGS.—The Congress finds that—

(1) it is in the interest of peace and economic development in southern Africa for the President and the Secretary of State to discuss the conflict in Angola with Soviet leaders;

(2) the President has stated that the resolution of regional conflicts such as Angola, Afghanistan, and Nicaragua is critical to improvement in Soviet-American relations;

(3) the proposed summit between President Reagan and Secretary General Gorbachev provides the United States with an opportunity to encourage complete Soviet-Cuban withdrawal from Angola, the possible provision of humanitarian assistance, and the holding of free and fair elections;

(4) the Marxist regime in Angola known as the Popular Movement for Liberation of Angola (hereafter in this section referred to as the "MPLA") is currently launching a major dry-season offensive against the opposition involving thousands of Cuban troops and billions of dollars in sophisticated Soviet weaponry;

(5) the people of Angola are starving because of the hardships resulting from 12 years of civil war and inefficient Marxist economic policies;

(6) the MPLA regime has turned to the international community for substantial food aid while continuing to spend most of Angola's national budget on sustaining the war effort, including payments for Cuban troops and Soviet arms; and

(7) the growing intensity of the war, the starvation and mounting suffering of the Angolan people, the continued presence in Angola of 37,000 Cuban combat troops and South African forces, the continued presence and active involvement of 2,500 Soviet military advisers, and the refusal of the MPLA to negotiate with the opposition, increase the urgency of reaching a peaceful solution.

(b) POLICY.—It is the sense of the Congress that—

(1) the United States should continue to work toward a peaceful resolution to the Angolan conflict that includes—

(A) the complete withdrawal of all foreign forces and Soviet military advisers;

(B) a negotiated settlement to the 12-year conflict leading to the formation of a government of national unity and the holding of free and fair elections; and

(C) efforts by the President and the Secretary of State to convey to Soviet leaders at the proposed summit and in other meetings that the aggressive military build-up in Angola undermines positive bilateral relations and that the United States is committed to supporting democratic forces in Angola until democracy is achieved;

(2) the people of Angola should not be left to starve because of the MPLA regime;

(3) the United States should consider responding to the humanitarian needs of the Angolan people, and if humanitarian assistance is provided, such assistance should be distributed in an evenhanded manner, so that Angolans throughout the entire war-torn country are provided with food and basic medical care;

(4) any humanitarian assistance should be distributed through private and voluntary organizations or nongovernmental organizations; and

(5) within 180 days after the date of the enactment of this Act, the Secretary of State should prepare and transmit to the Congress a report detailing the progress of discussions between the Soviet Union and the United States on the conflict in Angola.

PART II—MULTILATERAL EXPORT CONTROL ENHANCEMENT

SEC. 2441.[82] SHORT TITLE.

This part may be cited as the "Multilateral Export Control Enhancement Amendments Act".

SEC. 2442.[83] FINDINGS.

The Congress makes the following findings:

(1) The diversion of advanced milling machinery to the Soviet Union by the Toshiba Machine Company and Kongsberg Trading Company has had a serious impact on United States and Western security interests.

(2) United States and Western security is undermined without the cooperation of the governments and nationals of all countries participating in the group known as the coordinating Committee (hereafter in this part referred to as "COCOM") in enforcing the COCOM agreement.

(3) It is the responsibility of all governments participating in COCOM to place in effect strong national security export control laws, to license strategic exports carefully, and to enforce those export control laws strictly, since the COCOM system is only as strong as the national laws and enforcement on which it is based.

(4) It is also important for corporations to implement effective internal control systems to ensure compliance with export control laws.

(5) In order to protect United States national security, the United States must take steps to ensure the compliance of foreign companies with COCOM controls, including, where necessary conditions have been met, the imposition of sanctions against violators of controls commensurate with the severity of the violation.

SEC. 2443.[83, 84] MANDATORY SANCTIONS AGAINST TOSHIBA AND KONGSBERG.

(a) SANCTIONS AGAINST TOSHIBA MACHINE COMPANY, KONGSBERG TRADING COMPANY, AND CERTAIN OTHER FOREIGN PERSONS.—(1) The President shall impose, for a period of 3 years—

(1) a prohibition on contracting with, and procurement of products and services from—

(A) Toshiba Machine Company and Kongsberg Trading Company, and

(B) any other foreign person whom the President finds to have knowingly facilitated the diversion of advanced milling machinery by Toshiba Machine Company and Kongsberg Trading Company to the Soviet Union, by any department, agency, or instrumentality of the United States Government; and

[82] 50 U.S.C. app. 2401 note.

[83] 50 U.S.C. app. 2401a note.

[84] Sanctions were imposed by Executive Order 12661 of December 27, 1988 (see page 763), and expired on December 28, 1991.

(2) a prohibition on the importation into the United States of all products produced by Toshiba Machine Company, Kongsberg Trading Company, and any foreign person described in paragraph (1)(B).

(b) SANCTIONS AGAINST TOSHIBA CORPORATION AND KONGSBERG VAAPENFABRIKK.—The President shall impose, for a period of 3 years, a prohibition on contracting with, and procurement of products and services from, the Toshiba Corporation and Kongsberg Vaapenfabrikk, by any department, agency, or instrumentality of the United States Government.

(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the company or foreign person to whom the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

(C) if the President determines that such articles or services are essential to the national security under defense co-production agreements; or

(2) to—

(A) products or services provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before June 30, 1987;

(B) spare parts;

(C) component parts, but not finished products, essential to United States products or production;

(D) routine servicing and maintenance of products; or

(E) information and technology.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "component part" means any article which is not usable for its intended functions without being imbedded or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

(2) the term "finished product" means any article which is usable for its intended functions without being imbedded in or integrated into any other product, but in no case shall such term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

(3) the term "sanctioned person" means a company or other foreign person upon whom prohibitions have been imposed under subsection (a) or (b).

CAPTIVE NATIONS WEEK

PUBLIC LAW 86-90: 73 STAT. 212

[S.J. Res. 111]

Joint Resolution providing for the designation of the third week of July as "Captive Nations Week".

Whereas the greatness of the United States is in large part attributable to its having been able, through the democratic process, to achieve a harmonious national unity of its people, even though they stem from the most diverse of racial, religious, and ethnic backgrounds; and

Whereas this harmonious unification of the diverse elements of our free society has led the people of the United States to possess a warm understanding and sympathy for the aspirations of peoples everywhere and to recognize the natural interdependence of the peoples and nations of the world; and

Whereas the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples; and

Whereas since 1918 the imperialistic and aggressive policies of Russian communism have resulted in the creation of a vast empire which poses a dire threat to the security of the United States and of all the free peoples of the world; and

Whereas the imperialistic policies of Communist Russia have led, through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam and others; and

Whereas these submerged nations look to the United States, as the citadel of human freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freedoms, and of their individual liberties; and

Whereas it is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive; and

Whereas the desire for liberty and independence by the overwhelming majority of the people of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace; and

Whereas it is fitting that we clearly manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence: Now, therefor, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The President of the United States is authorized and requested to issue a proclamation designating the third week in July 1959 as "Captive Nations Week" and inviting the people of the United States to observe such week with appropriate ceremonies and activities. The President is further authorized and requested to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world.

Approved July 17, 1959.

§ 841. Findings and declarations of fact

The Congress finds and declares that the Communist Party of the United States, although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the Government of the United States. It constitutes an authoritarian dictatorship within a republic, demanding for itself the rights and privileges accorded to political parties, but denying to all others the liberties guaranteed by the Constitution. Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly prescribed for it by the foreign leaders of the World Communist movement. Its members have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination with respect to its objectives and methods, and are organized, instructed, and disciplined to carry into action slavishly the assignments given them by their hierarchical chieftains. Unlike political parties, the Communist Party acknowledges no constitutional or statutory limitation upon its conduct or upon that of its members. The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means. The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and it dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence. Holding that doctrine, its role as the agency of a hostile foreign power renders its existence a clear present and continuing danger to the security of the United States. It is the means whereby individuals are seduced into the service of the world Communist movement, trained to do its bidding, and directed and controlled in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed.

(Aug. 24, 1954, c. 886, §2, 68 Stat. 775.)

§ 842. Proscription of Communist Party, its successors, and subsidiary organizations

The Communist Party of the United States, or any successors of such party regardless of the assumed name, whose object or purpose is to overthrow the Government of the United States, or the government of any State, Territory, District, or possession thereof, or the government of any political subdivision therein by force and violence, are not entitled to any of the rights, privileges, and immunities attendant upon legal bodies created under the jurisdiction of the laws of the United States or any political subdivision thereof; and whatever rights, privileges, and immunities which have heretofore been granted to said party or any subsidiary organization by reason of the laws of the United States or any political subdivision thereof, are terminated: *Provided, however,* That nothing in this section shall be construed as amending the Internal Security Act of 1950, as amended.

§ 843. Application of Internal Security Act of 1950 to members of Communist Party and other subversive organizations; "Communist Party" defined

[1]Whoever knowingly and willfully becomes or remains a member of (1) the Communist Party, or (2) any other organization having for one of its purposes or objectives the establishment, control[2] conduct, seizure, or overthrow of the Government of the United States, or the government of any State or political subdivision thereof, by the use of force or violence, with knowledge of the purpose or objective of such organization shall be subject to all the provisions and penalties of the Internal Security Act of 1950, as amended [50 U.S.C.A. §781 et seq.], as a member of a "Communist-action" organization.

(b) For the purposes of this section, the term "Communist Party" means the organization now known as the Communist Party of the United States of America, the Communist Party of any State or subdivision thereof, and any unit or subdivision of any such organization, whether or not any change is hereafter made in the name thereof.

(Aug. 24, 1954, c. 886, §4, 68 Stat. 776.)

[1]So in original. Section enacted without a subsection (a) designation.

[2]So in original. A comma should probably appear at this point.

§ 844. Determination by jury of membership in Communist Party, participation, or knowledge of purpose

In determining membership or participation in the Communist Party of any other organization defined in this Act, or knowledge of the purpose or objective of such party or organization, the jury, under instructions from the court, shall consider evidence, if presented, as to whether the accused person:

(1) Has been listed to his knowledge as a member in any book or any of the lists, records, correspondence, or any other document of the organization;

(2) Has made financial contribution to the organization in dues, assessments, loans, or in any other form;

(3) Has made himself subject to the discipline of the organization in any form whatsoever;

(4) Has executed orders, plans, or directives of any kind of the organization;

(5) Has acted as an agent, courier, messenger, correspondent, organizer, or in any other capacity in behalf of the organization;

(6) Has conferred with officers or other members of the organization in behalf of any plan or enterprise of the organization;

(7) Has been accepted to his knowledge as an officer or member of the organization or as one to be called upon for services by other officers or members of the organization;

(8) Has written, spoken or in any other way communicated by signal, semaphore, sign, or in any other form of communication orders, directives, or plans of the organization;

(9) Has prepared documents, pamphlets, leaflets, books, or any other type of publication in behalf of the objectives and purposes of the organization;

(10) Has mailed, shipped, circulated, distributed, delivered, or in any other way sent or delivered to others material or propaganda of any kind in behalf of the organization;

(11) Has advised, counseled or in any other way imparted information, suggestions, recommendations to officers or members of the organization or to anyone else in behalf of the objectives of the organization;

(12) Has indicated by word, action, conduct, writing or in any other way a willingness to carry out in any manner and to any degree the plans, designs, objectives, or purposes of the organization;

(13) Has in any other way participated in the activities, planning, actions, objectives, or purposes of the organization;

(14) The enumeration of the above subjects of evidence on membership or participation in the Communist Party or any other organization as above defined, shall not limit the inquiry into and consideration of any other subject of evidence on membership and participation as herein stated.

(Aug. 24, 1954, c. 886, §5, 68 Stat. 776.)

SUBCHAPTER V—REGISTRATION OF CERTAIN PERSONS TRAINED IN FOREIGN ESPIONAGE SYSTEMS

§851. Registration of certain persons; filing statement; regulations

Except as provided in section 582 of this title, every person who has knowledge of, or has received instruction or assignment in, the espionage, counterespionage, or sabotage service or tactics of a government of a foreign country or of a foreign political party, shall register with the Attorney General by filing with the Attorney General a registration statement in duplicate, under oath, prepared and filed in such manner and form, and containing such statements, information, or documents pertinent to the purposes and objectives of this subchapter as the attorney General, having due regard for the national security and the public interest, by regulations prescribes.

(Aug. 1, 1956, c. 849, §2, 70 Stat. 899.)

§852. Exemption from registration

The registration requirements of section 851 of this title do not apply to any person—

(a) who has obtained knowledge of or received instruction or assignment in the espionage, counterespionage, or sabotage service or tactics of a foreign government or foreign political party by reason of civilian, military, or police service or employment with the United States Government, the governments of the several States, their political subdivisions, the District of Columbia, the Territories or the Canal Zone;

(b) who has obtained such knowledge solely by reason of academic or personal interest not under the supervision of or in preparation for service with the government of a foreign country or a foreign political party;

(c) who has made full disclosure of such knowledge, instruction, or assignment to officials within an agency of the United States Government having responsibilities in the field of intelligence, which disclosure has been made a matter of record in the files of such agency, and concerning whom a written determination has been made by the Attorney General or the Director of Central Intelligence that registration would not be in the interest of national security;

(d) whose knowledge of, or receipt of instruction or assignment in, the espionage, counterespionage, or sabotage service or tactics of a government of a foreign country or of a foreign political party, is a matter or record in the files of an agency of the United States Government having responsibilities in the field of intelligence and concerning whom a written determination is made by the Attorney General or the Director of Central Intelligence, based on all information available, that registration would not be in the interest of national security;

(e) who is a duly accredited diplomatic or consular officer of a foreign government, who is so recognized by the Department of State, while he is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer, and any member of his immediate family who resides with him;

(f) who is an official of a foreign government recognized by the United States, whose name and status and the character of whose duties as such official are of record in the Department of State, and while he is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official, and any member of his immediate family who resides with him;

(g) who is a member of the staff of or employed by a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, and whose name and status and the character of whose duties as such member or employee are a matter of record in the Department of State, while he is engaged exclusively in the performance of activities recognized by the Department of State as being within the scope of the functions of such member or employee;

(h) Who is an officially acknowledged and sponsored representative of a foreign government and is in the United States on an official mission for the purpose of conferring or otherwise cooperating the United States intelligence or security personnel;

(i) who is a civilian or one of the military personnel of a foreign armed service coming to the United States pursuant to arrangements made under a mutual defense treaty or agreement, or who has been invited to the United States at the request of an agency of the United States Government; or

(j) who is a person designed by a foreign government to serve as its representative in or to an international organization in which the United States participated or is an officer or employee of such an organization or who is a member of the immediate family of, and resides with, such a representative, officer, or employee.

(Aug. 1, 1956, c. 849, §3, 70 Stat. 899.)

[1] So in original. Probably should not be capitalized.

§853. Retention of registration statements; public examination; withdrawal

The Attorney General shall retain in permanent form one copy of all registration statements filed under this subchapter. They shall be public records and open to public examination at such reasonable hours and under such regulations as the Attorney General prescribes, except that the Attorney General, having due regard for the national security and public interest, may withdraw any registration statement from public examination.

(Aug. 1, 1956, c. 849, §4, 70 Stat. 900.)

§854. Rules, regulations, and forms

The Attorney General may at any time, make, prescribe, amend, and rescind such rules, regulations, and forms as he deems necessary to carry out the provisions of this subchapter.

(Aug. 1, 1956, c. 849, §5, 70 Stat. 900.)

§855. Violations; penalties; deportation

(a) Whoever willfully violates any provision of this subchapter or any regulation thereunder, or in any registration statement willfully make[1] a false statement of a material fact or willfully omits any material fact, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(b) Any alien convicted of a violation of this subchapter or any regulation thereunder is subject to deportation in the manner provided by part V of subchapter II of chapter 12 of Title 8.

(Aug. 1, 1956, c. 849, §6, 70 Stat. 900.)

[1] So in original. Probably should be "makes".

§856. Continuing offense

Failure to file a registration statement as required by this subchapter is a continuing offense for as long as such failure exists, notwithstanding any statute of limitation or other statute to the contrary.

(Aug. 1, 1956, c. 849, §7, 70 Stat. 900.)

§857. Compliance with other registration statutes

Compliance with the registration provisions of this subchapter does not relieve any person from compliance with any other applicable registration statute.

(Aug. 1, 1956, c. 849, §8, 70 Stat. 900.)

3. Middle East Resolutions and Related Material[1]

a. Resolution to Promote Peace and Stability in the Middle East

Public Law 85–7 [H.J. Res. 117], 71 Stat. 5, approved March 9, 1957; as amended by Public Law 87–195 [Foreign Assistance Act of 1961, S. 1983], 75 Stat. 424, approved September 4, 1961

JOINT RESOLUTION To promote peace and stability in the Middle East

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be and hereby is authorized to cooperate with and assist any nation or group of nations in the general area of the Middle East desiring such assistance in the development of economic strength dedicated to the maintenance of national independence.

SEC. 2.[2] The President is authorized to undertake, in the general area of the Middle East, military assistance programs with any nation or group of nations of that area desiring such assistance. Furthermore, the United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end, if the President determines the necessity thereof, the United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism: *Provided*, That such employment shall be consonant with the treaty obligations of the United States and with the Constitution of the United States.

SEC. 3.[3] The President is hereby authorized to use during the balance of fiscal year 1957 for economic and military assistance under this joint resolution not to exceed $200,000,000 from any appropriation now available for carrying out the provisions of the Mutual Security Act of 1954, as amended, in accord with the provisions of such Act: *Provided*, That, whenever the President determines it to be important to the security of the United States, such use may be under the authority of section 401(a) of the Mutual Security Act of 1954, as amended (except that the provisions of section 105(a) thereof shall not be waived), and without regard to the provisions of section 105 of the Mutual Security Appropriation Act, 1957: *Provided further*, That obligations incurred in carrying out the purposes of the first sentence of section 2 of this joint resolution shall be paid only out of appropriations for military assistance, and obligations incurred in carrying out the purposes of the first section of this joint resolution shall be paid only out of appropriations other than those for military assistance. This authorization is in addition to other existing authorizations with respect to the use of such appropriations. None of the additional authorizations contained in this section shall be used until fifteen days after the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, the Committees on Appropriations of the Senate and the

House of Representatives and, when military assistance is involved, the Committees on Armed Services of the Senate and the House of Representatives have been furnished a report showing the object of the proposed use, the country for the benefit of which such use is intended, and the particular appropriation or appropriations for carrying out the provisions of the Mutual Security Act of 1954, as amended, from which the funds are proposed to be derived: *Provided*, That funds available under this section during the balance of fiscal year 1957 shall, in the case of any such report submitted during the last 15 days of the fiscal year, remain available for use under this section for the purposes stated in such report for a period of twenty days following the date of submission of such report. Nothing contained in this joint resolution shall be construed as itself authorizing the appropriations of additional funds for the purpose of carrying out the provisions of the first section or of the first sentence of section 2 of this joint resolution.

[1] See also legislation under War Powers, beginning at page 1205.

[2] 22 U.S.C. 1961.

[3] 22 U.S.C. 1962.

SEC. 4.[4] The President should continue to furnish facilities and military assistance, within the provisions of applicable law and establish policies, to the United Nations Emergency Force in the Middle East, with a view to maintaining the truce in that region.

SEC. 5.[5] The President shall whenever appropriate[6] report to the Congress his action hereunder.

SEC. 6.[7] This joint resolution shall expire when the President shall determine that the peace and security of the nations in the general area of the Middle East are reasonably assured by international conditions created by action of the United Nations or otherwise except that it may be terminated earlier by a concurrent resolution of the two Houses of Congress.

[4] 22 U.S.C. 1963.

[5] 22 U.S.C. 1964.

[6] Sec. 705 of the Foreign Assistance of 19611 (Public Law 87-195) inserted "whenever appropriate" in lieu of "within the months of January and July of each year".

[7] U.S.C. 1965.

INSTRUCTIONS TO THE UNITED STATES EXECUTIVE DIRECTOR

SEC. 43.[71] (a) The Congress hereby finds that Communist dictatorships result in severe constraints on labor and capital mobility and other highly inefficient labor and capital supply rigidities which contribute to balance-of-payments deficits in direct contradiction of the goals of the International Monetary Fund. Therefore, the Secretary of the Treasury shall instruct the United States Executive Director of the Fund to actively oppose any facility involving use of Fund credit by any Communist dictatorship, unless the Secretary of the Treasury certifies and documents in writing upon request and so notifies and appears, if requested, before the Foreign Relations and Banking, Housing and Urban Affairs Committees of the Senate and the Banking, Finance and Urban Affairs Committee of the House of Representatives, at least twenty-one days in advance of any vote on such drawing that such drawing:

(1) provides the basis for correcting the balance of payments difficulties and restoring a sustainable balance of payments position:

[71] 22 U.S.C. 286aa. Sec. 43 was added by sec. 804 of Public Law 98-181 (97 Stat. 12701.

(2) would reduce the severe constraints on labor and capital mobility or other highly inefficient labor and capital supply rigidities and advances market-oriented forces in that country; and

(3) is in the best economic interest of the majority of the people in that country.

Should the Secretary not meet a request to appear before the aforementioned Committees at least twenty-one days in advance of any vote on any facility involving use of Fund credit by any communist dictatorship and certify and document in writing that these three conditions have been met, the United States Executive Director shall vote against such program.

(b) The Congress hereby find that the practice of apartheid results in severe constraints on labor and capital mobility and other highly inefficient labor and capital supply rigidities which contribute to balance of payments deficits in direct contradiction of the goals of the International Monetary Fund. Therefore, the President shall instruct the United States Executive Director of the Fund to actively oppose any facility involving use of Fund credit by any country which practices apartheid unless the Secretary of the Treasury certifies and documents in writing, upon request, and so notifies and appears, if requested, before the Foreign Relations and Banking, Housing and Urban Affairs Committees of the Senate and the Banking, Finance and Urban Affairs Committee of the House of Representatives, at least twenty-one days in advance of any vote on such drawing, that such drawing: (1) would reduce the severe constraints on labor and capital mobility, through such means as increasing access to education by workers and reducing artificial constraints on worker mobility and substantial reduction of racially-based restrictions on the geographical mobility of labor; (2) would reduce other highly inefficient labor and capital supply rigidities; (3) would benefit economically the majority of the people of any country which practices apartheid; (4) is suffering from a genuine balance of payments imbalance that cannot be met by recourse to private capital markets. Should the Secretary not meet a request to appear before the aforementioned Committee at least twenty-one days in advance of any vote on any facility involving use of Fund credit by any country practicing apartheid and certify and document in writing that these four conditions have been met, the United States Executive Director shall vote against such program.

TITLE II—TRADE AND BUSINESS RELATIONS

Sec. 201. Policy Under Export Administration Act

FINDINGS

SEC. 2. The Congress makes the following findings:

* * * * * * *

[(11) The acquisition of national security sensitive goods and technology by the Soviet Union and other countries the actions of policies of which run counter to the national security interests of the United States, has led to the significant enhancement of Soviet block military-industrial capabilities. This enhancement poses a threat to the security of the United States, its allies, and other friendly nations, and places additional demands on the defense budget of the United States.]

[(12)] *(11)* Availability to controlled countries of goods and technology from foreign sources is a fundamental concern of the United States and should be eliminated through negotiations and other appropriate means whenever possible.

[(13)] *(12)* Excessive dependence of the United States, its allies, or countries sharing common strategic objectives with the United States, on energy and other critical resources from potential adversaries can be harmful to the mutual and individual security of all those countries.

SEC. 3. The Congress makes the following declarations:

(1) * * *

* * * * * *

[(15) It is the policy of the United States, particularly in light of the Soviet measure of innocent men, women, and children aboard Korean Air Lines flight 7, to continue to object to exceptions to the International Control List for the Union of Soviet Socialist Republics, subject to periodic review by the President.]

* * * * * *

Sec. 202. Representation of Countries of Eastern Europe and the Independent States of the Former Soviet Union in Legal Commercial Transactions

Section 951 of Title 18, United States Code

(a) * * *

(e) Notwithstanding paragraph (d)(4), any person engaged in a legal commercial transaction shall be considered to be an agent of a foreign government for purposes of this section if—

(1) such person agrees to operate within the United States subject to the direction or control of a foreign government or official; and

(2) such person—

(A) is an agent of [the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Romania, or Cuba] *Cuba or any other country that the President determines (and so reports to the Congress) poses a threat to the national security interest of the United States for purposes of this section,* unless the Attorney General, after consultation with the Secretary of State, determines and so reports to the Congress that the national security or foreign policy interests of the United States requires that the provisions of this section do not apply in specific circumstances to agents of such country; or

* * * * *

Section 203. Procedures Regarding Transfers of Certain Department of Defense-Funded Items

(a) * * *

[SEC. 223. LIMITATION ON TRANSFER OF SDI TECHNOLOGY TO SOVIET UNION.

[Military technology developed with funds appropriated or otherwise made available for the Strategic Defense Initiative may not be transferred, or made available for transfer, to be Soviet Union by the United States (or with the consent of the United States) unless—

[(1) the President determines, and certifies to Congress, that the transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace; and

[(2) Congress approves that determination by a joint resolution.]

SEC. 223. LIMITATION ON TRANSFER OF CERTAIN MILITARY TECHNOLOGY TO INDEPENDENT STATES OF THE FORMER SOVIET UNION.

Military technology developed with funds appropriated or otherwise made available for the Ballistic Missile Defense Program may not be transferred (or made available for transfer) to

Russia or any other independent state of the former Soviet Union by the United States (or with the consent of the United States) unless the President determines and certifies to the Congress at least 15 days prior to any such transfer, that such transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace.

* * * * *

(b) * * *

Section 709 of the Department of Defense Appropriations Authorization Act, 1975.

[Sec. 709. (a) The Congress finds that the defense posture of the United States may be seriously compromised if goods, technology, and industrial techniques which have been developed in whole or in part as a direct or indirect result of research and development programs or procurement programs financed in whole or in part with funds authorized by this or any other Act authorizing funds for the Department of Defense are exported to a controlled country without an adequate and knowledgeable assessment having been made to determine whether the export of such goods, technology, and techniques will significantly increase the present or potential military capability of any such country. It is the purpose of this section, therefore, to provide for such an assessment, to insure notice of proposed exports to the Secretary of Defense, and to authorize the Secretary of Defense to review the proposed export of goods, technology, or industrial techniques to any such country whenever he has reason to believe that the export of such goods, technology, or techniques will significantly increase the military capability of such country.

[(b) Effective upon enactment of this section, any application for the export of any goods, technology, or industrial techniques described in subsection (a) shall, before being eligible for export to a controlled country, be reviewed and assessed by the Secretary of Defense for the purpose of determining whether the export of such goods, technology or techniques will significantly increase the present or potential military capability of such country.

[(c) If the Secretary of Defense determines, after his review and assessment, that the export of such goods, technology or industrial techniques will in his judgment significantly increase the present or potential military capability of any controlled country, he shall recommend to the President that the application for export be disapproved. In any case in which the President disagrees with a recommendation made by the Secretary of Defense to prohibit the export of such goods, technology, or techniques to a controlled country, the President shall submit to the Congress a statement indicating his disagreement with the Secretary of Defense together with the recommendation of the Secretary of Defense. The application for the export of any such goods, technology, or techniques may be approved after submission by the President of his statement and the recommendation of the Secretary of Defense to the Congress and 60 days of continuous session of the Congress has elapsed following such submission unless within such 60 day period Congress has adopted a concurrent resolution disapproving the application for the export of such goods, technology, or techniques.

[(d) As used in this section (1) the term "controlled country" means the Soviet Union, Poland, Romania, Hungary, Bulgaria, Czechoslovakia, the German Democratic Republic (East Germany), and such other countries as may be designated by the Secretary of Defense, and (2) the term "days of continuous session of the Congress" shall not include days on which either House of Congress is not in session because of an adjournment of more than three days.

[(e) The Secretary of Defense shall submit to the Congress a written report on his implementation of this section not later than 30 days after the close of each quarter of each fiscal year. Each such report shall, among other things, identify each instance in which the Secretary recommended to the President that exports be disapproved and the action finally taken by the executive branch on the matter.]

Section 204. Soviet Slave Labor

[SEC. 1906. SENSE OF CONGRESS REQUESTING THE PRESIDENT TO INSTRUCT THE SECRETARY OF THE TREASURY TO ENFORCE SECTION 307 OF THE TARIFF ACT OF 1930 WITHOUT DELAY.

[(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

[(1) its February 1983 report to the Congress on forced labor in the Union of Soviet Socialist Republics, the Department of State confirmed that Soviet forced labor is used "to produce large amounts of primary and manufactured goods for both domestic and Western export markets", and that such labor is used as an integral part of Soviet national economy;

[(2) the Central Intelligence Agency has compiled a list of over three dozen products made by Soviet forced labor and imported by the United States, and that items on the September 27, 1983 list include chemicals, gold, uranium, aluminum, wood products and glassware;

[(3) the International Commission on Human Rights has concluded that the Soviet Union "continues the deplorable practice of forced labor in manufacturing and construction projects" and that prisoners "are forced to work under conditions of extreme hardship including malnutrition, inadequate shelter and clothing, and severe discipline";

[(4) the Congress is on record as opposing forced labor, having enacted a prohibition (in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307)) on the importation of goods made with such labor and having passed in the Ninety-eighth Congress by unanimous vote a resolution calling such practices morally reprehensible and calling upon the President to express to the Soviet Union the opposition of the United States to such policies;

[(5) the prohibition enacted by the Congress declares that "goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited";

[(6) there is ample knowledge of the Soviet forced labor system to require enforcement of the prohibition contained in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); and

[(7) the delay in enforcing the law brings into question the commitment of the United States to protest the inhumane treatment of prisoners in the Soviet Gulag, an estimated ten thousand of whom are political and religious prisoners according to the Department of State.

[(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should express to the Soviet in the firmest possible terms the strong moral opposition of the United States to the slave labor policies of the Soviet Union by every means possible, including refusing to permit the importation into the United States of any products made in whole or in part by such labor.

[(c) PRESIDENTIAL ACTION.—The President is hereby requested to instruct the Secretary of the Treasury to enforce section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) without delay.]

* * * * *

TITLE III—CULTURAL, EDUCATIONAL, AND OTHER EXCHANGE PROGRAMS

Section 301. Mutual Educational And Cultural Exchange Act of 1961

(a) * * *

* * * * *

SEC. 112. (a) In order to carry out the purposes of this Act, there is established in the United States Information Agency, or in such appropriate agency of the United States as the President shall determine, a Bureau of Educational and Cultural Affairs (hereinafter in this section referred to as the "Bureau"). The Bureau shall be responsible for managing, coordinating, and overseeing programs established pursuant to this Act, including but not limited to—

(1) * * *

* * * * *

(8) the Samantha Smith Memorial Exchange Program which advances understanding between the United States and the [Soviet Union] *independent states of the former Soviet Union* and between the United States and Eastern European countries through the exchange of persons under the age of 21 years and of students at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) who have not received the initial baccalaureate degree or through other programs designed to promote contact between the young peoples of the United States, the [Soviet Union] *independent states of the former Soviet Union*, and Eastern European countries; and

* * * * *

(b) * * *

Sec. 113. [United States-Soviet Exchanges] Exchanges Between the United States and the Independent States of the Former Soviet Union.—(a) The President is authorized to negotiate and implement [an agreement with the union of Soviet Socialist Republics] *agreements with the independent states of the former Soviet Union* under which repayments [made by the Soviet Union] *made by the independent states* on Lend-Lease debts to the United States would be used to finance the exchange of persons between the United States [and the Soviet Union] *and the independent states* for educational, cultural, and artistic purposes. Exchanges authorized pursuant to this section shall be administered subject to the provisions of this Act Part of the funds repaid to the United States shall be in convertible currency for the purpose of paying the expenses associated with study and other exchange activities [by Soviet citizens in the United States] *in the United States by citizens of the independent states.*

* * * * *

Section 302. Soviet-Eastern European Research and Training

[TITLE VIII—SOVIET-EASTERN EUROPEAN RESEARCH AND TRAINING] *TITLE VIII—RESEARCH AND TRAINING FOR EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION*

SEC. 801. This title maybe cited as the "[Soviet-Eastern European Research and

Training] *Research and Training for Eastern Europe and the Independent States of the Former Soviet Union* Act of 1983".

FINDINGS AND DECLARATIONS

SEC. 802. The Congress finds and declares that—

(1) factual knowledge, independently verified, about the [Soviet Union and Eastern European countries] *countries of Eastern Europe and the independent states of the former Soviet Union* is of the utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs;

(2) the development and maintenance of knowledge about the [Soviet Union and Eastern countries] *countries of Eastern Europe and the independent states of the former Soviet Union* depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government.

(3) certain essential functions are necessary to ensure the existence of that knowledge and the capability to sustain it, including

(A) * * *

* * * * *

(E) firsthand experience of the [Soviet Union and Eastern Europe countries] *countries of Eastern Europe and the Independent States of the Former Soviet Union* by American specialists, including on site conduct of advanced training and research to the extent practicable; and

* * * * *

DEFINITIONS

SEC. 803. As used in this title—

(1) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965; and

(2) the term "Advisory Committee" means the [Soviet-Eastern European Studies Advisory Committee] *Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union* established by section 804(a).

* * * * *

ESTABLISHMENT OF [THE SOVIET-EASTERN EUROPEAN STUDIES] ADVISORY COMMITTEE

SEC. 804. (a) There is established within the Department of State the [Soviet-Eastern European Studies Advisory Committee] *Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union* which shall be composed of the Secretary of State, the Secretary of Defense, the Secretary of Education, the Librarian of Congress, the President of the American Association for the Advancement of Slavic Studies, and the President of the Association of American Universities. The Secretary of State shall be the Chairman.

* * * * *

(d) The Advisory Committee shall recommend grant policies for the advancement of the objectives of this title. In proposing recipients for grants under this title, the Advisory Committee shall give the highest priority to national organizations with an interest and expertise in conducting research and training concerning [Soviet and Eastern European countries] *the countries of Eastern Europe and the Independent States of the Former Soviet Union* and in disseminating the results of such research. In making its recommendations, the Advisory Committee shall emphasize the development of a stable, long-term research program.

AUTHORITY TO MAKE PAYMENTS

SEC. 805. (a) * * *

(b)(1) * * *

(2) One part of the payments made in each fiscal year shall be used—

(A) to establish and carry out a program of graduate, post-doctoral, and teaching fellowships for advanced training in [Soviet and Eastern European studies] *studies on the countries of Eastern Europe and the Independent States of the Former Soviet Union* and related studies, such program—

(i) to be coordinated with the research program described in paragraph (1);

(ii) to be conducted, on a shared-cost basis, at American institutions of higher education; and

(iii) to include—

(I) the dissemination of information on the fellowship program and the solicitation of applications for fellowships from qualified institutions of higher education and qualified individuals; and

(II) the awarding of such fellowships as the respective institution determines will best serve to carry out the purposes of this title after reviewing applications submitted under subclause (I); and

(B) to disseminate research, data, and findings on [Soviet and Eastern European studies] *studies on the countries of Eastern Europe and the independent states of the former Soviet Union* and related fields in such a manner and to such extent as the respective institution determines will best serve to carry out the purposes of this title.

(3) One part of the payments made in each fiscal year shall be used—

(A) to provide fellowship and research support for American specialists in the [field of Soviet and Eastern European studies and related studies] *independent states of the former Soviet Union and the countries of Eastern Europe and related fields* to conduct advanced research with particular emphasis upon the use of the data on [the Soviet Union and Eastern European counties] *those states and countries;* and

(B) to conduct seminars, conferences, and other similar workshops designed to facilitate research collaboration between Government and private specialists in the [fields of Soviet and Eastern European studies and related studies] *independent states of the former Soviet Union and the countries of Eastern Europe and related fields.*

(4) One part of the payments made in each fiscal year shall be used to conduct specialized programs in advanced training and research on a reciprocal basis in the [Union of Soviet Socialist Republics] *independent states of the former Soviet Union* and the countries of Eastern Europe designed to facilitate access for American specialists to research institutes, personnel, archives, documentation, and other research and training resources located in [the Union of Soviet Socialist Republics and Eastern European countries] *those states and countries.*

(5) One part of the payments made in each fiscal year shall be used to support [language training in Russian and Eastern European languages.] *training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe.* Such payments shall include grants to individuals to pursue such training and to summer language institutes operated by institutions of higher education. Preference shall be given for Russian language studies *and, as appropriate, studies of other languages of the independent states of the former Soviet Union.*

(6) Payments may be made to carry out other research and training in [Soviet and Eastern European studies] *studies on the countries of Eastern Europe and the independent states of the former Soviet Union* not otherwise described in this section.

* * * * *

Section 303. Fascell Fellowship Act

SEC. 1002. FELLOWSHIP PROGRAM FOR TEMPORARY SERVICE AT UNITED STATES MISSIONS [IN THE SOVIET UNION AND EASTERN EUROPE] *ABROAD.*

(a) ESTABLISHMENT.—There is hereby established a fellowship program pursuant to which the Secretary of State will provide fellowships to United States citizens while they serve, for a period of between one and two years, in positions which would otherwise be held by foreign national employees at United States diplomatic or consular missions abroad.

* * * * *

Section 304. Board For International Broadcasting

(a) * * *

[BALTIC DIVISION

[SEC. 307. None of the funds authorized to be appropriated by the amendments made by section 302 of this Act may be used for a grant to RFE/RL, Incorporated unless—

[(1) the Estonian, Latvian, and Lithuanian radio services of RFE/RL, Incorporated, are organized as a separate division within Radio Liberty; and

[(2) Those radio services begin broadcasts under a name which would accurately reflect United States policy of not recognizing the illegal incorporation of Estonia, Latvia, and Lithuania into the Soviet Union.]

(b) * * *

Policy on the jamming by the Soviet Union of broadcasts of the Voice of America and RFE/RL

SEC. 308. [(a) The Congress finds that—

(1) the permanent unrestrained flow of accurate information would greatly facilitate mutual understanding and world peace;

(2) the Soviet Union and its allies are at present electronically jamming the broadcasts of the Voice of America and RFE/RL, Incorporated (commonly known as Radio Free Europe and Radio Liberty); and

(3) electronic jamming of international broadcasts violates at least four international agreements: Article 35(1) of the International Telecommunications Union Convention, Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe (commonly known as the Helsinki Accords).

(b) it] *It* is the sense of the Congress that the President should urge the [Government of the Soviet Union] *government of any country engaging in such activities* to terminate its jamming of the broadcasts of the Voice of America and RFE/RL, Incorporated].

Section 305. Scholarship Programs for Developing Countries

SEC. 602. FINDINGS AND DECLARATIONS OF POLICY.

The Congress finds and declares that—

(1) * * *

[(6) the number of United States Government-sponsored scholarships for students in developing countries has been exceeded as much as twelve times in a given year by the number of scholarships offered by Soviet-bloc governments to students in developing countries, and this disparity entails the serious long-run cost of having so many of the

potential future leaders of the developing world educated in Soviet-bloc countries;

[(7) from 1972 through 1982 the Soviet Union and Eastern European governments collectively increased their education exchange programs to Latin America and the Caribbean by 205 percent while those of the United States declined by 52 percent;]

[(8)] *(6)* an undergraduate scholarship program for students of limited financial means from developing countries to study in the United States would complement current assistance efforts in the areas of advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities;

[(9)] *(7)* the National Bipartisan Commission on Central America has recommended a program of 10,000 United States Government-sponsored scholarships to bring Central American students to the United States, which program would involve careful targeting to encourage participation by young people from all social and economic classes, would maintain existing admission standards by providing intensive English and other training, and would encourage graduates to return to their home countries after completing their education; and

[(10)] *(8)* it is also in the interest of the United States as well as peaceful cooperation in the Western Hemisphere, that particular attention be given to the students of the Caribbean region.

* * * * *

Section 306. Report on Soviet Participants in Certain Exchange Programs

SECTION 126 OF THE DEPARTMENT OF STATE AUTHORIZATION ACT, FISCAL YEARS 1982 AND 1983

[Scientific Exchange Activities with the Soviet Union

[SEC. 126. (a) Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report with respect to the individual exchange activities conducted pursuant to the 11 agreements for cooperation in specialized fields which were entered into by the United States and the Union of Soviet Socialist Republics between 1972 and 1974. This report shall include—

[(1) an assessment of the risk of the transfer to the Soviet Union of military significant technology through research, exchanges, and other activities conducted pursuant to those agreements; and

[(2) a detailed description on the exchanges and other activities conducted pursuant to those agreements during fiscal year 1981 and fiscal year 1982, including—

[(A) the areas of cooperation,

[(B) the specific research and projects involved,

[(C) the man-hours spent in short-term (less than 60 days) and long-term exchanges,

[(D) the level of United States and Soviet funding in each such fiscal year, and

[(E) an assessment of the equality or inequality in value of the information exchanged.

[(b) The Secretary of State shall prepare the report required by subsection (a) in consultation and cooperation with the heads of the other agencies involved in the exchange and other cooperative activities conducted pursuant to the agreements described in that subsection.

[(c) Not later than July 1 of each year, the Secretary of State shall submit to the Congress a list of the Soviet nationals participating during the upcoming academic year in the United States-Union of Soviet Socialist Republics graduate student/young faculty exchange or in the United States-Union of Soviet Socialist Republics senior scholar exchange, their topics of study, and where they are to study. This report shall also include a determination by the Secretary of State, in consultation with the heads of the other agencies involved in these exchange programs, that these exchange programs will not jeopardize United States national security interests.]

TITLE IV—ARMS CONTROL

Section 401. Arms Control and Disarmament Act.

(a) * * *

REPORTS ON STANDING CONSULTATIVE COMMISSION ACTIVITIES

SEC. 38. The President shall submit, not later than January 31 of each year, to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report prepared by the United States Commissioner on the activities of the [United States-Union of Soviet Socialist Republics] Standing Consultative Commission established under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems. In preparing this report, the Commissioner should consult with former United States Commissioners and other experts. Such annual report shall include detailed information on all substantive issues raised by either party to the Treaty and the response of the other party with regard to such issues. Such annual report shall be transmitted under an injunction of secrecy, but shall be accompanied by an unclassified addendum containing such information with respect to the activities of the Commission as can be made public consistent with the need for confidentiality of Commission proceedings and the national security of the United States.

* * * * *

(b) * * *

[Specialists fluent in Russian language] *specialists fluent in Russian or other languages of the independent states of the former Soviet Union*

SEC. 51. The Director is authorized to create up to eight additional permanent personnel positions at both junior and more senior levels for specialists in [Soviet foreign and military policies] *the foreign and military policies of the independent states of the former Soviet Union*, arms control, or strategic affairs, who also demonstrate fluency in the Russian language *or another language of the independent states of the former Soviet Union.*

(c) * * *

REPORTS ON ADHERENCE TO AND COMPLIANCE WITH AGREEMENTS

SEC. 52. The Congress determines that the achievement and maintenance of successful controls upon armaments requires official and public confidence that the parties are expected to adhere to their commitments and that the parties will be held accountable for failure to meet obligations. Without such confidence, existing arms control accords are eroded, and the prospects are jeopardized for new agreements which can place further controls on the competition in nuclear and conventional weapons and which can increase international stability. In accordance with this determination—

(1) the President shall submit, not later than January 31 of each year, to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report prepared by the Director, in coordination with the Secretary of State, the Secretary of Defense, the Secretary of Energy, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence, on the adherence of the United States [the Soviet Union] *Russia*, and other nations to obligations undertaken in arms control agreements and on any problems related to compliance by [the Soviet Union] *Russia* and other nations with the provisions of bilateral and multilateral arms control agreements to which the United States is a party;

* * * * *

(3) the section of the report dealing with [Soviet] *Russian* adherence shall include information on actions taken by [the Soviet Union] *Russia* with regard to the size, structure, and disposition of its military forces in order to comply with arms control agreements;

* * * * *

(5) the section of the report dealing with problems of compliance by [the Soviet Union] *Russia* and other nations shall include, in the case of each treaty or agreement about which compliance questions exist—

(A) a description of each significant issue raised and efforts made and contemplated with the other party to seek a resolution of the difficulty;

(B) an assessment of damage, if any, to United States security and other interests; and

(C) recommendations as to any steps which should be considered to redress any damage to United States National security and to reduce compliance problems.

The report required by this section shall be provided in unclassified form, with classified annexes, as appropriate

* * * * *

(d) * * *

ON-SITE INSPECTION ACTIVITIES

Findings

SEC. 61. The Congress finds that—

(1) * * *

* * * * *

(4) on-site inspection activities under the INF Treaty include—

(A) inspection in [the Soviet Union, Czechoslovakia, and the German Democratic Republic] *Russia, Ukraine, Kazakhstan, Belarus, Turkmenistan, Uzbekistan, the Czech Republic, and Germany*

(B) escort duties for [Soviet] teams visiting the United States and the Basing Countries,

(C) establishment and operation of the Portal Monitoring Facility in [the Soviet Union] *Russia, and*

(D) support for the [Soviet] *Russian* inspectors at the Portal Monitoring Facility in Utah;

* * * * *

Section 402. Arms Export Control Act

CHAPTER 9—TRANSFER OF CERTAIN CFE TREATY-LIMITED EQUIPMENT TO NATO MEMBERS

* * * * *

SEC. 94. NOTIFICATIONS AND REPORTS TO CONGRESS.

(a) * * *

(b) ANNUAL REPORTS.—Not later than February 1 each year, the President shall submit to the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report that—

(1) * * *

* * * * *

(3) lists, on a country-by-country basis, all transfers to another country of convention armaments and equipment limited by the CFE Treaty—

(A) * * *

(B) by each [Warsaw Pact country] *country of the Eastern Group of States Parties* in implementing the CFE Treaty

SEC. 95. DEFINITIONS.

As used in this chapter—

(1) * * *

* * * * *

(5) the term [Warsaw Pact country] *country of the Eastern Group of States Parties* means a country that is listed in paragraph 1(A) of article II of the CFE Treaty within the group of States Parties that signed the Treaty of Warsaw of 1955 *or a successor state to such a country*.

Section 403. Annual Reports on Arms Control Matters

(a) * * *

SEC. 1002. ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS.

[(a) ANNUAL REPORT.—Not later than December 1 of each year, the President shall submit to Congress a report containing the findings of the President with respect to the compliance of the Soviet Union with its arms control commitments and any additional information necessary to keep Congress currently informed.

[(b) MATTER TO BE INCLUDED.—The President shall specifically include in each such report the following:

[(1) A summary of the current status of all arms control agreements in effect between the United States and the Soviet Union.

[(2) An assessment of all violations by the Soviet Union of such agreements and risks such violations pose to the national security of the United States and its allies.

[(3) A net assessment of the aggregate military significance of all such violations.

[(4) A statement of the compliance policy of the United States with respect to violations by the Soviet Union of those agreements.

[(5) What actions, if any, the President has taken or proposes to take to bring the Soviet union into compliance with its commitments under those agreements.

[(c) CONTINGENT ADDITIONAL INFORMATION.—If the President in any second consecutive report submitted to Congress under this section reports that the Soviet Union is not in full compliance with all arms control agreements between the United States and the Soviet Union, the President shall include in such report an assessment of what actions are necessary to compensate for such violations.

[(d) CLASSIFICATION OF REPORTS.—Each report under this section shall be submitted in both classified and unclassified versions.]

* * * * *

(b) * * *

[SEC. 906. ANNUAL REPORT ON ARMS CONTROL STRATEGY.

[(a) IN GENERAL.—The President shall submit to Congress each year, not later than December 1, a report containing a comprehensive discussion and analysis of the arms control strategy of the United States. The President shall include in each such report the following:

[(2) A net assessment of the current effects of arms control agreements on the status of, and trends in, the military balance between the United States and the Soviet Union and between the North Atlantic Treaty Organization (NATO) and the Warsaw Pact.

[(3) A comprehensive data base on the military balance of forces of the United States and the Soviet Union, and the balance of forces of NATO and the Warsaw Pact countries, that are affected by arms control agreements in existence as of the time of the report between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an explanation of the methodology used to analyze the effects on such forces.

[(4) A net assessment of the effect that proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact would likely have on United States force plans and contingency plans, including an assessment of the effect that such proposal agreements would have on the risks and costs of the United States.

[(5) An assessment of the effect that proposed treaty subceilings, asymmetries, and other factors or qualifications affecting a treaty or arms control proposal would have on the military balance between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an assessment of how such factors increase deterrence and reduce the risk and cost of war.

[(6) A statement of the strategy the United States and NATO will use to verify and deter noncompliance with proposed arms control treaties between the United States and the Soviet Union and between NATO and the Warsaw Pact

[(7) A discussion of the extent to which and the manner in which the United States intends to consult with its allies regarding proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact.

[(8) A discussion of how the United States proposes to tailor its defense structure in order to ensure that the national security can be preserve with or without arms control agreements.

[(b) Explanation of Methodology.—In reporting on the current effect of arms control agreements on the status of, and trends in, the military balance of power between the United States and the Soviet Union and between NATO and the Warsaw Pact (required under paragraphs (2) and (3) of subsections (a)), the President shall—

[(1) specify the methodology used in analyzing the military balance between the United States and the Soviet Union and express the results of such analysis in terms of (A) static comparisons, and (B) comparisons that include dynamic factors; and

[(2) discuss all major scenarios, assumptions, and contingencies, including political confrontation, full-scale war, and serious confrontations not involving full-scale war.

[(c) FORM OF REPORT.—The President shall submit such report in both classified and unclassified form.

(c) * * *

[SEC. 907. REPORT ON ANTIBALLISTIC MISSILE CAPABILITIES AND ACTIVITIES OF THE SOVIET UNION

[(a) STUDY.—The President shall conduct a study regarding the antiballistic missile capability and activities of the Soviet Union. In conducting the study, the President shall assess each of the following:

[(1) The military capabilities and significance of the extensive network of large-phased array radars of the Soviet Union.

[(2) Whether the Soviet Union is developing or producing mobile or transportable engagement radar in violation of the 1972 Antiballistic Missile Treaty.

[(3) The ability of the Soviet Union to develop an effective exoatmospheric missile defense without using widespread deployments of traditional engagement radars.

[(4) The ability of air defense interceptor missiles of the Soviet Union, now and in the future, to destroy warheads of ballistic missiles in flight.

[(5) Whether silos or other hardened facilities of the Soviet Union located outside of the existing antiballistic missile site permitted near Moscow under the terms of the 1972 Antiballistic Missile Treaty are or could be associated with antiballistic missile defenses not permitted under that Treaty.

[(6) Whether the Soviet Union is developing terminal antiballistic missile defenses.

[(7) Whether the existing antiballistic missile site near Moscow that is permitted under the terms of that Treaty conceals or could conceal development, testing, or deployment by the Soviet Union of a widespread antiballistic missile system.

[(8) Activities of the Soviet Union regarding boost-phase intercepts of ballistic missiles.

[(9) The status of laser programs, particle-beam programs, and other advanced technology programs of the Soviet Union comparable to programs conducted by the United States under the Strategic Defense Initiative.

[(10) The consequences for the United States of a successful effort by the Soviet Union to deploy an effective nationwide or limited antiballistic missile system.

[(b) Assessment of Ability of United States To Counter a Soviet ABM System.—In conducting the study required by subsection (a), the President shall also assess the ability of the United States to counter effectively an effective antiballistic missile system deployed by the Soviet Union. Such assessment shall consider both the deployment by the Soviet Union of a nationwide, and of a limited, antiballistic missile system. In assessing the ability of the United States to counter effectively such a system, the President—

[(1) shall consider the ability of the United States to modify (A) existing strategic offensive forces (including modifications involving the development of additional penetration aids), and (B) current strategic doctrine and tactics; and

[(2) shall consider whether the actions of the United States described in paragraph (1) could be accomplished over the same period of time that the Soviet Union would require to deploy such an antiballistic missile system.

[(c) Report.—Not later than January 1, 1989, the President shall submit to Congress a report, in both a classified and an unclassified version, specifying the results of the study conducted pursuant to this section. The report shall include such recommendations as the President considers appropriate, including recommendations with regard to maintaining the deterrent value of the strategic forces of the United States in light of the antiballistic missile capability and activities of the Soviet Union described in the report.]

* * * * *

Section 404. United States/Soviet Direct Communications Link

Joint Resolution Authorizing the Secretary of Defense To Provide to the Soviet Union, on a Reimbursable Basis, Equipment and Services Necessary for an Improved

United States/Soviet Direct Communication Link for Crisis Control

Whereas section 1123(a) of the Department of Defense Authorization Act, 1983 (Public Law 97-252), directed the Secretary of Defense "to conduct a full and complete study and evaluation of possible initiatives for improving the containment and control of the use of nuclear weapons, particularly during crises;

Whereas the Congress directed that the same study should address several specific measures for building confidence between the United States and the Soviet Union, including an improved Direct Communications Link for crisis control;

Whereas the Secretary of Defense responded to that congressional mandate with a report entitled "Report to the Congress on Direct Communications Links and Other Measures to Enhance Stability" in which the Secretary proposed several improvements to existing United States-Soviet mechanisms for the prevention and resolution of crises, including the addition of a facsimile capability to the United States/Soviet Union Direct Communications Link;

Whereas the President of the United States presented the recommendations of the Secretary of Defense to the Government of the Soviet Union in May 1983;

Whereas the United States and the Soviet Union commenced negotiations on bilateral communications improvements in August 1983, and on July 17, 1984, concluded the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade in which the two governments agreed to add a facsimile capability to the Direct Communications Link;

Whereas the Congress endorses that agreement and remains committed to all possible measures to facilitate the resolution of international crises and to limit the danger of conflict;

Whereas the Secretary of Defense is responsible for the installation, maintenance, and operation of the Direct Communications Link equipment for the United States; and

Whereas the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade provides that the United States Government will provide to the Union of Soviet Socialist Republics, at cost, the equipment and services necessary for the Soviet Union part of the improved direct Communications Link: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Defense may provide [to the Soviet Union] *to Russia*, as provided in the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade, concluded on July 17, 1984, such equipment and services as may be necessary to upgrade or maintain the [Soviet Union part] *Russian part* of the Direct Communications Link agreed to in the Memorandum of Understanding between the United States and the Soviet Union signed June 20, 1963. The Secretary shall provide such equipment and services [to the Soviet Union] *to Russia* at the cost thereof to the United States.

SEC. 2. (a) The Secretary of Defense may use any funds available to the Department of Defense for the procurement of the equipment and providing the services referred to in the first section.

(b) Funds received from [the Soviet Union] *Russia* as payment for such equipment and services shall be credited to the appropriate account of Department of Defense.

TITLE V—DIPLOMATIC RELATIONS

Section 501. Personnel Levels and Limitations

(a) * * *

[Personnel Ceiling on United States and Soviet missions

[SEC. 602. It is the sense of the Congress that the ceiling on permanent positions at the United States Mission to the Soviet Union and the Soviet Mission to the United States should not be increased unless—

[(a) the President determines that such increase is essential to the effective functioning of the United States Mission to the Soviet Union; and

[(b) the FBI is provided sufficient additional resources to fulfill its responsibilities resulting from the increased number of permanent positions at the Soviet Mission to the United States.]

(b) * * *

[SEC. 154. REPORT ON PERSONNEL OF SOVIET STATE TRADING ENTERPRISES.

[Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report discussing whether the number of personnel of Soviet state trading enterprises in the United States should be reduced.]

* * * * *

(c) * * *

REPORT ON ADMISSION OF CERTAIN ALIENS

[SEC. 501. The Attorney General shall report annually to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence regarding the circumstances of any admission to the United States over the objections of the Federal Bureau of Investigation, of any Soviet national employed by or assigned to a foreign mission or international organization in the United States.]

* * * * *

(d) * * *

SECTION 702 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1987

[Soviet Mission at the United Nations

[Sec. 702(a)(1). It is the policy of the Congress that the number of nationals of the Soviet Union admitted to the United States to serve as members of the Soviet mission at the United Nations headquarters shall not substantially exceed the number of United States nationals who serve as members of the United States mission at the United Nations headquarters, unless the President determines that the admission to the United States of additional Soviet nationals be serve as members of the Soviet mission at the United Nations headquarters would be in the interest of the United States.

[(2) Beginning six months after the date of enactment of this section, and every six months thereafter, the Secretary of State shall prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth the number of Soviet nationals admitted during the preceding six-month period to the United States pursuant to a determination of the President under paragraph (1) and their duties with the Soviet mission at the United Nations headquarters.

[(3) Nothing in this subsection may be construed as including any dependent or spouse who is not a member of a mission at the United Nations headquarters in the calculation of the number of members of a mission at the United Nations headquarters.

[(b) It is the sense of the Congress that the Secretary of State and the Attorney General should, not later than six months after the date of enactment of this section, prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth a plan for ensuring that the number of Soviet national described in paragraph (a)(1) does not exceed the limitation described in that paragraph.

[(c) For purposes of this section—

[(1) the term "members of the Soviet mission" and "members of the United States mission" are used within the meaning of the term "members of the mission", as defined by article 1(b) of the Vienna Convention on Diplomatic Relations, done April 18, 1961; and

[(2) the term "mission at the United Nations headquarters" of a country includes all the missions of such country to the United Nations in New York City and includes missions in New York City to specialize agencies of the United Nations, as defined in article 57 of the charter of the United Nations.]

(e) * * *

[SEC. 813. DIPLOMATIC EQUIVALENCE AND RECIPROCITY.

[(a) STATEMENT OF CONGRESSIONAL POLICY.—(1) It is the policy of the Congress that the number of nationals of the Soviet Union admitted to the United States who serve as diplomatic or consular personnel of the Soviet Union to the United States shall be substantially equivalent to the number of United States nationals admitted to the Soviet Union who serve as diplomatic or consular personnel of the United States in the Soviet Union unless the President determines that the admission of additional Soviet diplomatic and consular personnel would be in the best interests of the United States.

[(2) The policy expressed in paragraph (1) does not apply to dependents or spouses who do not serve as diplomatic or consular personnel.

[(b) REPORTING REQUIREMENT.—The Secretary of State and the Attorney General shall prepare and, not later than 6 months after the date of the enactment of this Act, shall transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate, and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives, a report setting forth a plan for ensuring that the number of Soviet nationals described in subsection (a) does not exceed the limitation described in that section.

[(c) DEFINITIONS.—For purposes of this section—

[(1) the term "diplomatic or consular personnel" means the numbers of the diplomatic mission or the members of the consular post, as the case may be;

[(2) the term "members of the diplomatic mission" is used within the meaning of Article 1(b) of the Vienna Convention on Diplomatic Relations (done April 18, 1961), and

[(3) the term "members of the consular post" is used within the meaning of Article 1(g) of the Vienna Convention on Consular Relations (done April 24, 1963).]

* * * * *

Section 502. Other Provisions Related to Operation of Embassies and Consulates

(a) * * *

SEC. 132. CONSTRUCTION OF DIPLOMATIC FACILITIES.

[(a) LIMITATION.—Amounts appropriated pursuant to section 101(a)(7) shall be available for obligation and expenditure subject to the provisions of this section.

[(b) COMPREHENSIVE PLAN.—(1) Not later than 180 days after the date of enactment of this Act, the Secretary of State, in coordination with the heads of other appropriate Government agencies, shall prepare and submit to the appropriate committees of the Congress, comprehensive plan which sets forth current and future space requirements for the United States Mission in Moscow and how such requirements will be met.

[(2) In addition to such other information as the Secretary of State considers necessary and appropriate, such plan shall include detailed information concerning requirements for—

[(A) United States constructed and secure office space to house all classified or sensitive activities from the most secure to unclassified but sensitive functions;

[(B) unclassified nonsensitive office functions;

[(C) staff housing that is physically safe, secure, and adequate for the needs of the entire United States Mission, both permanent and transient;

[(D) secure and unsecured warehousing;

[(E) recreational facilities;

[(F) expanded activities of the United States Information Agency, including offices and cultural activities;

[(G) expanded consular activities of the Mission;

[(H) expanded activities of the Foreign Commercial Service of the Department of Commerce;

[(I) activities of the Immigration and Naturalization Service; and

[(J) all other anticipated United States Government space requirements.

[(3) In the preparation of such plan, the Secretary shall ensure that detailed consideration be given to at least three construction options for the new chancery building at the United States Embassy in Moscow: (A) full teardown and rebuild; (B) four floor "top hat" in which two floors are removed from the unfinished New Office Building and four floors added; and (C) a two floor "top hat" in which no floors are removed but two are added.

[(c) IMPLEMENTING DOCUMENTS.—The Secretary of State shall make available to the appropriate committees of Congress copies of all agreements, including memoranda of understanding, exchanges of letters, and all other written agreements with the governments of the Soviet Union, the Russian Republic, and the City of Moscow necessary to implement the comprehensive plan under subsection (b).

[(d) REPORT.—

[(1) Not later than 60 days before the obligation or expenditure of any funds authorized to be appropriated under section 101(a)(7), the Secretary of State and the Director of Central Intelligence shall submit to the appropriate committees of the Congress a joint written report on alternative approaches to the reconstruction of the new chancery building at the United States Embassy in Moscow (as authorized under section 101(a)(7)).

[(2) CONTENTS OF REPORT.—The report under paragraph (1) shall contain detailed comparison of the relative advantages and disadvantages of all alternatives considered with respect to the new chancery building at the United States Embassy in Moscow and shall identify the alternative selected for implementation. Such report shall include an analysis of the following factors:

[(A) Estimated cost of completion, based on comparable levels of fit, finish, and equipment.

[(B) Estimated time to completion.

[(C) Total amount of secure and nonsecure space available for office and other functions.

[(D) Whether classified or sensitive functions would be conducted in nonsecure ares, and, if so, how the conduct of such functions would be made secure.

[(E) Whether, and to what extent, Embassy functions or normal work practices would have to be rearranged in order to accommodate limitations on secure space.

[(e) EXTRAORDINARY SECURITY SAFEGUARDS.—]

[(1) In] *(a) Extraordinary Security Safeguards.—In* carrying out the reconstruction project for the new chancery building at the United States Embassy in Moscow, the Secretary of State shall ensure that extraordinary security safeguards are implemented with respect to all aspects of security, including materials, logistics, construction methods, and site access.

[(2) Such] *(b) Safeguards To Be Included.—Such* extraordnary security safeguards under [paragraph (1)] subsection (a) shall include the following:

[(A)] *(1)* Exclusive United States control over the site during reconstruction.

[(B)] *(2)* Exclusive use of United States or non-Soviet materials with respect to the new chancery structure.

[(C)] *(3)* Exclusive use of United States workmanship with respect to the new chancery structure.

[(D)] *(4)* To the extent feasible, prefabrication in the United States of major portions of the new chancery.

[(E)] *(5)* Exclusive United States control over construction materials during the entire logistical process of reconstruction.

[(h) CONFORMING AMENDMENTS.—

[(1) Section 304 of Public Law 100-202 (The Department of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1988) is repealed.

[(2) Section 154 of Public Law 99-93 (The Foreign Relations Authorization Act, Fiscal Years 1986 and 1987) is repealed.

[(3) The Supplement Appropriations Act 1985 (P.L. 99-88) is amended under the heading "ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDING ABROAD" for the Department of State by striking out ": *Provided,*" and all that follows before the period at the end of subsection (d).

[(i) DEFINITIONS.—For the purpose of this section, the term "appropriate committee of Congress", means the Committee on Foreign Affairs, the Committee on Appropriations, and the Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

[(j) Establishment of Additional United States Missions in the Soviet Union.—Not later than 120 days after the date of enactment of this Act, the Secretary of State shall prepare and submit a report to the Congress outlining plans for the establishment of additional United States missions in the former Soviet Union. Particular priority should be placed on establishing an appropriate United States presence in Tbilisi, Georgia; Kishinev, Moldavia; Yerevan, Armenia; and Khabarovsk, Russia or another suitable nearby location in the Russian Far East. Such report shall include the number of missions and personnel, projected costs, and the ramifications regarding reciprocity for Soviet missions in the United States.

(b) * * *

[SEC. 133. POSSIBLE MOSCOW EMBASSY SECURITY BREACH.

[Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report on the extent to which United States assets were compromised by Soviet "firefighters" in the March 1991 fire at the United States Embassy complex in Moscow. Such report shall include an accounting of the Embassy's political, military, communications, and intelligence capabilities, and shall be submitted in classified, as well as unclassified, form.]

* * * * *

(c) * * *

[SEC. 134. UNITED STATES-SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES.

(a) WAIVER OF RESTRICTION REGARDING SOVIET CONSULATES IN THE UNITED STATES.—(1) Notwithstanding section 153(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204) and subject to paragraph (2), the Secretary of State may allow the Soviet mission to the United States to occupy, on the basis of reciprocity, a consulate facility in the United States.

[(2) Paragraph (1) shall apply only after the Secretary of State certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the United States mission in Kiev is able to occupy an interim facility intended from the conduct of unclassified activities.

[(b) Reports to Congress.—Not later than January 30, 1991, the Secretary of State shall develop and submit to the Congress a long term plan for acquiring secure permanent facilities for the United States mission in Kiev, together with a budget proposal to implement such plan.]

* * * * *

(d) * * *

[SEC. 1232. REASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE.

[(a) FINDING.—The Congress finds that the report submitted by the Secretary of Defense pursuant to section 1122 of the National Defense authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180)—

[(1) contains insufficient detail (even in the classified portion) for a review and assessment of the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia, as required by subsection (a) of that section; and

[(2) does not contain a determination of the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Soviet Union is consistent with the national security of the United States, as required by subsection (b) of that section.

[(b) SUBMISSION OF NEW REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit a report to Congress which meets the requirements of section 1122 of the National Defense Authorization Act for Fiscal Years 1988 and 1989.]

* * * * *

(e) * * *

Diplomatic Reciprocity and Security * * *

[SEC. 151. UNITED STATES-SOVIET EMBASSY AGREEMENT: PROHIBITION ON USE OF MT. ALTO SITE.

[(a) FINDINGS.—The Congress finds that—

[(1) the Government of the Union of Soviet Socialist Republics has intentionally and substantially violated international agreements with the United States concerning the establishment and operation of the new United States Embassy complex in Moscow by significantly delaying progress and by constructing the premises of that Embassy so as to compromise the security of United States operations, thus rendering the premises unusable for the primary purpose intended under those agreements;

[(2) the Soviet Government's actions constitute a material violation of international law and a substantial default in performance under the contract for construction of the new United States Embassy complex, and the United States is entitled to claim appropriate compensation;

[(3) due to actions of the Government of the Union of Soviet Socialist Republics, United States Government personnel cannot pursue their official duties in confidence, as the national security and diplomatic relations of the United States requires, within the new United States Embassy being constructed in Moscow;

[(4) the Government of the Union of Soviet Socialist Republics has similarly taken steps to impair the full and proper use of the present United States Embassy in Moscow, to the detriment of the national security of the United States and its ability to conduct diplomatic relations;

[(5) as a result of the substantial violations by the Soviet Union of these international agreements with the United States and other Soviet violations of international law, the United States is entitled to terminate, in whole or in part, those agreements;

[(6) termination of such agreements may include withdrawal of rights and privileges otherwise granted to the Soviet Union concerning the establishment of a new Soviet Embassy complex in Washington, District of Columbia;

[(7) the location of the new Soviet Embassy on Mount Alto creates serious concerns with respect to electronic surveillance and potential damage to the national security of the United States; and

[(8) to protect the national security of the United States, therefore, the United States should exercise its right to terminate the Embassy agreements in view of the substantial and intentional Soviet breaches thereof, unless the threat to the national security posed by adherence to those agreements can be overcome.

[(b) WITHDRAWAL FROM EMBASSY AGREEMENT.—The United States shall withdraw from the Agreement between the Government of the United States and the Government of the Union of Soviet Socialist Republics on the Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington (signed at Moscow, May 16, 1969) and related agreements, notes, and understandings unless the President makes the determinations and waiver under subsection (c).

[(c) WAIVER.—

[(1) PRESIDENTIAL DETERMINATIONS REQUIRED.—The President may waive subsection (b) if he determines that—

[(A) it is vital to the national security of the United States that the United States not withdraw from the agreement (and related agreements, notes, and understanding) referred to in subsection (b);

[(B) steps have been or will be taken that will ensure that the new chancery building to be occupied by the United States Embassy in Moscow can be safely and securely used for its intended purposes; and

[(C) steps have been or will be taken to eliminate, no later than 2 years after the date of enactment of this Act, the damage to the national security of the United States due to electronic surveillance for Soviet facilities on Mount Alto.

[(2) WHEN DETERMINATIONS MAY BE MADE.—The President may not make the determination and waiver permitted by paragraph (1) before the end of the 6-month period beginning on the date of enactment of this Act.

[(3) REPORT TO CONGRESS.—The waiver permitted by paragraph (1) shall not be effective until 30 days after the determinations and waiver are reported to the Congress. Any such report shall include—

[(A) a detailed justification for each of the determinations;

[(B) an assessment of the impact on national security of the removal of the Soviet Embassy from Mt. Alto; and

[(C) specify the steps that have been or will be taken to achieve the requirements of paragraphs (1)(B) and (C).

[(4) NONDELEGATABILITY.—The President may not delegate the responsibility for making the determination and waiver permitted by paragraph (1).

[(d) NOTIFICATION OF UNAVAILABILITY OF MOUNT ALTO.—If the President does not waive subsection (b), the Secretary of State shall notify the Government of the Union of Soviet Socialist Republics that the Mount Alto site will cease to be available to that Government for any purpose as of the date which is 1 year and 10 days after the earliest date on which the President could make the waiver under subsection (c).

[(e) PROHIBITION ON FUTURE USE OF MOUNT ALTO SITE BY FOREIGN MISSIONS.—If subsection (b) takes effect, the Mount Alto site may not be made available for use thereafter by a foreign mission for any purpose.

[SEC. 152. RECOVERY OF DAMAGES INCURRED AS A RESULT OF SOVIET INTELLIGENCE ACTIVITIES DIRECTED AT THE NEW UNITED STATES EMBASSY IN MOSCOW.

[It is the sense of the Congress that the arbitration process between the United States and the Union of Soviet Socialist Republics, which is currently under way with respect to damages arising from delays in the construction of the new United States Embassy in Moscow, should include Soviet reimbursement of the full costs incurred by the United States as a result of the intelligence activities of the Soviet Union directed at the new United States Embassy in Moscow.

[SEC. 153. UNITED STATES-SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES.

[(a) REQUIREMENT FOR RECIPROCITY IN CERTAIN MATTERS.—The Secretary of State shall exercise the authority granted in title II of the State Department Basic Authorities Act of 1956 (relating to foreign missions) to obtain the full cooperation of the Soviet Government in achieving the following objectives by October 1, 1989:

[(1) FINANCE.—United States diplomatic and consular posts in the Soviet Union not pay more than fair value for goods or services as a result of the Soviet Government's control over Soviet currency valuation and over the pricing of goods and services.

[(2) ACCESS TO GOODS AND SERVICES.—United States diplomatic and consular posts in the Soviet Union have full access to goods and services, including utilities.

[(3) REAL PROPERTY.—The real property used for office purposes, the real property used for residential purposes, and the real property used for all other purposes by United States diplomatic and consular posts in the Soviet Union is comparable in terms of quantity and quality to the real property used for each of those purposes by diplomatic and consular posts of the Soviet mission to the United States.

[(b) SOVIET CONSULATES IN THE UNITED STATES.—The Secretary of State shall not allow the Soviet mission to the United States to occupy any new consulate in the United States until the United States mission in Kiev is able to occupy secure permanent facilities.

[(c) SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall provide to the Secretary of State such assistance with respect to the implementation of paragraph (1) of subsection (a) as the Secretary of State may request.

[(d) REPORTS TO CONGRESS.—Not later than 60 days after the date of enactment of this Act and annually thereafter, the Secretary of State shall submit to the Congress a report setting forth the actions taken and planned to be taken in carrying out subsection (a)

[(e) DEFINITION OF BENEFIT.—Paragraph (1) of section 202(a) of title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(1); commonly referred to as the Foreign Missions Act) is amended—

[(1) by striking out "and" at the end of subparagraph (E);

[(2) in subparagraph (F), by inserting "and" after "services,"; and

[(3) by inserting after subparagraph (F) the following new subparagraph:

["(G) financial and currency exchange services,".

(f) * * *

[SEC. 1122. ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE

[(a) REVIEW AND ASSESSMENT.—The Secretary of Defense shall review and assess the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia. The Secretary shall submit to Congress a report on such review and assessment not later than 90 days after the date of the enactment of this Act.

[(b) DETERMINATION OF CONSISTENCY WITH NATIONAL SECURITY.—The report required by subsection (a) shall include a determination by the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Government of the Soviet Union is consistent with the national security of the United States.

[(c) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in both a classified and unclassified form, except that the determination required by subsection (b) shall be submitted in an unclassified form.

[(d) LIMITATION ON DELEGATION.—The Secretary of Defense may not delegate the duty to make the determination required by subsection (b).]

* * * * *

(g) * * *

[ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY

[SEC. 901. (a) REVIEW AND ASSESSMENT.—The Secretary of Defense shall review and

assess the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia. The Secretary shall submit to Congress a report on such review and assessment not later than ninety days after the date of the enactment of this Act.

[(b) DETERMINATION OF CONSISTENCY WITH NATIONAL SECURITY.—The report required by subsection (a) shall include a determination by the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Government of the Soviet Union is consistent with the national security of the United States.

[(c) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in both classified and unclassified form, and the determination required by subsection (b) shall be submitted in an unclassified form.

[(d) LIMITATION OF DELEGATION.—The Secretary of Defense may not delegate the duty to make the determination required by subsection (b).]

(h) * * *

SEC. 1364. FOREIGN ESPIONAGE ACTIVITIES IN THE UNITED STATES.

[(a) CONGRESSIONAL FINDINGS AND POLICIES.—The Congress makes the following findings:

[(1) The conduct of espionage activities (including the collection of classified and unclassified technological information) by the diplomatic and consular missions of the Soviet Union and certain other foreign diplomatic and consular missions within the United States (as well as by certain employees of international organizations acting on behalf of the Soviet Union or certain other foreign countries) represents a grave threat to the security of the United States.

[(2) The conduct of such activities constitutes a gross abuse of the rights, privileges, and immunities accorded to persons assigned to such missions, including the right to enter and reside within the United States (or any particular area thereof).

[(3) The Soviet Union and certain other countries take advantage of the free and open society of the United States to carry out espionage against the United States.

[(4) The United States should take immediate and effective action to counteract espionage by the Soviet Union and certain other countries.

[(5) It is fully consistent with international law and the international obligations of the united States to take reasonable measures to prevent such activities, including measures which would (A) impose restrictions on the travel of such foreign officials within the United States, and (B) close to such officials certain areas of the United States.

[(b) CONGRESSIONAL POLICY.—] The Congress declares that it is the policy of the United States to impose appropriate restrictions (including travel restrictions) on the official representatives of any foreign country, as well as upon the nationals of such country who are employed by international organizations, when the President determines that a pattern of abuses by that nation exists.

[(c) REPORT ON FOREIGN ESPIONAGE.—(1) The President shall submit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report on foreign espionage in the United States. Such report shall include the following:

[(A) An assessment of the effect of espionage activities in the United States conducted by the Soviet Union and certain other countries whose intelligence activities pose a threat to the national security of the United States.

[(B) An assessment of how such countries use the freedom to travel within the United States, accorded to the officials of such countries, to engage in espionage activities against the United States.

[(C) An assessment of the advantage and disadvantages of the principle of diplomatic reciprocity and the consequences of such reciprocity on the national security of the United States.

[(D) Recommendations for measures to curtail espionage against the United States, including the following:

[(i) Prohibiting the personnel of certain foreign governments and certain international organizations from traveling in designated areas of the United States.

[(ii) Identifying the governments to whose nationals such restrictions are to apply.

[(iii) Identifying those foreign governments which have closed certain areas of their countries to United States diplomatic and consular personnel and, in the case of each such country, the number of such closed areas and the size of such areas in relation to the total area of the country.

[(2) The report shall be prepared under the direction of the Secretary of State and in close cooperation with the Secretary of Defense, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation.

[(3) The report required by paragraph (1) shall be submitted in both a classified and unclassified version.

[(4) Such report shall be submitted not later than March 1, 1987.]

Section 503. Foreign Service Buildings Act

SEC. 4. (a) * * *

* * * * *

[(j) For the purpose of carrying into effect the provisions of this Act in the Union of Soviet Socialist Republics, there is authorized to be appropriated, in addition to amounts authorized prior to the enactment of this subsection, $30,000,000, which amount is authorized to remain available until expended.]

TITLE VI—OCEANS AND THE ENVIRONMENT

Section 601. Arctic Research and Policy Act.

Section 102 of the Arctic Research and Policy Act of 1984

FINDINGS AND PURPOSES

SEC. 102. (a) The Congress finds and declares that—

(1) the Arctic, onshore and offshore, contains vital energy resources that can reduce the Nation's dependence on foreign oil and improve the national balance of payments;

(2) [as the Nation's only common border with the Soviet Union,] the Arctic is critical to national defense;

* * * * *

(10) most Arctic-rim countries, [particularly the Soviet Union,] possess Arctic technologies far more advanced than those currently available in the United States;

* * * * *

Section 602. Fur Seal Management

THE ACT OF NOVEMBER 2, 1966[1] (POPULARLY KNOWN AS THE FUR SEAL ACT OF 1966)

SEC. 101. (a) * * *

* * * * *

(h) "Party" or "parties" means the United States of America, Canada, Japan, and [the Union of Soviet Socialist Republics] *Russia (except that as used in subsection (b) of this section, "party" and "parties" refer to the Union of Soviet Socialist Republics).*

* * * * *

SEC. 102. It is unlawful, except as provided in this Act or by regulation of the Secretary, for any person or vessel subject to the jurisdiction of the United States to engage in the taking of fur seals in the North pacific Ocean or on lands or waters under the jurisdiction of the United States, or to use any port or harbor or other place under the jurisdiction of the United States for any purpose connected in any way with such taking, or for any person to transport, import, offer for sale, or possess at any port or place or on any vessel, subject to the jurisdiction of the United States, fur seals or the parts thereof, including, but not limited to, raw, dressed, or dyed fur seal skins, taken contrary to the provisions of this Act or the Convention, or for any person subject to the jurisdiction of the United States to refuse to permit, except within the Exclusive Economic Zone of the United States, a duly authorized official of Canada, Japan, or [the Union of Soviet Socialist Republics] *Russia* to board and search any vessel which is outfitted for the harvesting of living marine resources and which is subject to the jurisdiction of the United States to determine whether such vessel is engaged in sealing contrary to the provisions of said Convention.

* * * * *

Section 603. Global Climate Protection.

SEC. 1106. CLIMATE PROTECTION AND [UNITED STATES-SOVIET RELATIONS] *UNITED STATES RELATIONS WITH THE INDEPENDENT STATES OF THE FORMER SOVIET UNION*

In recognition of the respective leadership roles in the United States and the [Soviet Union] *independent states of the former Soviet Union* in the international arena, and of [their joint role as the world's two major] *the extent to which they are* producers of atmospheric pollutants, the Congress urges that the President accord the problem of climate protection a high priority on the agenda of [United States-Soviet relations] *United States relations with the independent states.*

* * * * *

TITLE VII—REGIONAL AND GENERAL DIPLOMATIC ISSUES

Section 701. United Nations Assessments

Section 717 of the International Security and Development Cooperation Act of 1981

Sec. 717. (a) The Congress finds and declares that—

(1) the financing of the United Nations is the collective responsibility of all member nations;

(2) the International Court of Justice has determined that the expenses of the United Nations incurred in its peacekeeping operations are properly included as a part of the regular expenses of the United Nations; *and*

(3) peacekeeping operations are vital to the mission of the United Nations and must be adequately financed if such operations are to continue[; and].

[(4) the Government of the Union of Soviet Socialist Republics is currently $180,000,000 in arrears on its payments to the United Nations, primarily as a result of its refusal to pay for the peacekeeping operations of the United Nations.]

(b) It is the sense of the Congress that the President, acting through the Permanent

Representatives of the United States to the United Nations, should undertake [a diplomatic initiative to obtain payment by the Government of the Union of Soviet Socialist Republics of all its outstanding financial obligations to the United Nations, including its] *appropriate diplomatic initiatives to ensure that members of the United Nations make payments of all their outstanding financial obligations to the United Nations, including their* assessments with respect to the peacekeeping operations of the United Nations.

Section 702. Soviet Occupation of Afghanistan.

[SEC. 1241. SOVIET OCCUPATION OF AFGHANISTAN.

[(a) FINDINGS ON SOVIET ACTIONS IN AFGHANISTAN.—The Congress finds that—

[(1) the Soviet Union has been waging war against the people of Afghanistan since the invasion of Decmber 25, 1979;

[(2) the victims of the Soviet invasion and occupation include more than 1,000,000 dead and more than 3,000,000 Afghans forced to find refuge in neighboring countries;

[(3) Soviet military tactics have included the bombing and napalming of villages without regard to the human toll, the destruction of crops, agricultural land, and orchards so as to create famine conditions, and the massacre of hostages and other innocent civilians;

[(4) children have been particular victims of Soviet aggression, with some being targeted for death by the dropping of booby-trapped toys while other children have been transported to the Soviet Union for indoctrination;

[(5) the Soviet-installed puppet regime has engaged in a consistent pattern of gross violations of the human rights of its own citizens, including torture and summary execution, for which its Soviet sponsors must also be held accountable; and

[(6) Soviet actions in Afghanistan constitute a violation of international law and of accepted norms of human decency and, therefore, must be condemned by civilized people everywhere.

[(b) FINDINGS ON THE AFGHAN RESISTANCE.—The Congress further finds that—

[(1) The Afghan people have heroically resisted the Soviet invaders in spite of the tremendous cost of so doing and now control most of their homeland;

[(2) the provision of effective assistance to the Afghan people is an obligation of those who cherish freedom;

[(3) a total and prompt withdrawal of all Soviet forces from Afghanistan is essential in order for the Afghan people to exercise their inalienable human right to self-determination; and

[(4) a negotiated settlement providing for the total and prompt withdrawal of Soviet forces offers the best prospect for an early end to the suffering of the Afghan people.

[(c) DECLARATION OF POLICY.—The Congress, therefore, declares it to be the policy of the United States—

[(1) to provide such assistance to the Afghan people as will most effectively help them resist the Soviet invaders;

[(2) to support a negotiated settlement to the Afghanistan war providing for the prompt withdrawal of all Soviet forces from Afghanistan within a time frame based solely on logistical criteria; and

[(3) to communicate clearly to the Government and people of the Soviet Union the necessity of a Soviet withdrawal from Afghanistan as a condition for better relations between the United States and the Soviet Union.

[(d) PROVISION OF ASSISTANCE.—The President and Secretary of State are directed to adopt policies and program to ensure that all assistance intended for the Afghan people reaches its intended recipients and that theft or diversion of such assistance not be tolerated.]

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Section 703. Angola

Section 405 of the International Security Assistance and Arms Export Control Act of 1976

[SOVIET INTERVENTION IN ANGOLA

[SEC. 405. The Congress views the large-scale and continuing Soviet intervention in Angola, including active sponsorship and support of Cuban armed forces in Angola, as being completely inconsistent with any reasonably defined policy of detente, as well as with Article 1 and 2 of the United Nations Charter, the principle of noninterference in the affairs of other countries agreed to at Helsinki in 1975, and with the spirit of recent bilateral agreements between the United States and the Union of Soviet Socialist Republics. Such intervention should be taken explicitly into account in United States foreign policy planning and negotiations.]

Section 704. Self Determination of the People from the Baltic States

SEC. 1206. SELF-DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES OF ESTONIA, LATVIA, AND LITHUANIA.

It is the sense of the Congress that—

(1) the continuing desire and right of the people of the Baltic States of Estonia, Latvia, and Lithuania for freedom and independence [from the Soviet Union] should be recognized; and

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Section 705. Obsolete references in Foreign Assistance Act

Foreign Assistance Act of 1961.

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PART II

CHAPTER 1—POLICY

SEC. 501. STATEMENT OF POLICY.—The Congress of the United States reaffirms the policy of the United States to achieve international peace and security through the United Nations so that armed force shall not be used except for individuals or collective self-defense. The Congress hereby finds that the efforts of the United States and other friendly countries to promote peace and security continue to require measures of support based upon the principle of effective self-help and mutual aid. It is the purpose of this part to authorize measures in the common defense against internal and external aggression, including the furnishing of military assistance, upon request, to friendly countries and international organizations. In furnishing such military assistance, it remains the policy of the United States to continue to exert maximum efforts to achieve universal control of weapons of mass destruction and universal regulation and reduction of armaments, including armed forces, under adequate safeguards to protect complying countries against violation and invasion.

The Congress recognizes that the peace of the world and the security of the United States are endangered so long as [international communism and the countries it controls] *hostile countries* continue by threat of military action, by the use of economic pressure, and by internal subversion, or other means to attempt to bring under their domination peoples now free and independent and continue to deny the rights of freedom and self-government to peoples and countries once free but now subject to such domination.

It is the sense of the Congress that an important contribution toward peace would be made by the establishment under the Organization of American States of an international military force.

In enacting this legislation, it is therefore the intention of the Congress to promote the peace of the world and the foreign policy, security, and general welfare of the United States by fostering an improved climate of political independence and individual liberty, improving the ability of friendly countries and international organizations to deter or, if necessary, defeat [Communist or Communist-supported] aggression, facilitating arrangements for individual and collective security, assisting friendly countries to maintain internal security, and creating an environment of security and stability in the developing friendly countries essential to their more rapid social, economic, and political progress. The Congress urges that all other countries able to contribute join in a common undertaking to meet the goals in this part.

It is the sense of the Congress that in the administration of this part priority shall be given to the needs of those countries in danger of becoming victims of [active Communist or Communist-supported aggression or those countries in which the internal security is threatened by Communist-inspired or Communist-supported internal subversion.] *aggression or in which the internal security is threatened by internal subversion inspired or supported by hostile countries.*

Finally, the Congress reaffirms its full support of the progress of the members of the North Atlantic Treaty Organization toward increased cooperation in political, military, and economic affairs. In particular, the Congress welcomes the steps which have been taken to promote multilateral programs of coordinated procurement, research, development, and production of defense articles and urges that such programs be expanded to the fullest extent possible to further the defense of the North Atlantic area.

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PART III

CHAPTER 1—GENERAL PROVISIONS

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SEC. 614. SPECIAL AUTHORITIES—(a)(1) * * *

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(4)(A) * * *

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(C) Not more than $50,000,000 of the $250,000,000 limitation provided in subparagraph (A)(ii) may be allocated to any one country in any fiscal year unless that country is a victim of active [Communist or Communist-supported] aggression, and not more than $500,000,000 of the aggregate limitation of $1,000,000,000 provided in subparagraphs (A)(i) and (A)(ii) may be allocated to any one country in any fiscal year.

* * * * *

SEC. 620. PROHIBITIONS AGAINST FURNISHING ASSISTANCE.—

(a) * * *

* * * * *

(h) The President shall adopt regulations and establish procedures to insure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of [the Communist-bloc countries] *any country that is a*

Communist country for purposes of subsection (f).

Section 706. Review of United States Policy Toward the Soviet Union

Section 24 of the International Security Assistance Act of 1978

[UNITED STATES RELATIONS WITH THE SOVIET UNION.

[SEC. 24. (a) The Congress finds and declares that a sound and stable relationship with the Soviet Union will help achieve the objectives of the Foreign Assistance Act of 1961 and the Arms Export Control Act, strengthen the security of the United States, and improve the prospects for world peace.

[(b) Therefore, it is the sense of the Congress that the President, in cooperation with the Congress and knowledgeable members of the public, should make a full review of United States policy toward the Soviet Union. This review should cover, but not be limited to—

[(1) an overall reevaluation of the objectives and priorities of the United States in its relations with the Soviet Union,

[(2) the evolution of and sources of all bargaining power of the United States with respect to the Soviet Union and how that bargaining power might be enhanced;

[(3) what linkages do exist and what linkages should or should not exist between various elements of United States-Soviet relations such as arms control negotiations, human rights issues, and economic and cultural exchanges;

[(4) the policies of the United States toward human rights conditions in the Soviet Union and how improved Soviet respect for human rights might be more effectively achieved;

[(5) the current status of strategic arms limitations talks and whether such talks should be continued in their present framework or terminated and renewed in some other forum;

[(6) the current status of other arms control negotiations between the United States and the Soviet Union;

[(7) the challenges posed by Soviet and Cuban involvement in developing countries and a study of appropriate policy responses and instruments to meet those challenges more effectively;

[(8) the impact of our relations with the People's Republic of China on our relations with the Soviet Union;

[(9) the impact of strategic parity on relations between the United States and the Soviet Union and on the ability of the United States to meet its obligations under the North Atlantic Treaty;

[(10) United States economic, technological, scientific, and cultural relations with the Soviet Union and whether those relations are desirable and should be continued, expanded, restricted, or linked to other aspects of relations between the United States and the Soviet Union;

[(11) the evolution of Soviet domestic policies and the relationship between Soviet domestic politics and its foreign policy behavior, especially toward the United States; and

[(12) what improvements should be made in the institutions and procedures of United States foreign policy in order to ensure a coherent and effective policy towards the Soviet Union.

[(c) The President should report the results of the review called for by subsection (b) to the Congress not later than December 31, 1978.]

TITLE VIII—INTERNAL SECURITY; WORLDWIDE COMMUNIST CONSPIRACY

Section 801. Civil Defense

Section 501 of the Federal Civil Defense Act of 1950

SENSE OF CONGRESS

SEC. 501. (a) * * *

(b) It is further the sense of Congress that an improved civil defense program should be implemented which—

(1) enhances the survivability of the American people and its leadership in the event of nuclear war and thereby improves the basis for eventual recovery and reduces the Nation's vulnerability to a major attack;

(2) enhances deterrence[, contributes to perception of the United States-Soviet strategic balance and crisis stability,] and reduces the possibility that the United States might be susceptible to coercion by an enemy in times of increased tension;

* * * * *

Section 802. Report on Soviet Press Manipulation in the United States

[SEC. 147. SOVIET AND COMMUNIST DISINFORMATION AND PRESS MANIPULATION.

[Not later than one year after the date of the enactment of this Act, the Secretary of State shall prepare, in consultation with the heads of relevant Federal departments and agencies, and shall transmit to the Speaker of the House of Representatives, and to the Chairman of the Committee on Foreign Relations of the Senate, an unclassified report on Soviet and Communist disinformation and press manipulation with respect to the United States. Such report shall include a recommendation by the President on the advisability of establishing within the Department of State, a permanent office of Soviet disinformation and press manipulation. In conducting the study required by this section the Secretary may make use of suitability qualified scholars and journalists.

Section 803. Subversive Activities Control Act.

Subversive Activities Control Act of 1950

* * * * *

TITLE I—SUBVERSIVE ACTIVITIES CONTROL

[SECTION 1. (a) This title may be cited as the "Subversive Activities Control Act of 1950". (50 U.S.C. 781 note).

[(b) Nothing in this Act shall be construed to authorize, require, or establish military or civilian censorship or in any way to limit or infringe upon freedom of the press or of speech as guaranteed by the Constitution of the United States and no regulation shall be promulgated hereunder having that effect.

[NECESSITY FOR LEGISLATION

[SEC. 2. As a result of evidence adduced before various committees of the Senate and House of Representatives, the Congress hereby finds that—

[(1) There exists a world Communist movement which, in its origins, its development, and its present practice, is a world-wide revolutionary movement whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world through the medium of a world-wide Communist organization. (50 U.S.C. 781(1))

[(2) The establishment of a totalitarian dictatorship in any country results in the suppression of all opposition to the party in power, the subordination of the rights of individuals to the state, the denial of fundamental rights and liberties which are characteristic of a representative form of government, such as freedom of speech, of the press, of assembly, and of religious worship, and results in the maintenance of control over the people through fear, terrorism, and brutality. (50 U.S.C. 781(2))

[(3) The system of Government known as a totalitarian dictatorship is characterized by the existence of a single political party, organized on a dictatorial basis, and by substantial identity between such party and its policies and the government and governmental policies of the country in which its exists. (50 U.S.C. 781(3))

[(4) The direction and control of the world Communist movement is vested in and exercised by the Communist dictatorship of a foreign country.

[(5) The Communist dictatorship of such foreign country, in exercising such direction and control and in furthering the purposes of the world Communist movement, establishes or causes the establishment of, and utilizes, in various countries, action organizations which are not free and independent organizations, but are sections of a world-wide Communist organization and are controlled, directed, and subject to the discipline of the Communist dictatorship of such foreign country.

[(6) The Communist action organizations so established and utilized in various countries, acting under such control, direction, and discipline, endeavor to carry out the objectives of the world Communist movement by bringing about the overthrow of existing governments by any available means, including force if necessary, and setting up Communist totalitarian dictatorships which will be subservient to the most powerful existing Communist totalitarian dictatorship. Although such organizations usually designate themselves as political parties, they are in fact constituent elements of the world-wide Communist movement and promote the objectives of such movement by conspiratorial and coercive tactics, instead of through the democratic processes of a free elective system or through the freedom-preserving means employed by a political party which operates as an agency by which people govern themselves.

[(7) In carrying on the activities referred to in paragraph (6), such Communist organizations in various countries are organized on a secret, conspiratorial basis and operate to a substantial extent through organizations, commonly known as "Communist fronts", which in most instances are created and maintained, or used, in such manner as to conceal the facts as to their true character and purposes and their membership. One result of this method of operation is that such affiliated organizations are able to obtain financial and other support from persons who would not extend such support if they knew the true purposes of, and the actual nature of the control and influence exerted upon, such "Communist fronts".

[(8) Due to the nature and scope of the world Communist movement, with the existence of affiliated constituent elements working toward common objectives in various countries of the world, travel of Communist members, representatives, and agents from country to country facilitates communication and is a prerequisite for the carrying on of activities to further the purpose of the Communist movement.

[(9) In the United States those individuals who knowingly and willfully participate in

the world Communist movement, when they so participate, in effect repudiate their allegiance to the United States, and in effect transfer their allegiance to the foreign country in which is vested the direction and control of the world Communist movement.

[(10) In pursuance of communism's stated objectives, the most powerful existing Communist dictatorship has, by the methods referred to above, already caused the establishment in numerous foreign countries of Communist totalitarian dictatorships, and threatens to establish similar dictatorships in still other countries.

[(11) The agents of communism have devised clever and ruthless espionage and sabotage tactics which are carried out in many instances in form or manner successfully evasive of existing law.

[(12) The Communist network in the United States is inspired and controlled in large part by foreign agents who are sent into the United States ostensibly as attaches of foreign legations, affiliates of international organizations, members of trading commissions, and in similar capacities, but who use their diplomatic or semidiplomatic status as a shield behind which to engage in activities prejudicial to the public security.

[(13) There are, under our present immigration laws, numerous aliens who have been found to be deportable, many of whom are in the subversive, criminal, or immoral classes who are free to roam the country at will without supervision or control.

[(14) One device for infiltration by Communists is by procuring naturalization for disloyal aliens who use their citizenship as a badge for admission into the fabric of our society.

[(15) The Communist movement in the United States is an organization numbering thousands of adherents, rigidly and ruthlessly disciplined. Awaiting and seeking to advance at a moment when the United States may be so far extended by foreign engagements, so far divided in counsel, or so far in industrial or financial straits, that overthrow of the Government of the United States by force and violence may seem possible of achievement, it seeks converts far and wide by an extensive system of schooling and indoctrination. Such preparations by Communist organizations in other countries have aided in supplanting existing governments. The Communist organization in the United States, pursuing its stated objectives, the recent successes of Communist methods in other countries, and the nature and control of the world Communist movement itself, present a clear and present danger to the security of the United States and to the existence of free American institutions, and make it necessary that Congress, in order for the common defense, to preserve the sovereignty of the United States as an independent nation, and to guarantee to each State a republican form of government, enact appropriate legislation recognizing the existence of such worldwide conspiracy and designed to prevent it from accomplishing its purpose in the United States.

[(16) The findings of fact contained in paragraphs (1) through (5) of this section are reiterated. Recent court decisions involving the registration provisions of this Act make it necessary to enact legislation to accomplish the purposes of such Act without the requirements of registration. Disclosure of Communist organizations and of the members of Communist-action organizations as provided in this Act is essential to the protection of the national welfare.

[DEFINITIONS

[Sec. 3. For the purposes of this title—

[(1) The term "person" means an individual or an organization.

[(2) The term "organization" means an organization, corporation, company, partnership, association, trust, foundation, or fund; and includes a group of persons, whether or not incorporated, permanently or temporarily associated together for joint action on any subject or subjects.

[(3) The term "Communist-action organization" means any organization in the United States (other than a diplomatic representative or mission of a foreign government accredited as such the Department of State) which (i) is substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in section 2 of this title, and (ii) operates primarily to advance to objectives of such world Communist movement referred to in section 2 of this title.

[(4) The term "Communist-front organization" means any organization in the United States (other than a Communist-action organization as defined in paragraphs (3) of this section) which (A) is substantially directed, dominated, or controlled by a Communist-action organization, or (B) is substantially directed, dominated, or controlled by one or more members of a Communist-action organization, and (C) is primarily operated for the purpose of giving aid and support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title.

[(4A) The term "Communist-infiltrated organization" means any organization in the United States (other than a Communist-action organization or a Communist-front organization) which (A) is substantially directed, dominated, or controlled by an individual or individuals who are, or who within three years have been actively engaged in, giving aid or support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title, and (B) in serving, or within three years has served, as a means for (i) the giving of aid or support to any such organization, government, or movement, or (ii) the impairment of the military strength of the United States or its industrial capacity to furnish logistical or other material support required by its Armed Forces: *Provided, however*, That any labor organization which is an affiliate in good standing of a national federation or other labor organization whose policies and activities have been directed to opposing Communist organizations, any Communist foreign government, or the world Communist movement, shall be presumed prima facie not to be a "Communist-infiltrated organization"

[(5) The term "Communist organization" means any Communist-action organization, Communist-front organization, or Communist-infiltrated organization.

[(6) The term "to contribute funds or services" includes the rendering of any personal service and the making of any gift, subscription, loan, advance, or deposit, of money or of anything of value, and also the making of any contract, promise, or agreement to contribute funds or services, whether or not legally enforceable.

[(7) The term "facility" means any plant, factory or other manufacturing, producing or service establishment, airport, airport facility, vessel, pier, water-front facility, mine, railroad, public utility, laboratory, station, or other establishment or facility, or any part, division, or department of any of the foregoing. The term "defense facility" means any facility designated by the Secretary of Defense pursuant to section 5(b) of this title and which is in compliance with the provisions of such subsection respecting the posting of notice of such designation.

[(8) The term "publication" means any circular, newspaper, periodical, pamphlet, book, letter, post card, leaflet, or other publication.

[(9) The term "United States," when used in a geographical sense includes the several States, Territories, and possessions of the United States, the District of Columbia, and the Canal Zone.

[(10) The term "interstate or foreign Commerce" means trade, traffic, commerce, transportation, or communication (A) between any State, Territory, or possession of the United States (including the Canal Zone), or the District of Columbia, and any place outside thereof, or (B) within any Territory or possession of the United States (including the Canal Zone), or within the District of Columbia.

[(11) The term "Board" means the Subversive Activities Control Board created by section 12 of this title.

[(12) The term "final order of the Board" means an order issued by the Board under section 13 or 13A of this title, which has become final as provided in section 14 of this title.

[(13) The term "advocates" includes advises, recommends, furthers by overt act, and admits belief in; and the giving, loaning, or promising of support or of money or anything of value to be used for advocating any doctrine shall be deemed to constitute the advocating of such doctrine.

[(14) The term "world communism" means a revolutionary movement, the purpose of which is to establish eventually a Communist totalitarian dictatorship in any or all the countries of the world through the medium of an internationally coordinated Communist movement.

[(15) The terms "totalitarian dictatorship" and "totalitarianism" mean and refer to systems of government not representative in fact, characterized by (A) the existence of a single political party, organized on a dictatorial basis, with so close an identity between such a party and its policies and the governmental policies of the country in which it exists, that the party and the government constitute an indistinguishable unit, and (B) the forcible suppression of opposition to such party.

[(16) The term "doctrine" includes, but is not limited, to policies, practices, purposes, aims, or procedures.

[(17) The giving, loaning, or promising of support or of money or any other thing of value for any purpose to any organization shall be conclusively presumed to constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of affiliation.

[(18) "Advocating the economic, international, and governmental doctrines of world communism" means advocating the establishment of a totalitarian Communist dictatorship in any or all of the countries of the world through the medium of an internationally coordinated Communist movement.

[(19) "Advocating the economic and governmental doctrines of any other form of totalitarianism" means advocating the establishment of totalitarianism (other than world communism) and includes, but is not limited to, advocating the economic and governmental doctrines of fascism and nazism.

CERTAIN PROHIBITED ACTS

SEC. 4. [(a) It shall be unlawful for any person knowingly to combine, conspire, or agree with any other person to perform any act which would substantially contribute to the establishment within the United States of a totalitarian dictatorship, as defined in paragraph (15) of section 3 of this title, the direction and control of which is to be vested in, or exercised by or under the domination or control of, any foreign government, foreign organization, or foreign individual: *Provided, however*, That this subsection shall not apply to the proposal of a constitutional amendment.]

[(b)] *(a)* It shall be unlawful for any officer or employee of the United States or of any department or agency thereof, or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, to communicate in any manner or by any means, to any other person whom such officer or employee knows or has reason to believe to be an agent or representative of any foreign government[or an officer or member of any Communist organization as defined in paragraph (5) of section 3 of this title] any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, knowing or having reason to know that such information has been so classified, unless such officer or employees shall have been specifically authorized by the President, or by the head of the department, agency, or corporation by which this officer or employee is employed, to make such disclosure of such information.

[(c)] *(b)* It shall be unlawful for any agent or representative of any foreign government[, or any officer or member of any Communist organization as defined in paragraph (5) of section 3 of this title,] knowingly to obtain or receive, or attempt to obtain or receive, directly or indirectly, from any officer or employee of the United States or of any department or agency thereof or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, unless special authorization for such communication shall first have been obtained from the head of the department, agency, or corporation having custody of or control over such information.

[(d] *(c)* Any person who violates any provision of this section shall, upon conviction thereof, be punished by a fine of not more than $10,000, or imprisonment for not more than ten years, or by both such fine and such imprisonment, and shall, moreover, be thereafter ineligible to hold any office, or place of honor, profit, or trust created by the Constitution or laws of the United States.

[(e)] *(d)* Any person may be prosecuted, tried, and punished of any violation of this section at any time within ten years after the commission of such offense, notwithstanding the provisions of any other statute of limitations: *Provided*, That if at the time of the commission of the offense such person is an officer or employee of the United States or of any department or agency thereof, or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, such person may be prosecuted, tried, and punished for any violation of this section at any time within ten years after such person has ceased to be employed as such officer or employee.

[(f)] *(e)* Neither the holding of office nor membership in any communist organization by any person shall constitute per se a violation of subsection (a) or subsection (c) of this section or of any other criminal statute.

[EMPLOYMENT OF MEMBERS OF COMMUNIST ORGANIZATIONS

[SEC. 5. (a) When there is in effect a final order of the Board determining any organization to be a Communist-action organization or a Communist-front organization, it shall be unlawful—

[(1) For any member of such organization, with knowledge or notice of such final order of the Board—

[(A) in seeking, accepting, or holding any nonelective office or employment under the United States, to conceal or fail to disclose the fact that he is a member of such organization; or

[(B) to hold any nonelective office or employment under the United States; or

[(C) in seeking, accepting, or holding employment in any defense facility, to conceal or fail to disclose the fact that he is a member of such organization; or

[(D) if such organization is a Communist-action organization, to engage in any employment in any defense facility; or

[(E) to hold office or employment with any labor organization, as that term is defined in section 2(5) of the National Labor Relations Act, as amended (29 U.S.C. 152), or to represent any employer in any matter or proceeding arising or pending under that Act.

[(2) For any officer or employee of the United States or of any defense facility, with knowledge or notice of such final order of the Board—

[(A) to contribute funds or services to such organization; or

[(B) to advise, counsel or urge any person, with knowledge or notice that such person is a member of such organization, to perform, or to omit to perform, any act if such act or omission would constitute a violation of any provision of paragraph (1) of this subsection.

[(b) The Secretary of Defense is authorized and directed to designate facilities, as defined in paragraph (7) of section 3 of this title, with respect to the operation of which he finds and determines that the security of the United States requires the application of the provisions of subsection (a) of this section. The Secretary shall promptly notify the management of any facility so designated, whereupon such management shall immediately post conspicuously notice of such designation in such form and in such place or places as to give notice thereof to all employees of, and to all applicants for employment in such facility. Such posting shall be sufficient to give notice of such designation to any person subject thereto or affected thereby. Upon the request of the Secretary, the management of any facility so designated shall require such employee of the facility, or any part thereof, to sign a statement that he knows that the facility has, for the purposes of this title, been designated by the Secretary under this subsection.

[DENIAL OF PASSPORTS TO MEMBERS OF COMMUNIST ORGANIZATIONS

[SEC. 6. (a) When a Communist organization as defined in paragraph (5) of section 3 of this title is registered, or there is in effect a final order of the Board requiring such organization to register, it shall be unlawful for any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final—

[(1) to make application for a passport, or the renewal of a passport, to be issued or renewed by or under the authority of the United States; or

[(2) to use or attempt to use any such passport.

[(b) When an organization is registered, or there is in effect a final order of the Board requiring an organization to register, as a Communist-action organization, it shall be unlawful for any officer or employee of the United States to issue a passport to, or renew the passport of, any individual knowing or having reason to believe that such individual is a member of such organization.

[RECORDS OF FINAL ORDERS OF THE BOARD; PUBLIC INSPECTION; REPORTS TO PRESIDENT AND CONGRESS

[SEC. 9. (a). The Board shall keep and maintain records, which shall be open to public inspection, giving the names and addresses of all organizations as to which, and individuals as to whom, there are in effect final orders of the Board issued pursuant to any of the provisions of subsections (g) through (j), inclusive, or section 13, or subsection (f) of section 13A.

[(b) Copies of all public proceedings and hearings before the Board, including the reports and orders of the Board, shall be furnished by the Board to any person upon request and upon the payment of the reasonable costs thereof as then currently fixed by the Board.

[(c) The Board shall submit to the President and to the Congress on or before June 1 of each year (and at any other time when requested by either House by resolution) a report giving the names and addresses of all Communist-action, Communist-front, or Communist-infiltrated organizations as to which, and all individual members of Communist-action organizations as to whom, there are in effect such final orders of the Board.

[USE OF THE MAILS AND INSTRUMENTALITIES OF INTERSTATE OR FOREIGN COMMERCE

[SEC. 10. It shall be unlawful for any organization with respect to which there is in effect a final order of the Board determining it to be a Communist organization as defined in paragraph (5) of section 3 of this title, or for any person with knowledge or notice of such final order acting for or on behalf of any such organization—

[(1) to transmit or cause to be transmitted, through the United States mails or by any means or instrumentality of interstate or foreign commerce, any publication which is intended to be, or which it is reasonable to believe is intended to be, circulated or disseminated among two or more persons, unless such publication, and any envelope, wrapper, or other container in which it is mailed or otherwise circulated or transmitted, bears the following, printed in such manner as may be provided in regulations prescribed by the Attorney General: "Disseminated by ———," (with the name of the organization in lieu of the blank) "an organization determined by final order of the Subversive Activities Control Board to be a Communist——— organization" (setting forth in lieu of the blank whether action, front, or infiltrated, as the case may be); or

[(2) to broadcast or cause to be broadcast any matter over any radio or television station in the United States, unless such matter

is preceded by the following statement: "The following program is sponsored by ——," (with the name of the organization in lieu of the blank) "an organization determined by final order of the Subversive Activities Control Board to be a Communist—— organization" (setting forth in lieu of the blank action, front, or infiltrated, as the case may be); or

[(3) to use the United States mails or any means, facility, or instrumentality or interstate or foreign commerce, including but not limited to radio and television broadcasts, to solicit any money, property, thing, or service, unless such solicitation if made orally is preceded by the following statement, and if made in writing or in print is preceded by the following written or printed statement: "This solicitation is made for or on behalf of ——," (with the name of the organization in lieu of the blank) "an organization determined by the final order of the Subversive Activities Control Board to be a Communist—— organization" (setting forth in lieu of the blank whether action, front, or infiltrated, as the case may be).

[DENIAL OF TAX DEDUCTIONS AND EXEMPTIONS

[SEC. 11. (a). Notwithstanding any other provisions of law, no deduction for Federal income tax purposes shall be allowed in the case of a contribution to or for the use of any organization if at the time of the making of such contribution there is in effect a final order of the Board determining such organization to be a Communist-action, Communist-front, or Communist-infiltrated organization.

[(b) No organization shall be entitled to exemption from Federal income tax, under section 501 of the Internal Revenue Code of 1954, for any taxable year if at any time during such taxable year there is in effect a final order of the Board determining such organization to be a Communist-action, Communist-front, or Communist-infiltrated organization.

[SUBVERSIVE ACTIVITIES CONTROL BOARD

[SEC. 12. (a) There is hereby established, to be known as the Subversive Activities Control Board, which shall be composed of five members, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three members of the Board shall be members of the same political party. The terms of office of the members of the board in office on the date of enactment of the Subversive Activities Control Board Tenure Act shall expire at the time they would have expired if such Act had not been enacted. The term of office of each member of the Board appointed after the date of enactment of the Subversive Activities Control Board Tenure Act shall be for five years from the date of expiration of the term of his predecessor, except that (1) the term of office of that member of the Board who is designated by the President and is appointed to succeed one of the two members of the Board whose terms expire on August 9, 1955, shall be for four years from the date of expiration of the term of his predecessor, and (2) the term of office of any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be for the remainder of the term of his predecessor. Upon the expiration of his term of office, a member of the Board shall continue to serve until his successor shall have been appointed and shall have qualified. The President shall designate one member to serve as Chairman of the Board. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

[(b) A vacancy in the Board shall not impair the right of the remaining members to exercise all the powers of the Board, and three members of the Board shall, at all times, constitute a quorum. The Board shall have an official seal which shall be judicially noticed.

[(c) The Board shall at the close of each fiscal year make a report in writing to the Congress and to the President stating in detail the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees of the Board, and an account of all moneys it has disbursed.

[(d) Each member of the Board shall receive a salary of $15,000 a year, shall be eligible for reappointment, and shall not engage in any other business, vocation, or employment.

[(e) It shall be the duty of the Board—

[(1) upon application made by the Attorney General under section 13(a) of this title, or by any organization under section 13(b) of this title, to determine whether any organization is a "Communist-action organization" within the meaning of paragraph (3) of section 3 of this title, or a "Communist-front organization" within the meaning of paragraph (4) of section 3 of this title; and

[(2) upon application made by the Attorney General under section 13(a) of this title, or by any individual under section 13(b) of this title, to determine whether any individual is a member of any organization as to which there is in effect a final order of the Board determining such organization to be a Communist-action organization and

[(3) upon any application made under subsection (a) or subsection (b) of section 13A of this title, to determine whether any organization is a Communist-infiltrated organization.

[(f) subject to the civil-service laws and Classification Act of 1949, the Board may appoint and fix the compensation of a chief clerk and such examiners and other personnel as may be necessary for the performance of its function.

[(g) The Board may make such rules and regulations, not inconsistent with the provisions of this title, as may be necessary for the performance of its duties.

[(h) There are hereby authorized to be appropriated to the Board such sums as may be necessary to carry out its functions.

[(i) The Board shall cease to exist on June 30, 1969, unless in the period beginning on the date of enactment of this subsection and ending on December 31, 1968, a proceeding under this Act shall have been instituted before the Board and a hearing under this Act shall have been conducted by the Board. On or before June 30, 1968, the Attorney General shall report to the Congress on the proceedings he has instituted before the Board under this Act during the period from the enactment of this subsection to the date of the report, and the Board shall report on the progress it has made in conducting hearings under the Act during such period. If no proceedings have been instituted before the board by the Attorney General, the Attorney General shall report his reasons for not having done so. If no hearings have been conducted, the Board shall report the reasons for not having done so. Similar reports shall be filed by the Attorney General and the Board on or before January 10, 1969, and each year thereafter, to cover the immediately preceding calendar year.

[Proceedings before the board * * *

[SEC. 13. (a) Whenever the Attorney General shall have reason to believe that any organization is a Communist-action organization or a Communist-front organization, or that any individual is a member of an organization which has been determined by final order of the Board to be a Communist-action organization, he shall file with the Board and serve upon such organization or individual, as the case may be, a petition for a determination that such organization is a Communist-action or Communist-front organization, or determining that such individual is a member of such Communist-action organization.

Each such petition shall be verified under oath, and shall contain a statement of the facts upon which the Attorney General relies in support thereof. Two or more such individual members of Communist-action organization or of any section, branch, fraction, cell, board, committee, commission, or unit thereof, may be joined as respondents in one petition for an order determining each of such individuals to be a member of such organization. A dissolution of any organization subsequent to the date of the filing of any petition for a determination that such organization is a Communist-action or Communist-front organization shall not moot or abate the proceedings, but the Board shall receive evidence and proceed to a determination of the issues: *Provided, however*, That if the Board shall find such organization to be a Communist-action or Communist-front organization as of the time of the filing of such petition and prior to its alleged dissolution, and shall find that a dissolution of the organization has in fact occurred, the Board shall enter an order determining such organization to be a Communist-action or Communist-front organization, as the case may be, and the Board shall include it as such in the appropriate records maintained pursuant to section 9 of this title, together with a notation of its dissolution.

[(b) Any organization as to which there is in effect a final order of the Board determining it to be a Communist-action or Communist-front organization, and any individual as to whom there is in effect a final order of the Board determining such individual to be a member of Communist-action organization may, not more often than once in each calendar year, file with the Board and serve upon the Attorney General a petition for a determination that such organization no longer is a Communist-action or Communist-front organization, or that such individual no longer is a member of a Communist-action organization, as the case may be. Each petition filed under this subsection shall be verified under oath, and shall contain a statement of the facts relied upon in support thereof. Upon the filing of any such petition, the Board shall serve upon each party to such proceeding a notice specifying the time and place for hearing upon such petition. No such hearing shall be conducted within twenty days after the service of such notice.

[(c)Upon the filing of any petition pursuant to subsection (a) or subsection (b) of this section, the Board (or any member thereof or any examiner designated thereby) may hold hearings, administer oaths and affirmations, may examine witnesses and receive evidence at any place in the United States, and may require by subpoena the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed relevant, to the matter under inquiry. Subpoenas may be signed and issued by any member of the Board or any duly authorized examiner. Subpoenas shall be issued on behalf of the organization or the individual who is a party to

the proceeding upon request and upon a statement of showing of general relevance and reasonable scope of the evidence sought. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. Witnesses summoned shall be paid the same fees and mileage paid witnesses in the district courts of the United States. In case of disobedience to a subpoena, the Board may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear (and to produce documentary evidence if so ordered) and give evidence relating to the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. No person, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture, shall be excused from testifying or producing documentary evidence before the Board in obedience to a subpoena of the Board issued on request of the Attorney General when the Attorney General represents that such testimony or evidence is necessary to accomplish the purposes of this title; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he, under compulsion as provided in this subsection, may testify, or produce evidence, documentary or otherwise, before the Board in obedience to a subpoena issued by it: *Provided*, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying. No person shall be held liable in any action in any court, State or Federal, for any damages resulting from (1) his production of any documentary evidence on any proceeding before the Board if he is required, by a subpoena issued under this subsection, to produce the evidence; or (2) any statement under oath he makes in answer to a question he is asked while testifying before the Board in response to a subpoena issued under this subsection, if the statement is pertinent to the question.

[(d)(1) All hearings conducted under this section shall be public. Each party to such proceeding shall have the right to present its case with the assistance of counsel, to offer oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. An accurate stenographic record shall be taken of the testimony of each witness, and a transcript of such testimony shall be filed in the office of the Board.

[(2) Where an organization or individual declines or fails to appear at a hearing accorded to such organization or individual by the Board in proceedings initiated pursuant to subsection (a) of this section, the Board shall, nevertheless, proceed to receive evidence, make a determination of the issues, and enter such order as shall be just and appropriate. Upon failure of an organization or individual to appear at a hearing accorded to such organization or individual in proceedings under subsection (b) of this section the Board may forthwith and without further proceedings enter an order dismissing the petition of such organization or individual.

[(3) Any person who, in the course of any hearing before the Board or any member thereof or any examiner designated thereby, shall misbehave in their presence or so near thereto as to obstruct the hearing or the administration of the provisions of this title, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $500 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment. Whenever a statement of fact constituting such misbehavior is reported by the Board to the appropriate United States attorney, it shall be his duty to bring the matter before the grand jury for its action.

[(4) the authority, function, practice, or process of the Attorney General or Board in conducting any proceeding pursuant to the provisions of this title shall not be questioned in any court of the United States, nor shall any such court, or judge or justice thereof, have jurisdiction of any action, suit, petition, or proceeding, whether for declaratory judgment, injunction, or otherwise, to question such authority, function, practice, or process, except on review in the court or courts having jurisdiction of the actions and orders of the Board pursuant to the provisions of section 14, or when such authority, function, practice, or process, is appropriately called into question by the accused or respondent, as the case may be, in the court or courts having jurisdiction of his prosecution or other proceeding (or the review thereof) for any contempt or any offense charged against him pursuant to the provisions of this title.

[(e) In determining whether any organization is a "Communist-action organization", the Board shall take into consideration—

[(1) the extent to which its policies are formulated and carried out and its activities performed, pursuant to directive or to effectuate the policies of the foreign government or foreign organization in which is vested, or under the domination or control of which is exercised, the direction and control of the world Communist movement referred to in section 2 of this title, and

[(2) the extent to which its views and polices do not deviate from those of such foreign government or foreign organization, and

[(3) the extent to which it receives financial or other aid, directly or indirectly, from or at the direction of such foreign government or foreign organization; and

[(4) the extent to which it sends members or representatives to any foreign country for instruction or training in the principles, policies, strategy, or tactics of such world Communist movements; and

[(5) the extent to which it reports to such foreign government or foreign organization or to its representatives; and

[(6) the extent to which its principal leaders or a substantial number of its members are subject to or recognize the disciplinary power of such foreign government or foreign organization or its representatives; and

[(7) the extent to which, for the purpose of concealing foreign direction, domination, or control, or of expediting or promoting its objectives, (i) it fails to disclose, or resist efforts to obtain information as to, its membership (by keeping membership lists in code, by instructing members to refuse to acknowledge membership, or by any other method); (ii) its members refuse to acknowledge membership therein; (iii) it fails to disclose, or resists efforts to obtain information as to, records other than membership lists; (iv) its meetings are secret; and (v) it otherwise operates on a secret basis; and

[(8) the extent to which its principal leaders or a substantial number of its members consider the allegiance they owe to the United States as subordinate to their obligations to such foreign government or foreign organization.

[(f) In determining whether any organization is a "Communist-front organization", the Board shall take into consideration—

[(1) the extent to which persons who are active in its management, direction, or supervision, whether or not holding office therein, are active in the management, direction, or supervision of, or as representatives or members of, any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

[(2) the extent to which its support, financial or otherwise, is derived from any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

[(3) the extent to which its funds, resources, or personnel are used to further or promote the objectives of any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

[(4) the extent to which the positions taken or advanced by it from time to time on matters of policy do not deviate from those of any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2.

[(g) If, after hearing upon a petition filed under subsection (a) of this section the Board determines—

[(1) that an organization is a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such organization an order determining the organization to be a Communist-action organization as the case may be;

[(2) that an individual is a member of a Communist-action organization it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such individual an order determining such individual to be a member of a Communist-action organization.

[(h) If, after hearing upon a petition filed under subsection (a) of this section, the Board determines—

[(1) that an organization is not a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon the Attorney General an order denying the determination sought by his petition, and shall send a copy of such order to such organization;

[(2) that an individual is not a member of any Communist-action organization, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon the Attorney General an order denying the determination sought by his petition, and shall send a copy of such order to such individual.

[(i) If, after hearing upon a petition filed under subsection (b) of this section, the Board determines—

[(1) that an organization no longer is a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon the Attorney General and such organization an order determining that the organization no longer is a Communist-action organization or Communist-front organization as the case may be;

[(2) that an individual no longer is a member of any Communist-action organization, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon the Attorney General and such individual an order determining that such individual no longer is a member of a Communist-action organization.

[(j) If, after hearing upon a petition filed under subsection (b) of this section, the Board determines—

[(1) that an organization is a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such organization an order denying its petition for a determination that the organization no longer is a Communist-action organization or a Communist-front organization as the case may be;

[(2) that an individual is a member of a Communist-action organization, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon such individual an order denying his petition for a determination that the individual no longer is a member of a Communist-action organization.

[(k) When any order of the Board issued under subsection (g), (h), (i), or (j) of this section becomes final under the provisions of section 14(b) of this title, the board shall publish in the Federal Register the fact that such order has become final, and publication thereof shall constitute notice to all persons that such order has become final.

[PROCEEDINGS WITH RESPECT TO COMMUNIST-INFILTRATED ORGANIZATIONS

[SEC. 13A. (a) Whenever the Attorney General has reason to believe that any organization is a Communist-infiltrated organization, he may file with the Board and serve upon such organization a petition for a determination that such organization is a Communist-infiltrated organization. In any proceeding so instituted, two or more affiliated organizations may be named as joint respondents. A dissolution of such organization subsequent to the date of the filing of any petition for a determination that it is Communist-infiltrated, shall not moot or abate the proceedings, but the Board shall receive evidence and proceed to a determination of the issues; *Provided, however*, That if the Board shall determine such organization to be a Communist-infiltrated organization as of the time of the filing of such petition and prior to its alleged dissolution, and shall find that a dissolution of the organization has in fact occurred, the Board shall enter an order determining such organization to be a Communist-infiltrated organization and the Board shall include it as such in the appropriate records maintained pursuant to section 9 of this title, together with a notation of its dissolution. Whenever any such petition is accompanied by a certificate of the Attorney General to the effect that the proceeding so instituted is one of exceptional public importance, such proceeding shall be set for hearing at the earliest possible time and all proceedings therein before the Board shall be expedited to the greatest practicable extent.

[(b) Any organization which has been determined under this section to be a Communist-infiltrated organization may, within six months after such determination, file with the board and serve upon the Attorney General a petition for a determination that such organization no longer is a Communist-infiltrated organization.

[(c) Each such petition shall be verified under oath, and shall contain a statement of the facts relied upon in support thereof. Upon the filing of any such petition, the Board shall serve upon each party to such proceeding a notice specifying the time and place for hearing upon such petition. No such hearing shall be conducted within twenty days after the service of such notice.

[(d) The provisions of subsection (c) and (d) of section 13 shall apply to hearings conducted under this section.

[(e) In determining whether any organization is a Communist-infiltrated organization, the Board shall consider—

[(1) to what extent, if any, the effective management of the affairs of such organization is conducted by one or more individuals who are, or within three years have been, (A) members, agents, or representatives of any Communist organization, and Communist foreign government, or the world Communist movement referred to in section 2 of this title, with knowledge of the nature and purpose thereof, or (B) engaged in giving aid or support to any such organization, government, or movement with knowledge of the nature and purpose thereof;

[(2) to what extent, if any, the policies of such organization are, or within three years have been, formulated and carried out pursuant to the direction or advice of any member, or agent, or representative of any such organization, government, or movement;

[(3) to what extent, if any, the personnel and resources of such organization are, or within three years have been, used to further or promote the objectives of any such Communist organization, government, or movement;

[(4) to what extent, if any, such organization within three years has received from, or furnished to or for the use of, any such Communist organization, government, or movement any funds or other material assistance;

[(5) to what extent, if any, such organization is, or within three years has been, affiliated in any way with any such Communist organization, government, or movement;

[(6) to what extent, if any, the affiliation of such organization, or of any individual or individuals who are members thereof or who manage its affairs, with such Communist organization, government, or movement is concealed from or is not disclosed to the membership of such organization; and

[(7) to what extent, if any, such organization or any of its members or managers are, or within three years have been, knowingly engaged—

[(A) in any conduct punishable under section 4 or 15 of this Act or under chapter 37, 105, or 115 of title 18 of the United States Code; or

[(B) with intent to impair the military strength of the United States or its industrial capacity to furnish logistical or other support required by its armed forces, in any activity resulting in or contributing to any such impairment. (50 U.S.C. 792a(e))

[(f) After hearing upon any petition filed under this section, the Board shall (1) make a report in writing in which it shall state its findings as to the facts and its conclusions with respect to the issues presented by such petition, (2) enter its order granting or denying the determination sought by such petition, and (3) serve upon each party to the proceeding a copy of such order, any order granting any determination on the question whether any organization is a Communist-infiltrated organization shall become final as provided in section 14(b) of this Act. (50 U.S.C. 792a(f))

[(g) When any order has been entered by the Board under this section with respect to any labor organization or employer (as these terms are defined by section 2 of this National Labor Relations Act, as amended, and which are organizations within the meaning of section 3 of the Subversive Activities Control Act of 1950), the Board shall serve a true and correct copy of such order upon the National Labor Relations Board and shall publish in the Federal Register a statement of the substance of such order and its effective date.

[(h) When there is in effect a final order of the Board determining that any such labor organization is a Communist-action organization, a Communist-front organization, or a Communist infiltrated organization, such labor organization shall be ineligible to—

[(1) act as representative of any employee within the meaning or for the purposes of section 7 of the National Labor Relations Act, as amended (29 U.S.C. 157);

[(2) serve as an exclusive representative of employees of any bargaining unit under section 9 of such Act, as amended (29 U.S.C. 159);

[(3) make, or obtain any hearing upon, any charge under section 10 of such Act (29 U.S.C. 160); or

[(4) exercise any other right or privilege, or receive any other benefit, substantive or procedural, provided for such Act for labor organizations.

[(i) When an order of the Board determining that any such labor organization is a Communist-infiltrated organization has become final, and such labor organization theretofore has been certified under the National Labor Relations Act, as amended, as a representative of employees in any bargaining unit—

[(1) a question of representation affecting commerce, within the meaning of section 9(c) of such Act, shall be deemed to exist with respect to such bargaining unit; and

[(2) the National Labor Relations Board, upon petition of not less than 20 percent of the employees in such bargaining unit or any person or persons acting in their behalf, shall under section 9 of such Act (notwithstanding any limitation of time contained therein) direct elections in such bargaining unit or any subdivision thereof (A) for the selection of a representative thereof for collective bargaining purposes, and (B) to determine whether the employees thereof desire to rescind any authority previously granted to such labor organization to enter into any agreement with their employer pursuant to section 8(a)(3)(ii) of such Act.

[(j) When there is in effect a final order of the Board determining that any such employer is a Communist-infiltrated organization, such employer shall be ineligible to—

[(1) file any petition for an election under section 9 of the National Labor Relations Act, as amended (29 U.S.C. 157), or participate in any proceeding under such section; or

[(2) make or obtain any hearing upon any charge under section 10 of such Act (29 U.S.C. 160); or

[(3) exercise any other right or privilege or receive any other benefit, substantive or procedural, provided by such Act for employers.

[JUDICIAL REVIEW

[SEC. 14. (a) The party aggrieved by any order entered by the Board under subsection (g), (h), (i), or (j) of section 13, or subsection (f) of section 13A, may obtain a review of such order by filing in the United States Court of Appeals for the District of Columbia, within sixty days from the date of service upon it of such order, a written petition praying that the order of the Board be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Board, and thereupon the Board shall file in the court the record in the proceeding, as provided in section 2112 of Title 28. Upon the filing of such petition the court shall have jurisdiction of the proceeding and shall have power to affirm or set aside the order of the Board; but the court may in its discretion and upon its own motion transfer any action so commenced to the United States Court of Appeals for the circuit wherein the petitioner resides. The findings of the Board as to the facts, if supported by the preponderance of the evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material, the court may order such additional evidence to be taken before the Board and to be adduced upon the proceeding in such manner and upon such terms and conditions as to the court may seem proper. The Board may modify its findings as to the facts, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by the preponderance of the evidence shall be conclusive, and its recommendations, if any, with respect to action in the matter under consideration. If the court shall set aside an order issued under subsection (j) of section 13, or under subsection (f) of section 13A, it may, in the case of an organization, enter a judgment requiring the Board to issue an order determining that such organization no longer is a Communist-action organization, Communist-front organization, or a Communist-infiltrated organization, as the case may be, or in the case of an individual, enter a judgment requiring the Board to issue an order determining that such individual no longer is a member of a Communist-action organization. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in title 28, United States Code, section 1254.

[(b) Any order of the Board issued under section 13, or subsection (f) of section 13A, shall become final—

[(1) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; or

[(2) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Board has been affirmed or the petition for review dismissed by a United States Court of Appeals, and no petition for certiorari has been duly filed; or

[(3) upon the denial of a petition for certiorari, if the order of the Board has been affirmed or the petition for review dismissed by a United States Court of Appeals; or

[(4) upon the expiration of ten days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the Board be affirmed or the petition for review dismissed.

[Penalties * * *

[SEC. 15. Any organization which violates any provision of section 10 of this title shall, upon conviction thereof, be punished for such violation by a fine of not more than $10,000. Any individual who violates any provision of section 5 or 10 of this title shall, upon conviction thereof, be punished for each such violation by a fine of not more than $10,000 or by imprisonment for not more than five years, or by both such fine and imprisonment.

[Applicability of Administrative Procedure Act * * *

[SEC. 16. Nothing in this title shall be held to make the provisions of the Administrative Procedure Act inapplicable to the exercise of functions, or the conduct of proceedings, by the Board under this title.]

* * * * *

Section 804. Report on Soviet and International Communist Behavior.

[SEC. 155. SOVIET AND INTERNATIONAL COMMUNIST BEHAVIOR.

[Not later than one year after the date of enactment of this section, the Secretary of State shall prepare and transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, an unclassified report on the advisability of establishing a permanent office in the Department of State to study Soviet and international Communist behavior that violates the concepts of national sovereignty and peace between nations. In conducting the study required by this section, the Secretary may make use of suitably qualified journalists and scholars.]

TITLE IX—MISCELLANEOUS

Section 901. Ballistic Missile Tests Near Hawaii.

[SEC. 1201. SOVIET BALLISTIC MISSILE TESTS NEAR HAWAII.

[(a) FINDINGS.—The Congress finds that—

[(1) the Union of Soviet Socialist Republics and the United States are presently negotiating a reduction of nuclear weapons and have recently concluded an agreement with respect to reducing the risks of accidental nuclear war,

[(2) the Soviet Union has recently conducted two tests of its heavy intercontinental ballistic missiles over trajectories similar to those which could be used in actual attacks on the Hawaiian Islands;

[(3) the announced impact points for reentry vehicles from these tests could have resulted in the overflight of sovereign United States territory, namely the Hawaiian Islands;

[(4) the Soviet Union reportedly encrypted telemetry from the flight tests in potential violation of the provisions of bilateral arms control agreements;

[(5) the Soviet Union used a directed energy device, believed to be a laser, to irradiate a United States military aircraft in international airspace that was monitoring the tests, having the potential effect of interfering with our national technical means of verification;

[(6) had this test misfired, Soviet ballistic missile test reentry vehicles could have landed among the Hawaiian Islands, and

[(7) the United States does not test strategic missiles in the direction of or in close proximity to sovereign Soviet territory.

[(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

[(1) the actions of the Soviet Union in testing intercontinental ballistic missiles in the Hawaiian region and irradiating United States monitoring aircraft are provocative, unnecessary, and inconsistent with behavior designed to reduce the risk of nuclear war;

[(2) the United States Government—

[(A) should officially and at the highest levels protest these actions by the Soviet Union and should inform the Soviet Union that it cannot tolerate flight tests in close proximity to sovereign United States territory or interference with United States monitoring aircraft; and

[(B) should seek Soviet assurances that such missile testing near United States territory and irradiation of United States territory and irradiation of United States aircraft will not occur in the future; and

[(3) the President should, within 10 days of the date of enactment of this Act, report to the Congress in both classified and unclassified form, on—

[(A) the details of these Soviet missile tests, including the irradiation of the United States monitoring aircraft;

[(B) Soviet explanations offered in response to United States protests; and

[(C) what steps will be taken to ensure that such activities will not happen in the future.

Section 902. Nondelivery of International Mail.

[SEC. 1203. SYSTEMATIC NONDELIVERY OF INTERNATIONAL MAIL ADDRESSED TO CERTAIN PERSONS RESIDING WITHIN THE SOVIET UNION.

[It is the sense of the Congress that—

[(1) the President should express to the Government of the Soviet Union the disapproval of the United States regarding the systematic nondelivery of international mail; and

[(2) at the Congress of the Universal Postal Union in Washington, District of Columbia, in 1989, the Department of State should bring to the attention of other member countries of the Universal Postal Union patterns of nondelivery of international mail by the Soviet Union contrary to the Acts of the Universal Postal Union and the delegation of the United States should ask other member countries to support the adoption of amendments to the Universal Postal Convention and other measures to encourage improved postal performance by the Soviet Union.

Section 903. State-Sponsored Harassment of Religious Groups.

(a) * * *

[SEC. 1204. UNITED STATES POLICY AGAINST PERSECUTION OF CHRISTIANS IN EASTERN EUROPE AND THE SOVIET UNION.

It is the sense of the Congress that—

(1) the President should continue to express to [the governments of the Union of Soviet Socialist Republics and Eastern European countries] *government of any country that engages in the harassment of religious groups* the deep concern and opposition of the United States with respect [to the harassment of Christians and other religious believers] *to such activities*;

(2) the government of [the Union of Soviet Socialist Republics of Eastern European] *all* countries should comply with their commitments under the United Nations Universal Declaration of Human Rights, the International Covenants of Human Rights, the Final Act of the Conference on Security and Co-operation in Europe, and the Madrid Concluding Document; and

[(3) the governments of the Union of Soviet Socialist Republics and Eastern European countries should immediately cease persecuting individuals on the basis of their faith and should afford Christians and other believers their internationally recognized right to freedom of religion.]

* * * * *

(b) * * *

[SEC. 1202. EMIGRATION OF JEWS AND OTHERS WHO WISH TO EMIGRATE FROM THE SOVIET UNION.

[It is the sense of the Congress that the Government of the Soviet Union should—

[(1) permit the emigration of Jews and others who wish to emigrate from the Soviet Union;

[(2) remove restrictions on the practice of religion and the exercise of cultural rights; and

[(3) cease the official harassment of individuals who wish to emigrate, practice their religion, exercise their cultural rights, or engage in free intellectual pursuits.

(c) * * *

[SEC. 805. POLICY TOWARD TREATMENT OF SOVIET PENTECOSTALS.

[(a) FINDINGS.—The Congress finds that—

[(1) it is the policy of the Government of the Soviet Union to hinder and deny the free practice of religion and to deny freedom to emigrate to the victims of religious persecution;

[(2) such policies are a violation of the letter and spirit of the Charter of the United Nations, the United Nations Declaration on Human Rights, and the Helsinki Final Act of the Conference on Security and Cooperation in Europe;

[(3) members of the 170-member Pentecostal Christian community living in Chuguyevka in the Soviet Far East have allegedly undergone persecution at the hands of the Soviet authorities as a result of their attempts to practice their religious beliefs;

[(4) the Soviet authorities allegedly have refused to allow members of that Pentecostal community to emigrate from the Soviet Union;

[(5) when, on Monday, May 13, 1985, four members of the Pentecostal community of Chuguyevka attempted to enter the United States Embassy in Moscow in an attempt to seek refuge and make their plight known, they were intercepted by Soviet guards stationed outside the Embassy;

[(6) in the scuffle that ensued three of the Pentecostals were beaten severely and arrested by the Soviet guards, while the fourth Pentecostal gained entrance to the Embassy and was interviewed by United States officials; and

[(7) upon agreeing to leave the United States Embassy the man was driven to the subway in a diplomatic car where he was detained by Soviet police before he could enter the subway.

[(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

[(1) the Soviet Union has acted in violation of the human rights of the Pentecostal community in Chuguyevka by hindering the practice of their religious beliefs and refusing to allow them to emigrate from the Soviet Union;

[(2) personnel of the Government of the Soviet Union acted in violation of the human rights of the four members of the Pentecostal community who attempted to enter the United States Embassy in Moscow, particularly in using excessive force in an attempt to prevent their entry;

[(3) the United States Department of State should continue through all available channels to assure the safety of the four persons who attempted to enter the United States Embassy, and to seek to persuade the Government of the Soviet Union to allow the members of the Pentecostal community in Chuguyevka to emigrate to the West; and

[(4) the Secretary of State should undertake a study of United States policy relating to the granting of asylum in United States embassies abroad and develop recommendations for the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives as to where current policy might be adjusted with relation to incidents over the past five years when asylum has been requested at United States embassies abroad.]

* * * * *

Section 904. Murder of Major Arthur Nicholson.

[SEC. 148. MURDER OF MAJOR ARTHUR D. NICHOLSON, JUNIOR.

[It is the sense of the Congress that the United States should declare persona non grata one or more senior defense attaches of the Soviet Union's mission to the United States unless the President certifies to the Congress, within 90 days after the date of the enactment of this Act.

[(1) that the Soviet Union has made a formal apology for the murder of Major Arthur D. Nicholson, Junior, and

[(2) that the Soviet Union has provided satisfactory assurances that it will adhere to agreements concerning the status and safety of military and civilian missions of western nations in the German Democratic Republic.]

GOVERNMENT SECURITIES ACT AMENDMENTS OF 1993

Mr. BIDEN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 422) a bill to amend the Securities Exchange Act of 1934 to ensure the efficient and fair operation of the Government securities market, in order to protect investors and facilitate Government borrowing at the lowest possible cost to taxpayers, and to prevent false and misleading statements in connection with offerings of Government securities.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Amendments: Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Securities Reform Act of 1993".

TITLE I—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 101. EXTENSION OF GOVERNMENT SECURITIES RULEMAKING AUTHORITY.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5) is amended by striking subsection (g).

SEC. 102. TRANSACTION RECORDS.

(a) AMENDMENT.—Section 15C(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(d)) is amended by adding at the end thereof the following new paragraph:

"(3) GOVERNMENT SECURITIES TRADE RECONSTRUCTION.—

"(A) FURNISHING RECORDS.—Every government securities broker and government securities dealer shall furnish to the Commission on request such records of government securities transactions, including records of the date and time of execution of trades, as the Commission may require to reconstruct trading in the course of a particular inquiry or investigation being conducted by the Commission. In requiring information pursuant to this paragraph, the Commission shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission, to the Federal Reserve Bank of New York, or to an appropriate regulatory agency or self-regulatory organization with responsibility for examining the government securities broker or government securities dealer. The Commission may require that such information be furnished in machine readable form notwithstanding any limitation in subparagraph (B).

"(B) LIMITATION; CONSTRUCTION.—The Commission shall not utilize its authority under this paragraph to develop regular reporting requirements, except that the Commission may require information to be furnished under this paragraph as frequently as necessary for particular inquiries or investigations. This paragraph shall not be construed as requiring, or as authorizing the Commission to require, any government securities broker or government securities dealer to obtain or maintain any information for purposes of this paragraph which is not otherwise maintained by such broker or dealer in accordance with any other provision of law or usual and customary business practice. The Commission shall, where feasible, avoid requiring any information to be furnished under this paragraph that the Commission may obtain from the Federal Reserve Bank of New York.

"(C) PROCEDURES FOR REQUIRING INFORMATION.—At the time the Commission requests any information pursuant to subparagraph (A) with respect to any government securities broker or government securities dealer for which the Commission is not the appropriate regulatory agency, the Commission shall notify the appropriate regulatory agency for such government securities broker or government securities dealer and, upon request, furnish to the appropriate regulatory agency any information supplied to the Commission.

"(D) CONSULTATION.—Within 90 days after the date of the enactment of this paragraph, and annually thereafter, or upon the request of any other appropriate regulatory agency, the Commission shall consult with the other appropriate regulatory agencies to determine the availability of records that may be required to be furnished under this paragraph and, for those records available directly from the other appropriate regulatory agencies, to develop a procedure for furnishing such records expeditiously upon the Commission's request.

"(E) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this paragraph shall be construed so as to permit the Commission to require any government securities broker or government securities dealer to obtain, maintain, or furnish any examination report of any appropriate regulatory agency other than the Commission or any supervisory recommendations or analysis contained in any such examination report.

"(F) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission and the appropriate regulatory agencies shall not be compelled to disclose any information required or obtained under this paragraph. Nothing in this paragraph shall authorize the Commission or any appropriate regulatory agency to withhold information from Congress, or prevent the Commission or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or from complying with an order of a court of the United States in an action brought by the United States, the Commission, or the appropriate regulatory agency. For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

(b) CONFORMING AMENDMENTS.—(1) Section 15C(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(a)(4)) is amended by inserting ", other than subsection (d)(3)," after "subsection (a), (b), or (d) of this section".

(2) Section 15C(f)(2) of such Act is amended—

(A) in the first sentence, by inserting ", other than subsection (d)(3)", after "threatened violation of the provisions of this section"; and

(B) in the second sentence, by inserting "(except subsection (d)(3))" after "other than this section".

SEC. 103. LARGE POSITION REPORTING.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended—

(1) by redesignating subsection (f) as subsection (h); and

(2) by inserting after subsection (e) the following new subsection:

"(f) LARGE POSITION REPORTING.—

"(1) REPORTING REQUIREMENTS.—The Secretary may adopt rules to require specified persons holding, maintaining, or controlling large positions in to-be-issued or recently issued Treasury securities to file such reports regarding such positions as the Secretary determines to be necessary or appropriate for the purpose of monitoring the impact in the Treasury securities market of concentrations of positions in Treasury securities and for the purpose of otherwise assisting the Commission in the enforcement of this title. Reports required under this subsection shall be filed with the Federal Reserve Bank of New York, acting as agent for the Secretary, and shall be provided by that Federal Reserve Bank to the Commission on a timely basis.

"(2) RECORDKEEPING REQUIREMENTS.—Rules under this subsection may require persons holding, maintaining, or controlling large positions in Treasury securities to make and keep for prescribed periods such records as the Secretary determines are necessary or appropriate to ensure that such persons can comply with reporting requirements under this subsection.

"(3) AGGREGATION RULES.—Rules under this subsection—

"(A) may prescribe the manner in which positions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control; and

"(B) may define which persons (individually or as a group) hold, maintain, or control large positions.

"(4) DEFINITIONAL AUTHORITY; DETERMINATION OF REPORTING THRESHOLD.—

"(A) In prescribing rules under this subsection, the Secretary may, consistent with the purpose of this subsection, define terms used in this subsection that are not otherwise defined in section 3 of this title.

"(B) Rules under this subsection shall specify—

"(i) the minimum size of positions subject to reporting under this subsection, taking into account the purposes of this subsection and the potential for price distortions or other anomalies resulting from large positions;

"(ii) the types of positions (which may include financing arrangements) to be reported;

"(iii) the securities to be covered; and

"(iv) the form and manner in which reports shall be transmitted, which may include transmission in machine readable form.

"(5) LIMITATION ON DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Secretary and the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Secretary or the Commission to withhold information from Congress, or prevent the Secretary or the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or from complying with an order of a court of the United States in an action brought by the United States, the Secretary, or the Commission. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

SEC. 104. AUTHORITY OF THE COMMISSION TO REGULATE TRANSACTIONS IN EXEMPTED SECURITIES.

(a) PREVENTION OF FRAUDULENT AND MANIPULATIVE ACTS AND PRACTICES.—Section 15(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking "fictitious quotation, and no municipal securities dealer" and inserting the following:

"fictitious quotation.

"(B) No municipal securities dealer";

(3) by striking "fictitious quotation. The Commission shall" and inserting the following:

"fictitious quotation.

"(C) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or induce or attempt to induce the purchase or sale of, any government security in connection with which such government securities broker or government securities dealer engages in any fraudulent, deceptive, or manipulative act or practice, or makes any fictitious quotation.

"(D) The Commission shall"; and

(4) by inserting at the end thereof the following:

"(E) The Commission shall, prior to adopting any rule or regulation under subparagraph (C), consult with and consider the views of the Secretary of the Treasury and each appropriate regulatory agency. If the Secretary of the Treasury or any appropriate regulatory agency comments in writing on a proposed rule or regulation of the Commission under such subparagraph (C) that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule.".

(b) FRAUDULENT AND MANIPULATIVE DEVICES AND CONTRIVANCES.—Section 15(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(1)) is amended—

(1) by inserting "(A)" after "(c)(1)";

(2) by striking "contrivance, and no municipal securities dealer" and inserting the following:

"contrivance.

"(B) No municipal securities dealer";

(3) by striking "contrivance. The Commission shall" and inserting the following:

"contrivance.

"(C) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security by means of any manipulative, deceptive, or other fraudulent device or contrivance.

"(D) The Commission shall"; and

(4) by inserting at the end thereof the following:

"(E) The Commission shall, prior to adopting any rule or regulation under subparagraph (C), consult with and consider the views of the Secretary of the Treasury and each appropriate regulatory agency. If the Secretary of the Treasury or any appropriate regulatory agency comments in writing on a proposed rule or regulation of the Commission under such subparagraph (C) that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule.".

SEC. 105. BROKER/DEALER SUPERVISION RESPONSIBILITIES.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended by inserting after subsection (f) (as added by section 103 of this Act) the following new subsection:

"(g) POLICIES AND PROCEDURES TO PREVENT AND DETECT VIOLATIONS.—Every government securities broker and government securities dealer shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such person's business, to prevent and detect in connection with the purchase or sale of government securities, insofar as practicable, fraud and manipulation in violation of this title and the rules and regulations thereunder and violations of such other provisions of this title and the rules and regulations thereunder as the appropriate regulatory agency for such government securities broker or government securities dealer shall designate by rule.".

SEC. 106. SALES PRACTICE RULEMAKING AUTHORITY.

(a) RULES FOR FINANCIAL INSTITUTIONS.—Section 15C(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(b)) is amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

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

"(3) SALES PRACTICE RULES.—(A) With respect to any financial institution that has filed notice as a government securities broker or government securities dealer or that is required to file notice under subsection (a)(1)(B) of this section, the appropriate regulatory agency for such government securities broker or government securities dealer may issue such rules with respect to transactions in government securities as may be necessary to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

"(B) Each appropriate regulatory agency shall consult with the other appropriate regulatory agencies for the purpose of ensuring the consistency of the rules prescribed by such agencies under this paragraph. The appropriate regulatory agencies shall consult with and consider the views of the Secretary and the Commission with respect to the impact of such rules on the operations of the market for government securities, consistency with analogous rules of self-regulatory organizations, and the enforcement and administration of such rules. The consultation required by this paragraph shall be conducted prior to the appropriate regulatory agency adopting a rule under this paragraph, unless the appropriate regulatory agency determines that an emergency exists requiring expeditious and summary action and publishes its reasons therefor. If the Secretary or the Commission comments in writing to the appropriate regulatory agency on a proposed rule that has been published for comment, the appropriate regulatory agency shall respond in writing to such written comment before adopting the rule.".

(b) RULES BY REGISTERED SECURITIES ASSOCIATIONS.—

(1) REMOVAL OF LIMITATIONS ON AUTHORITY.—(A) Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended—

(i) by striking subsections (f)(1) and (f)(2); and

(ii) by redesignating subsection (f)(3) as subsection (f).

(B) Section 15A(g) of such Act is amended—

(i) by striking "exempted securities" in paragraph (3)(D) and inserting "municipal securities";

(ii) by striking paragraph (4); and

(iii) by redesignating paragraph (5) as paragraph (4).

(2) OVERSIGHT OF REGISTERED SECURITIES ASSOCIATIONS.—Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended—

(A) in subsection (b), by adding at the end thereof the following new paragraph:

"(5) The Commission shall consult with and consider the views of the Secretary of the Treasury prior to approving a proposed rule change filed by a registered securities association that primarily concerns conduct related to transactions in government securities, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor. If the Secretary comments in writing to the Commission on such proposed rule change that has been published for comment, the Commission shall respond in writing to such written comment before approving the proposed rule change.";

(B) in subsection (c), by adding at the end thereof the following new paragraph:

"(5) Before adopting a rule to amend a rule of a registered securities association that primarily concerns conduct related to transactions in government securities, the Commission shall consult with and consider the views of the Secretary, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor. If the Secretary comments in writing to the Commission on such proposed rule change that has been published for comment, the Commission shall respond in writing to such written comment before approving the proposed rule change.".

(3) CONFORMING AMENDMENT.—

(A) Section 3(a)(12)(B)(ii) of such Act (15 U.S.C. 78c(a)(12)(B)(ii)) is amended by striking "15, 15A (other than subsection (g)(3)), and 17A" and inserting "15 and 17A".

(B) Section 15(b)(7) of such Act (15 U.S.C. 78o(b)(7)) is amended by inserting "or government securities broker or government securities dealer registered (or required to register) under section 15C(a)(1)(A)" after "No registered broker or dealer".

SEC. 107. MARKET INFORMATION.

Section 23(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended—

(1) by striking subparagraphs (C), (D), and (H);

(2) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (C), (D), and (E), respectively;

(3) by redesignating subparagraphs (I), (J), and (K) as subparagraphs (F), (G), and (H), respectively;

(4) by striking "and" at the end of such redesignated subparagraph (G);

(5) by striking the period at the end of such redesignated subparagraph (H) and inserting "; and"; and

(6) by inserting after such redesignated subparagraph (H) the following new subparagraph:

"(I) the steps that have been taken and the progress that has been made in promoting the timely public dissemination and availability for analytical purposes (on a fair, reasonable, and nondiscriminatory basis) of information concerning government securities transactions and quotations, and its recommendations, if any, for legislation to assure timely dissemination of (i) information on transactions in regularly traded government securities sufficient to permit the determination of the prevailing market price for such securities, and (ii) reports of the highest published bids and lowest published offers for government securities (including the size at which persons are willing to trade with respect to such bids and offers).".

SEC. 108. STUDY OF REGULATORY SYSTEM FOR GOVERNMENT SECURITIES.

(a) JOINT STUDY.—The Secretary of the Treasury, the Securities and Exchange Commission, and the Board of Governors of the Federal Reserve System shall—

(1) evaluate the effectiveness of any rules promulgated or amended after October 1, 1991, pursuant to section 15C of the Securities Exchange Act of 1934 or any amendment made by this title, and any national securities association rule changes applicable principally to government securities transactions approved after October 1, 1991, in carrying out the purposes of such Act;

(2) evaluate the effectiveness of surveillance and enforcement with respect to government securities, and the impact on such surveillance and enforcement of defects in any available audit trails with respect to transactions in such securities; and

(3) submit to the Congress, not later than March 31, 1998, any recommendations they may consider appropriate concerning—

(A) the regulation of government securities brokers and government securities dealers,

(B) the dissemination of information concerning quotations for and transactions in government securities,

(C) the prevention of sales practice abuses in connection with transactions in government securities, and

(D) such other matters as they consider appropriate.

(b) GAO STUDY.—The Comptroller General shall—

(1) conduct a study of the effectiveness of regulation of government securities brokers and government securities dealers pursuant to section 15C of the Securities Exchange Act of 1934 and the effectiveness of the amendments made by this title; and

(2) submit to the Congress, not later than March 31, 1997, the Comptroller General's recommendations for change, if any, or such other recommendations as the Comptroller General considers appropriate.

(c) TREASURY STUDY.—The Secretary of the Treasury, in consultation with the Securities and Exchange Commission, shall—

(1) conduct a study of—

(A) the identity and nature of the business of government securities brokers and government securities dealers that are registered with the Securities and Exchange Commission under section 15C of the Securities Exchange Act of 1934; and

(B) the continuing need for, and regulatory and financial consequences of, a separate regulatory system for such government securities brokers and government securities dealers; and

(2) submit to the Congress, not later than 18 months after the date of enactment of this Act, the Secretary's recommendations for change, if any, or such other recommendations as the Secretary considers appropriate.

SEC. 109. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO DEFINITIONS.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) in paragraph (34)(G) (relating to the definition of appropriate regulatory agency), by amending clauses (ii), (iii), and (iv) to read as follows:

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a foreign bank, an uninsured State branch or State agency of a foreign bank, a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978), or a corporation organized or having an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 or section 25A of the Federal Reserve Act;

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank) or an insured State branch of a foreign bank (as such terms are used in the International Banking Act of 1978);

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation;";

(2) by amending paragraph (46) (relating to the definition of financial institution) to read as follows:

"(46) The term 'financial institution' means—

"(A) a bank (as defined in paragraph (6) of this subsection);

"(B) a foreign bank (as such term is used in the International Banking Act of 1978); and

"(C) a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation."; and

(3) by redesignating paragraph (51) (as added by section 204 of the International Securities Enforcement Cooperation Act of 1990) as paragraph (52).

(b) EFFECTIVE DATE OF BROKER/DEALER REGISTRATION.—

(1) GOVERNMENT SECURITIES BROKERS AND DEALERS.—Section 15C(a)(2)(ii) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(a)(2)(ii)) is amended by inserting before "The Commission may extend" the following: "The order granting registration shall not be effective until such government securities broker or government securities dealer has become a member of a national securities exchange registered under section 6 of this title, or a securities association registered under section 15A of this title, unless the Commission has exempted such government securities broker or government securities dealer, by rule or order, from such membership.".

(2) OTHER BROKERS AND DEALERS.—Section 15(b)(1)(B) of such Act (15 U.S.C. 78o(b)(1)(B)) is amended by inserting before "The Commission may extend" the following: "The order granting registration shall not be effective until such broker or dealer has become a member of a registered securities association, or until such broker or dealer has become a member of a national securities exchange if such broker or dealer effects transactions solely on that exchange, unless the Commission has exempted such broker or dealer, by rule or order, from such membership.".

(c) INFORMATION SHARING.—Section 15C(d)(2) of such Act is amended to read as follows:

"(2) Information received by an appropriate regulatory agency, the Secretary, or the Commission from or with respect to any government securities broker, government securities dealer, any person associated with a government securities broker or government securities dealer, or any other person subject to this section or rules promulgated thereunder, may be made available by the Secretary or the recipient agency to the Commission, the Secretary, the Department of Justice, the Commodity Futures Trading Commission, any appropriate regulatory agency, any self-regulatory organization, or any Federal Reserve Bank.".

SEC. 110. OFFERINGS OF CERTAIN GOVERNMENT SECURITIES.

Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

"(7) In connection with any bid for or purchase of a government security related to an offering of government securities by or on behalf of an issuer, no government securities broker, government securities dealer, or bidder for or purchaser of securities in such offering shall knowingly or willfully make any false or misleading written statement or omit any fact necessary to make any written statement made not misleading.".

SEC. 111. RULE OF CONSTRUCTION.

(a) IN GENERAL.—No provision of, or amendment made by, this title may be construed—

(1) to govern the initial issuance of any public debt obligation, or

(2) to grant any authority to (or extend any authority of) the Securities and Exchange Commission, any appropriate regulatory agency, or a self-regulatory organization—

(A) to prescribe any procedure, term, or condition of such initial issuance,

(B) to promulgate any rule or regulation governing such initial issuance, or

(C) to otherwise regulate in any manner such initial issuance.

(b) EXCEPTION.—Subsection (a) of this section shall not apply to the amendment made by section 110 of this Act.

(c) PUBLIC DEBT OBLIGATION.—For purposes of this section, the term "public debt obligation" means an obligation subject to the public debt limit established in section 3101 of title 31, United States Code.

TITLE II—REPORTS ON PUBLIC DEBT

SEC. 201. ANNUAL REPORT ON PUBLIC DEBT.

(a) GENERAL RULE.—Subchapter II of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§3130. Annual public debt report

"(a) GENERAL RULE.—On or before June 1 of each calendar year after 1993, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

"(1) the Treasury's public debt activities, and

"(2) the operations of the Federal Financing Bank.

"(b) REQUIRED INFORMATION ON PUBLIC DEBT ACTIVITIES.—Each report submitted under subsection (a) shall include the following information:

"(1) A table showing the following information with respect to the total public debt:

"(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

"(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

"(2) A table showing the following information with respect to the net public debt:

"(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

"(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

"(C) The interest cost on such debt for prior fiscal years and the projected interest cost on such debt for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

"(D) The interest cost to outlay ratios for prior fiscal years and the projected interest cost to outlay ratios for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

"(3) A table showing the maturity distribution of the net public debt as of the time the report is submitted and for prior years, and an explanation of the overall financing strategy used in determining the distribution of maturities when issuing public debt obligations.

"(4) A table showing the following information as of the time the report is submitted and for prior years:

"(A) A description of the various categories of the holders of public debt obligations.

"(B) The portions of the total public debt held by each of such categories.

"(5) A table showing the relationship of federally assisted borrowing to total Federal borrowing as of the time the report is submitted and for prior years.

"(6) A table showing the annual principal and interest payments which would be required to amortize in equal annual payments the level (as of the time the report is submitted) of the net public debt over the longest remaining term to maturity of any obligation which is a part of such debt.

"(c) REQUIRED INFORMATION ON FEDERAL FINANCING BANK.—Each report submitted under subsection (a) shall include (but not be limited to) information on the financial operations of the Federal Financing Bank, including loan payments and prepayments, and on the levels and categories of the lending activities of the Federal Financing Bank, for the current fiscal year and for prior fiscal years.

"(d) RECOMMENDATIONS.—The Secretary of the Treasury may include in any report submitted under subsection (a) such recommendations to improve the issuance and sale of public debt obligations (and with respect to other matters) as he may deem advisable.

"(e) DEFINITIONS.—For purposes of this section—

"(1) CURRENT FISCAL YEAR.—The term 'current fiscal year' means the fiscal year ending in the calendar year in which the report is submitted.

"(2) TOTAL PUBLIC DEBT.—The term 'total public debt' means the total amount of the obligations subject to the public debt limit established in section 3101 of this title.

"(3) NET PUBLIC DEBT.—The term 'net public debt' means the portion of the total public debt which is held by the public.

"(4) DEBT TO GDP RATIO.—The term 'debt to GDP ratio' means the percentage obtained by dividing the level of the total public debt or net public debt, as the case may be, by the gross domestic product.

"(5) INTEREST COST TO OUTLAY RATIO.—The term 'interest cost to outlay ratio' means, with respect to any fiscal year, the percentage obtained by dividing the interest cost for such fiscal year on the net public debt by the total amount of Federal outlays for such fiscal year."

(b) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3130. Annual public debt report."

SEC. 202. TREASURY AUCTION REFORMS.

(a) ABILITY TO SUBMIT COMPUTER TENDERS IN TREASURY AUCTIONS.—By the end of 1995, any bidder shall be permitted to submit a computer-generated tender to any automated auction system established by the Secretary of the Treasury for the sale upon issuance of securities issued by the Secretary if the bidder—

(1) meets the minimum creditworthiness standard established by the Secretary; and

(2) agrees to comply with regulations and procedures applicable to the automated system and the sale upon issuance of securities issued by the Secretary.

(b) PROHIBITION ON FAVORED PLAYERS.—

(1) IN GENERAL.—No government securities broker or government securities dealer may receive any advantage, favorable treatment, or other benefit, in connection with the purchase upon issuance of securities issued by the Secretary of the Treasury, which is not generally available to other government securities brokers or government securities dealers under the regulations governing the sale upon issuance of securities issued by the Secretary of the Treasury.

(2) EXCEPTION.—

(A) IN GENERAL.—The Secretary of the Treasury may grant an exception to the application of paragraph (1) if—

(i) the Secretary determines that any advantage, favorable treatment, or other benefit referred to in such paragraph is necessary and appropriate and in the public interest; and

(ii) the grant of the exception is designed to minimize any anticompetitive effect.

(B) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress describing any exception granted by the Secretary under subparagraph (A) during the year covered by the report and the basis upon which the exception was granted.

(c) MEETINGS OF TREASURY BORROWING ADVISORY COMMITTEE.—

(1) OPEN MEETINGS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any meeting of the Treasury Borrowing Advisory Committee of the Public Securities Association (hereafter in this subsection referred to as the "advisory committee"), or any successor to the advisory committee, shall be open to the public.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any part of any meeting of the advisory committee in which the advisory committee—

(i) discusses and debates the issues presented to the advisory committee by the Secretary of the Treasury; or

(ii) makes recommendations to the Secretary.

(2) MINUTES OF EACH MEETING.—The detailed minutes required to be maintained under section 10(c) of the Federal Advisory Committee Act for any meeting by the advisory committee shall be made available to the public within 3 business days of the date of the meeting.

(3) PROHIBITION ON RECEIPT OF GRATUITIES OR EXPENSES BY ANY OFFICER OR EMPLOYEE OF THE BOARD OR DEPARTMENT.—In connection with any meeting of the advisory committee, no officer or employee of the Department of the Treasury, the Board of Governors of the Federal Reserve System, or any Federal reserve bank may accept any gratuity, consideration, expense of any sort, or any other thing of value from any advisory committee described in subsection (c), any member of such committee, or any other person.

(4) PROHIBITION ON OUTSIDE DISCUSSIONS.—

(A) IN GENERAL.—Subject to subparagraph (B), a member of the advisory committee may not discuss any part of any discussion, debate, or recommendation at a meeting of the advisory committee which occurs while such meeting is closed to the public (in accordance with paragraph (1)(B)) with, or disclose the contents of such discussion, debate, or recommendation to, anyone other than—

(i) another member of the advisory committee who is present at the meeting; or

(ii) an officer or employee of the Department of the Treasury.

(B) APPLICABLE PERIOD OF PROHIBITION.—The prohibition contained in subparagraph (A) on discussions and disclosures of any discussion, debate, or recommendation at a meeting of the advisory committee shall cease to apply—

(i) with respect to any discussion, debate, or recommendation which relates to the securities to be auctioned in a midquarter refunding by the Secretary of the Treasury, at the time the Secretary makes a public announcement of the refunding; and

(ii) with respect to any other discussion, debate, or recommendation at the meeting, at the

time the Secretary releases the minutes of the meeting in accordance with paragraph (2).

(C) REMOVAL FROM ADVISORY COMMITTEE FOR VIOLATIONS OF THIS PARAGRAPH.—In addition to any penalty or enforcement action to which a person who violates a provision of this paragraph may be subject under any other provision of law, the Secretary of the Treasury shall—

(i) remove a member of the advisory committee who violates a provision of this paragraph from the advisory committee and permanently bar such person from serving as a member of the advisory committee; and

(ii) prohibit any director, officer, or employee of the firm of which the member referred to in clause (i) is a director, officer, or employee (at the time the member is removed from the advisory committee) from serving as a member of the advisory committee at any time during the 10-year period beginning on the date of such removal.

(d) REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress containing the following information with respect to material violations or suspected material violations of regulations of the Secretary relating to auctions and other offerings of securities upon the issuance of such securities by the Secretary:

(A) The number of inquiries begun by the Secretary during the year covered by the report regarding such material violations or suspected material violations by any participant in the auction system or any director, officer, or employee of any such participant and the number of inquiries regarding any such violations or suspected violations which remained open at the end of such year.

(B) A brief description of the nature of the violations.

(C) A brief description of any action taken by the Secretary during such year with respect to any such violation, including any referrals made to the Attorney General, the Securities and Exchange Commission, any other law enforcement agency, and any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act).

(2) DELAY IN DISCLOSURE OF INFORMATION IN CERTAIN CASES.—The Secretary of the Treasury shall not be required to include in a report under paragraph (1) any information the disclosure of which could jeopardize an investigation by an agency described in paragraph (1)(C) for so long as such disclosure could jeopardize the investigation.

SEC. 203. REPORT ON TREASURY MODIFICATIONS TO AUCTION PROCESS.

The Secretary of the Treasury shall report to the Congress concerning significant modifications to the auction process for issuing United States Treasury obligations at the time such changes are implemented.

Mr. DODD. Mr. President, I rise in support of the Dodd-Gramm amendment to S. 422, the Government Securities Act Amendments of 1993. This legislation reauthorizes the Treasury's rulemaking authority over Government securities dealers and makes other reforms to the Government securities market. It also includes, as title 3 to the amendment, provisions addressing limited partnership rollup reforms.

Let me first address the Government securities legislation. Every taxpayer in this country is affected by this legislation. The market for Treasury securities is the largest securities market in the world, and conditions in the Treasury market determine the cost to the taxpayer of financing U.S. Government operations.

It is essential that we maintain the fairness and efficiency of this market so that Government funds are raised with the least possible cost to the American taxpayer, and that investors—whether they are individuals, mutual funds, or State and local governments—have confidence in this market and believe it is fair and honest.

The Senate first acted on this legislation in the last Congress, when it passed a bill to reauthorize the Treasury's rulemaking authority over Government securities dealers and to authorize sales practice rules for dealers. The House failed to pass a broader bill developed by the Energy and Commerce Committee.

I reintroduced the legislation earlier this year with Senators RIEGLE, D'AMATO, SHELBY, KERRY and MURRAY. Our bill passed the Senate by unanimous consent July 29, 1993, the House took up and passed the bill with an amendment 2 months ago, and we have been in negotiations with the House to develop this text since that time.

This legislation is needed to restore the Treasury's rulemaking authority over Government securities dealers. That authority expired on October 1, 1991. As a result, the Treasury has not been able to go forward with critical rulemaking initiatives related to capital standards, risk assessment, and customer protection.

In addition to reauthorizing the Treasury's rulemaking authority under the Government Securities Act, this legislation would do the following: Authorize the Securities and Exchange Commission to require certain transaction records from Government securities dealers in a format that will expedite its enforcement and surveillance responsibilities; authorize the Treasury to require the reporting of certain large positions in Treasury securities; authorize the SEC to write rules to prevent fraudulent and manipulative acts and practices in Government securities; provide a structure for instituting sales practice rules for both bank and nonbank Government securities dealers—something State and local officials have told us is necessary to protect investors; require certain disclosure by Government securities dealers that are not members of the Securities Investor Protection Corporation; prohibit false or misleading written statements in connection with any bid for or purchase of a Government security related to an offering of Government securities; enact certain technical amendments; and require certain reports by regulators of this important market.

This legislation was based on studies by the Treasury, the Federal Reserve, and the SEC, as well as an extensive hearing record developed by the Securities Subcommittee and the House Subcommittee on Telecommunications and Finance in the last Congress.

The scandal in the Treasury securities market in 1991 resulted in heightened scrutiny over this market and led to the adoption of major reforms. The SEC levied hefty fines and brought civil actions against one of the largest primary dealers and its top officers. The Treasury, the Federal Reserve, the SEC, and the CFTC established a surveillance group to ensure that trading activity in the market is closely monitored. The Treasury has implemented a long list of reforms designed to keep the market fair, honest, and efficient. Government securities dealers have strengthened their own internal controls to prevent future violations. It is noteworthy that today, there is more price and volume information in this market than ever before.

Many reforms have been implemented, and wrongdoers have been punished. Nonetheless, legislation is necessary to implement further reforms that require additional statutory authority.

I am including in the record following my remarks a statement agreed to by the principal Senate and House sponsors of the legislation who were involved in working out this compromise amendment. The statement is intended to clarify the scope and limitations of certain provisions.

In addition, I want to respond to further questions that have been raised concerning the scope of the transaction records provision. In the course of discussions with the House, Senate negotiators raised questions about the need for further clarification of this provision and requested that the language "enforcement or surveillance purposes" be added. This will ensure that the SEC can obtain records, in machine readable form, to assist it in inquiries and investigations where it may suspect wrongdoing by market participants or become aware of unexplained anomalies in trading activities. However, the language clarifies that records will not be requested under this provision for routine monitoring.

The large position reporting authority given to the Treasury under this amendment also was clarified in the course of negotiations between the House and the Senate. I am including following the explanatory discussion a letter from Treasury Undersecretary for Domestic Finance Frank Newman, which clarifies the Treasury's intent with respect to the confidentiality of accounts maintained by the Federal Reserve Bank of New York for foreign central banks, foreign governments, and official international financial institutions.

Officials at the Treasury, the SEC, and the Federal Reserve worked long hours with us to achieve a final package of reforms that will maintain the

continued efficiency and integrity of this market. I want to thank all of them.

I want to thank my House colleagues, Chairman DINGELL, Chairman MARKEY and Representatives MOORHEAD and FIELDS, for their diligent efforts to work out a House bill. I also want to thank my colleagues on the Banking Committee and Ways and Means Committee for their contributions to those efforts.

Finally, let me thank my Senate colleagues, in particular Senators RIEGLE, D'AMATO, and GRAMM, as well as their staffs and the subcommittee staff, for the many hours they have devoted to this legislation over the past 3 years.

Mr. President, I ask unanimous consent that a joint statement by Senators RIEGLE, D'AMATO, GRAMM, and myself be printed in the RECORD at this point, followed by a letter from Treasury Undersecretary Frank Newman.

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

JOINT STATEMENT ON S. 442, THE GOVERNMENT SECURITIES ACT AMENDMENTS

On July 29, 1993, the Senate passed S. 442, the Government Securities Act Amendments of 1993, and, on October 5, 1993, the House passed the bill with an amendment containing the language of the House-passed bill, H.R. 618, the Government Securities Reform Act of 1993. The resolution before the Senate provides for the Senate to concur in the amendment of the House to S. 422 with a further amendment. In lieu of a conference report, this floor statement represents the views of Senators Dodd, Gramm, Riegle and D'Amato and is intended to serve as the legislative history, along with S. Rept. 103-109 (July 27, 1993) and Congressional Record (July 29, 1993) at S9863-S9866, and H. Rept. 103-255 (September 23, 1993) and Congressional Record (October 5, 1993) at H7390-7405.

ANALYSIS OF MAJOR PROVISIONS

Extension of Rulemaking Authority.—In 1986, Congress granted specific rulemaking authority to the Secretary of the Treasury (Treasury) and provided that the authority of the Treasury to issue orders and to propose and adopt rules would terminate on October 1, 1991 (P.L. 99-571). This was done in response to concerns raised by 1985 Treasury testimony strongly opposing the Government Securities Act (GSA).

However, the 1990 Joint Treasury, Securities and Exchange Commission (SEC), and Board of Governors of the Federal Reserve System (Federal Reserve) Study of the Effectiveness of the Implementation of the Government Securities Act reached the following unanimous conclusion: "[t]he implementation of the GSA regulations has met the objectives established by Congress in enacting the GSA. The rules have been timely and fairly implemented; have not imposed excessive and overly burdensome requirements; have not impaired the liquidity, efficiency and integrity of the government securities market; and have improved and strengthened investor safety in the market. Most importantly, although some government securities brokers or dealers have failed or discontinued business since the inception of the GSA regulations, no customers have lost any funds or securities as a result of such occurrences."

Accordingly, the amendment eliminates the sunset date and extends the Treasury rulemaking authority pursuant to section 15C(b) of the Exchange Act, as well as the new large position reporting authority granted to Treasury under this amendment.

Transaction Records.—The amendment requires all government securities brokers and dealers to furnish to the SEC on request records of government securities transactions, including records of the date and time of execution of trades, as the SEC may require to reconstruct trading in the course of a particular inquiry or investigation being conducted by the SEC for enforcement or surveillance purposes. It is our intention that the SEC and Treasury will take the necessary steps under their existing authorities to adopt necessary recordkeeping rules to assure that appropriate records are made and maintained by all government securities brokers and dealers, and that they will work together to make sure that inadequate recordkeeping and impediments to trade reconstruction are addressed so that the SEC is able to carry out effectively its responsibilities under the federal securities laws. It is further our intent that, in utilizing its authority to require information in machine readable form under new section 15C(d)(3)(A), the SEC shall consider the impact of this requirement on small government securities brokers and dealers and should work with these smaller firms to develop an efficient means of compliance, such as the electronic blue sheets used for all firms in the equity markets. See House Comm. on Energy and Commerce, Report to Accompany H.R. 618, H.R. Rep. No. 255, 103rd Cong., 1st Sess. (September 23, 1993) at 42.

Large Position Reporting.—The amendment authorizes Treasury to prescribe rules to require persons holding, maintaining or controlling large positions in to-be-issued or recently-issued Treasury securities to file reports regarding those positions.

The amendment rests on the belief that the Secretary of the Treasury is well positioned to determine whether large position reporting is necessary and appropriate in order to monitor the impact in the Treasury securities market of concentrations of positions and to assist the SEC in its enforcement of the Exchange Act. It is our expectation that substantial deference will be accorded to any determinations that Treasury makes in this regard.

The statutory provision regarding the minimum size of a position subject to reporting is meant to ensure that the minimum size will not be set so low that positions which could not affect significantly the market for a particular security are subject to reporting rules. However, there is no presumption or manipulative intent solely because a position is large enough to be subject to reporting rules adopted by Treasury.

It is our expectation that, in determining the minimum size of a reportable position, Treasury will consider, among other factors, other relevant rules and procedures, including auction rules regarding positions. It is our further expectation that Treasury will take into account the likelihood of collusion among market participants. Substantial deference should be accorded to Treasury's determination of the minimum size of a position subject to reporting requirements.

By inserting the requirement that Treasury, in adopting rules regarding large position reporting, take into account any impact on the efficiency and liquidity of the Treasury securities market and the cost to taxpayers of funding the Federal debt, the amendment does not contemplate that a formal statistical exercise be performed to justify the rulemaking. Rather, it is our intent to ensure that Treasury considers all the important responsibilities and goals that it has in managing the public debt in any rulemaking concerning large position reporting.

We expect the Treasury to consult with the Federal Reserve Bank of New York in formulating large position reporting rules concerning the Bank's need to maintain the confidentiality of the accounts it maintains for foreign central banks, foreign governments, and official international financial institutions.

Finally, it is our intent that large position reports would be information within the scope of the Trade Secrets Act (TSA), 18 U.S.C. 1905, which prohibits the disclosure of certain types of information by officers and employees of the federal government unless "authorized by law." See *Chrysler* v. *Brown*, 441 U.S. 281, 295-304 (1979) (disclosure may be deemed authorized by law only when made pursuant to statute or substantive agency regulation authorized by statute). The TSA covers "information coming to [such person] in the course of his employment or official duties or by reason of any . . . report or record . . . concern[ing] or relat[ing] to . . . the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association." See *CNA Financial Corp.* v. *Donovan*, 830 F.2d 1132, 1140 (D.C. Cir. 1987) (describing the scope of the TSA as "oceanic" and as "encompass[ing] virtually every category of business information likely to be in the files of an agency.") In addition to this criminal statute, Section 24(b) of the Exchange Act specifically makes it unlawful "for any member, officer, or employee of the Commission to disclose to any person other than a member, officer, or employee of the Commission, or to use for personal benefit, any information contained in any application, statement, report, contract, correspondence, notice, or other document field with or otherwise obtained by the Commission (1) in contravention of the rules and regulations of the Commission under the [the FOIA] or (2) in circumstances where the Commission has determined pursuant to such rules to accord confidential treatment to such information in violation of Section 24 and the rules thereunder are subject to criminal penalties pursuant to Section 32 of the Exchange Act. Officers and employees are also prohibited pursuant to Rule 0-4 of the SEC's Rules and Regulations under the Exchange Act from making "non-public records of the Commission" available to others without SEC authorization.

Fraudulent and Manipulative Acts and Practices.—The amendment extends the SEC's current authority under sections 15(c)(1) and (2) of the Exchange Act to all government securities brokers and dealers and to all transactions in government securities. This grant of authority will enable the SEC to prescribe rules to prevent fraudulent, deceptive, or manipulative acts or practices or the use of any fictitious quotations in the government securities market.

The amendment requires the SEC to consult with and consider the views of the Treasury and the bank and thrift regulatory agencies prior to adopting any such rules, and to respond in writing to any written comments submitted in such consultation process. The amendment provides for enhanced consultation between the regulators in order to respond to particular concerns

about the potential impact of these antifraud rules on the Treasury's ability to manage the federal debt. Accordingly, this provision is designed to avoid any unforeseen effects of new rules on the auctions or secondary market for Treasury securities. This concern ordinarily would not be expected to arise with respect to the application of such rules to the marketing and trading of other types of government securities.

Sales Practice Rulemaking Authority.—The amendment removes current limitations on the ability of the National Association of Securities Dealers (NASD) to regulate its members' transactions in exempted securities other than municipal securities, and authorizes the bank and thrift regulatory agencies to prescribe rules applicable to the financial institutions they supervise, to prevent fraudulent and munipulative sales practices, and promote just and equitable principles of trade. The amendment's consultation and coordination requirements are intended to facilitate consistency of financial institution rules with analogous self-regulatory organization rules, as well as consistent administration and enforcement of such rules, in order to maintain the integrity of the market for government securities. The amendment provides for enhanced consultation between the regulators in order to respond to particular concerns about the potential impact of these sales practice rules on the Treasury's ability to manage the federal debt. Accordingly, this provision is designed to avoid any unforeseen effects of new rules on the auctions or secondary market for Treasury securities. This concern ordinarily would not be expected to arise with respect to the application of such rules to the marketing and trading of other types of government securities.

Market Information—The amendment adds government securities market transparency to the list of subjects on which the SEC is required to report to Congress annually. These reports will provide information necessary for proper ongoing evaluation of the sufficiency of private sector developments, and are necessary to assure that momentum toward improved market transparency continues and is not reversed.

SIPC Disclosure.—The amendment prohibits a government securities broker or dealer, registered under Exchange Act Section 15C(a)(1)(A), that is not a member of the Securities Investors Protection Corporation (SIPC) from effecting securities transactions in contravention of rules prescribed to assure that customers receive complete, accurate, and timely disclosure of the inapplicability of SIPC coverage to their accounts.

False and Misleading Statements In Government Securities Offerings.—The amendment explicitly provides that, in connection with any bid for a purchase of a government security related to an offering of government securities by or on behalf of an issuer, no government securities broker or dealer, or bidder for or purchaser of securities in such offering, shall knowingly and willfully make any false or misleading statement or omit any fact necessary to make any written statement made not misleading. The amendment does not alter the SEC's existing authority under sections 10(b) or 17(a) of the Exchange Act or the rules promulgated thereunder; it expressly establishes SEC authority with respect to the use of false or misleading written information in offerings of government securities.

Treasury Auction Reforms.—The amendment requires that, by the end of 1995, any bidder, who meets the Treasury's minimum creditworthiness standard and agrees to comply with the applicable rules and regulations, be permitted to submit a computer-generated tender to any automated auction system established by Treasury for the sale upon issuance of Treasury securities. The amendment also prohibits Treasury from providing any government securities broker or government securities dealer any advantage, favorable treatment, or other benefit, subject only to necessary and appropriate exceptions. Finally, the amendment opens to the public, subject to reasonable exceptions, the meetings of the Treasury Borrowing Committee, requires minutes of each meeting to be publicly available within three business days, and explicitly prohibits Committee members from divulging the contents of the Committee's discussions. The amendment provides penalties for violations of the latter prohibition (that are in addition to any other applicable penalty or enforcement action) and requires Treasury to submit an annual report to Congress with respect to violations of Treasury auction rule or regulations.

Studies, Reports and Notices to Congress.—The amendment provides for (1) a joint Treasury, SEC and Federal Reserve study and report, as well as a separate Treasury study and report on a discrete issue, on the effectiveness of the regulatory system for government securities as amended by this legislation; (2) an annual report by Treasury on the Treasury's public debt activities and the operations of the Federal Financing Bank; and (3) a notice to the Congress of any significant modifications to the Treasury auction process at the time such modifications are implemented.

DEPARTMENT OF THE TREASURY,
Washington.

Hon. PHIL GRAMM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAMM: In connection with the legislative process that will, we hope, soon culminate in enactment of the "Government Securities Act Amendments of 1993," I understand that you have expressed concern about the Federal Reserve Bank of New York's need to preserve the confidentiality of the accounts it maintains for foreign central banks, foreign governments, and official international financial institutions.

The Treasury recognizes the importance of maintaining the confidentiality of these accounts. Breaching this confidentiality could have a negative impact on our relationship with foreign governments and on the ability of the U.S. government, through the Federal Reserve, to conduct financial operations important to the international financial system. The Congress has previously recognized the importance of this confidentiality in 31 U.S.C. 714(b)(1), which prohibits the Comptroller General, when conducting audits of the Federal Reserve banks, from auditing "transactions for or with a foreign central bank, government of a foreign country, or nonprofit international financing organization."

It is the Treasury Department's intention that if, as anticipated, it is granted large position reporting authority, it will consult with the Federal Reserve Bank of New York in its rulemaking concerning large position reporting requirements. Any rules the Treasury adopts in this area will enable the Federal Reserve Bank of New York to maintain the needed confidentiality.

Sincerely,

FRANK N. NEWMAN,
Under Secretary of the Treasury,
Domestic Finance.

Mr. GRAMM. Mr. President, I rise to engage in a colloquy with the chairman of the Subcommittee, Senator DODD, on language that was inserted in the bill dealing with transactions records in section 103 of the bill. That section is intended to empower the Securities and Exchange Commission to seek records of Government securities transactions in the course of a particular inquiry or investigation being conducted by the Commission. This section is not intended to permit the Commission to require regular or random reporting requirements, nor to expand the Commission's existing authority to monitor markets. To specify this limitation further, the bill includes language that ensures that the Commission's grant of authority under this provision must be connected to a specific enforcement investigation or surveillance inquiry.

It has come to my attention that there is concern among some market participants that use of the words "enforcement and surveillance" in this section appears to expand the authority of the Commission, as opposed to narrowing its power. Does the chairman of the Securities Subcommittee understand that the intent of this language is a limitation, not an expansion, of the Commission's authority further ensuring that the Commission will only use this authority in connection with a specific inquiry? I would ask the chairman of the subcommittee if he views this language in this manner, as I do.

Mr. DODD. I agree with the ranking member's reading of this section of the conference agreement and would only add that this section was intended to ensure that the appropriate records are available to the Commission during the course of specific enforcement and surveillance inquiries. I commend the gentleman for his leadership in clarifying this issue.

Mr. GRAMM. Section 103 contains a specific charge that, in utilizing its authority to require information in machine readable form, the Commission minimize the burden that this requirement may place on small Government securities brokers and dealers. Would the chairman of the subcommittee agree that the Commission should seek to minimize the burden of this requirement for all Government securities brokers and dealers?

Mr. DODD. I agree completely. Many small Government securities brokers and dealers are not as automated as their larger counterparts. This provision contemplates that the Commission may, for example, supply small Government securities brokers and dealers with computer software that will enable them to comply. In addition, the Commission should continue to avoid any steps that unnecessarily drive up costs for all participants in the Government securities markets, for

such costs will ultimately translate into higher borrowing costs for taxpayers.

Mr. GRAMM. Section 103 prohibits the Commission from requiring any Government securities broker or dealer to maintain any information not otherwise required by law or maintained by such broker or dealer. I understand this provision does not authorize the Commission to require that information be maintained in any particular medium. Does the chairman of the subcommittee agree?

Mr. DODD. That is correct. Obviously, however, if the information is not maintained in machine readable form, Government securities brokers dealers may have to convert such information to machine readable form to comply with section 103. The information must be maintained to comply with section 103.

Mr. GRAMM. I thank my colleague, the subcommittee chairman.

Mr. DODD. Mr. President, let me now turn to Title 3 of the amendment, the Limited Partnership Rollup Reform Act. Passage of this legislation is necessary in order to protect millions of investors in limited partnerships.

This legislation has been before the Congress for more than 2½ years. There have been many hearings. An earlier version of this bill passed the Senate last year with the support of 87 Senators. Forty-two Senators have cosponsored the legislation this year, and it was reported by the Banking Committee by a unanimous vote. Legislation on this subject passed the House of Representatives in March by a vote of 408 to 6. A similar, but not identical, bill passed this body by unanimous consent 4 months ago.

This amendment reflects the negotiations between House and Senate representatives since that time. It reflects our agreement on a final package of protections for investors who are confronted with abusive partnership rollups.

As I have said in the past, there is a reason why many Members of Congress strongly support this bill. Our constituents—primarily small investors with an average investment of about $10,000—have documented a long record of abuses in limited partnership rollups.

Rollups generally are transactions in which investors in an existing limited partnership are solicited to approve a reorganization of their partnership, or a combination of their partnership with other partnerships. The reorganization or combination often results in an exchange of the existing limited partnership securities for securities in a new publicly-traded entity, in which the investors' rights are substantially different.

Because of the way in which these transactions have been structured, many of them have not been subject to state review. Moreover, State partnership laws, with one exception, do not address abuses that may occur when limited partnerships are rolled up and converted into exchange-traded entities.

In the past, in these transactions, investors have received misleading and confusing disclosure documents. Many investors have been pressured to vote in favor of rollup transactions by brokers who were paid only if they produced yes votes. In addition, general partners have structured deals to award themselves abusively high fees in the newly-formed entities and to pay high fees to affiliates.

Investors who have voted against a rollup have been forced to accept shares in a new entity, often with substantial reductions in their voting rights, while the voting rights of managements have increased. In a number of cases, management compensation arrangements in these new entities have been structured to produce high rewards for management, at the expense of the investors. No one has disputed the extent of these abuses in the past.

In many of these transactions, the price of securities issued in the rollup have declined substantially on the first day of trading.

Of course, other economic factors have contributed to losses in real estate and oil and gas partnerships. But, in light of the compensation structure of some of these deals, we have to question whether they were structured for the benefit of the general partners, instead of the investors.

I want to emphasize that limited partnerships have been an excellent capital-raising tool for business, as well as an excellent investment vehicle for many individuals. And, today, the restructuring of real estate partnerships, research and development partnerships and drilling programs in the oil and gas industry offers the potential for businesses to conserve capital and for investors to realize greater values.

Therefore, in developing the legislation, our goal has been to take the steps necessary to curb the abusive transactions but to permit fair deals that are good for investors to go forward.

Since we started this legislative process over 2 years ago, the SEC, the NASD, and the State of California have taken steps to address abusive rollup transactions. These have been very constructive actions, but gaps in investor protection still remain. Moreover, if we do not act, other States may feel they have to act, and the result could be a patchwork of different rules that would inhibit even the best transactions.

This amendment, which our House colleagues have agreed to accept, retains provisions Senator GRAMM and I developed prior to the Banking Committee's markup. These provisions further our objective of placing limits on abusive transactions, while giving businesses the flexibility to carry out good transactions.

Thus, we exclude from the bill's requirements: Certain arms-length acquisitions; certain transactions in which investors are offered seasoned, exchange-traded securities, whose value is readily ascertainable; and other transactions in which the original partnership documents clearly state that a future reorganization was planned. We also provide greater flexibility for certain transactions that receive the wide approval of limited partners. In addition, we provide greater certainty for investors and for businesses with respect to the effective date of the legislation.

This amendment also makes it clear that certain transactions that were not included in the original Senate bill's definition, such as private placements, are not intended to be covered. It is intended that a transaction in which securities are offered and sold in reliance upon the private placement exemption will not come within the definition of rollups, so long as the private placement transaction is not integrated with a public offering of other securities, such as REIT shares.

In recent months, there have been discussions involving the Securities and Exchange Commission and the National Association of Securities Dealers about the application of the private placement exclusion for certain transactions. Uncertainty in this area could result in costly delays in completing transactions, which could deprive investors of the benefits of certain restructuring transactions. NASD officials have advised us that it will work with the SEC toward developing consistency in its interpretation of the definition of limited partnership rollup transaction.

All of these provisions make it clear that we certainly are not banning transactions—but banning abuses. So, where investor rights are protected, these transactions may go forward.

Mr. President, during the course of our negotiations over the bill, first in the Senate and more recently in the House/Senate discussions, two different, but related, sets of concerns have been raised.

On one side, advisers to the partnership and real estate investment trust industries have argued for exemptions from the statute or, at a minimum, greater clarity as to the types of transactions that may be covered. They raised specific concerns about the application of the statute to new structures in which limited partnerships may be combined or reorganized in a transaction leading to an acquisition by a REIT or in a transaction related to a new offering of REIT shares. They

have said to us, and I agree, that the statute should not be interpreted to unduly restrict these types of transactions, which often provide greater liquidity for security holders and often may bring new capital into the real estate industry, while reducing debt.

At the same time, investor groups and State regulators have stressed that many of these new structures fall within the definition of a limited partnership rollup transaction and present the potential for the kind of abuses the bill is designed to address. They also have stated concerns that if the bill is read narrowly, unscrupulous operators will find ways around the investor protections set forth in the bill.

I believe this amendment is drafted in such a manner, and should be interpreted and implemented in such a manner, as to address these two very legitimate concerns.

This amendment does not prevent rollups, it does not prevent reorganizations or restructurings, nor does it prevent the offering of REIT shares in connection with partnership acquisition or reorganizations. Many transactions are expressly exempted, where we believe other investor protection mechanisms provide a comparable substitute. Moreover, transactions that are subject to the bill may continue to go forward, as long as they comply with the standards in the bill. For example, if a transaction meets the definition of rollup, this bill does not prohibit it, but requires that adequate disclosure be made to partnership holders and requires that the transaction be conducted in accordance with the prescribed rules of fair practice and other requirements of the self-regulatory organizations. Moreover, the rules of fair practice give the NASD broad flexibility to structure investor protections that meet the purposes of the act and make sense from a business point of view. For example, the self-regulatory organizations, in rulemaking, may take into account the availability of public or private financing to cover expenses of rollups, the practical requirements for voting provisions when a publicly held parent company is involved, the importance to a real estate investment trust that it be "self-managed" by inclusion of management business, and the burdens that may be imposed where new rules are applied to transactions already structured and under review.

Let me also note that investor and State regulator concerns that unscrupulous operators will find ways around the statute are addressed by the flexibility the SEC and the SROS have under their current authority, as well as under this amendment. The SEC has the authority to define terms, to promulgate rules and to interpret its rules. The self-regulatory organizations also have broad authority with respect to the conduct of their members and rules for listing. The intent of this bill has never been to limit that authority, but to prescribe basic protections the NASD and SEC should adopt, pursuant to their authority.

Having said that, I would urge the SEC and the self-regulatory organizations to work with the affected industry groups to achieve the greatest degree of certainty, so that business transactions are not needlessly hindered. Investors are best protected when the rules of the game are clear.

Let me close by thanking my colleague, Senator GRAMM, for his hard work on this legislation. He has helped to take a very good bill and make it even better.

Let me also thank Chairman RIEGLE and Senator D'AMATO for their support on this issue over the past 2 years, as well as Senator BOND, who has been one of the strongest supporters of this legislation.

I would note that this issue was first brought to my attention by Senator BOXER, when she was a House Member, and she has continued to work to move this legislation as a Senator.

Let me also thank my House colleagues. The House initiated this legislative effort, both in the last Congress and in this one. Chairman MARKEY of the Subcommittee on Telecommunications and Finance and Chairman DINGELL of the Energy and Commerce Committee have worked tirelessly to ensure that investors in limited partnerships are protected from abusive rollup transactions. I applaud their efforts and greatly respect their leadership on this issue.

I also want to thank the staff who have worked so hard on the legislation: Wayne Abernathy of Senator GRAMM's staff; Laura Unger and Ira Paull of Senator D'AMATO's staff; and Mitchell Feuer of Chairman RIEGLE's staff. Let me also thank my two staff members who have shaped this legislation: Michael Stein, the deputy staff director of the Securities Subcommittee, worked on this legislation for 2 years, before recently leaving for law school. Marti Cochran, chief counsel and staff director of the subcommittee worked with the House in getting this bill completed through final passage.

We have been assisted in our efforts on by the hard-working staff of the SEC and the NASD, and I want to give a special thanks to all of them.

Mr. RIEGLE. Mr. President, I am pleased that the Congress has today completed action on, and cleared for the President, two important pieces of securities legislation, the Government Securities Act Amendments of 1993 and the Limited Partnership Rollup Reform Act of 1993. Both bills contribute significantly toward individual investors' protection and the integrity of our financial markets.

The first bill, the Government Securities Act Amendments of 1993, provides important reforms for the Government securities market. This $2.3 trillion market may be the most important in the world: The ability of the U.S. Government to fund its activities depends on an orderly and liquid market for Treasury securities. The Salomon Bros. fraudulent bidding scandal indicated that changes were needed in the auction process for Treasury securities.

This bill strengthens the regulation of the Government securities market and ensures that the auction system and secondary market for Treasury securities continue to function smoothly.

The bill permanently reauthorizes Treasury's authority to write rules regarding capital standards and certain other rules for Government securities dealers. This authority expired on October 1, 1991.

The SEC is given authority to develop rules requiring Government securities brokers and dealers to keep records of transactions. However, the SEC cannot develop regular reporting requirements.

The Treasury is given authority to adopt rules requiring persons holding large positions in to be issued or recently issued Treasury securities to report their positions, and keep records necessary for compliance.

The bill provides for sales practice rules for transactions in Government securities, to prevent fraudulent and manipulative acts and practices.

The bill further directs the Treasury, the Securities and Exchange Commission, and the Federal Reserve to monitor and evaluate the effectiveness of private sector efforts to disseminate Government securities information.

Finally, in response to Salomon's violations, the bill makes it clear that any false or misleading written statement in connection with bids for or purchase of Government securities is a violation of law.

The second bill, the Limited Partnership Rollup Reform Act of 1993, will bring an end to abusive transactions that have harmed individual investors across the country. This bill is supported by the State securities regulators, by investors groups, and by the organization representing general partners.

Limited partnerships were an important investment vehicle in the 1980's; roughly $150 billion in limited partnership interests were sold to U.S. investors, in average investments of $10,000.

The bill will provide limited partners with a number of important protections:

The bill improves disclosure to limited partners.

The bill requires that limited partners be provided a list of other limited partners, and permits them to engage in preliminary communications without filing with the Securities and Exchange Commission.

The bill prohibits any person soliciting proxies in a rollup to be paid only for "yes" votes, or only if the transaction is completed.

It further protects investors by prohibiting broker-dealers from participating in a rollup, and the stock exchanges from listing a security issued in a rollup, unless the transaction meets certain requirements of fairness. These include the right of dissenting limited partners to an appraisal and compensation, or other rights designed to protect them.

The United States has the most vibrant capital markets in the world, due in large part to our commitment to investor protection. The legislation passed today underscores that commitment, by strengthening oversight where necessary, by ending abusive practices, and by ensuring that markets function fairly.

Mr. D'AMATO. Mr. President, I am pleased that today the Senate has passed two important pieces of securities legislation—the Government Securities Act of 1993 and the Limited Partnership Rollup Reform Act of 1993. Both bills provide for important investor protections that will enhance the markets for Government securities and limited partnership securities.

The Government Securities Act Amendments of 1993 strikes the critical balance of providing for improved investors protection while maintaining the liquidity and efficiency of the Government securities market.

The Government securities market is the largest securities market in the world. Treasury finances the national debt of approximately $3.61 trillion dollars with Government securities—conducting auctions over 150 times every year.

In the Government Securities Act of 1986 [GSA], Congress granted the Treasury temporary authority to write rules regarding Government securities transactions by Government securities broker dealers. The GSA included a 5-year sunset of Treasury's rulemaking authority and required the SEC, Treasury, and the Federal Reserve to conduct a joint study of the rules promulgated under the GSA and make recommendations accordingly.

The joint study, released in 1991, recommended that Treasury's rulemaking authority be permanently extended and that Congress consider legislation on three additional issues related to the Government securities market—sales practice rules, enhanced price transparency, and expanding SIPC coverage.

The Government Securities Act Amendments of 1993 permanently extends Treasury rulemaking authority and addresses these additional issues raised in the joint study. This legislation authorizes the NASD to promulgate sales practice rules, requires disclosure to customers regarding SIPC coverage, and directs Treasury, the Federal Reserve and the SEC to study private sector efforts to disseminate price and volume information.

This legislation also takes steps to improve the quality of information provided to the SEC for enforcement and market surveillance purposes. This legislation authorizes the SEC to request information regarding trade reconstruction in machine readable format. In making a request from small Government securities broker dealer firms, however, the legislation requires that the SEC consider and minimize the burden of such a request.

This legislation also gives Treasury authority to prescribe rules requiring large position reporting so that the Treasury and the SEC can effectively monitor concentrations of positions in the Government securities market.

The Government Securities Act Amendments of 1993 authorizes the SEC to promulgate antifraud rules to prevent fraudulent, deceptive, or manipulative acts or practices or make fictitious quotations. Prior to adopting any such rules, the SEC must consult with the Treasury and the appropriate regulatory agencies to address any concerns about the efficiency and liquidity of the Government securities market.

This legislation represents tremendous bipartisan efforts by the staffs of the Senate Banking Committee and the Securities Subcommittee along with their House counterparts. I particularly want to thank Laura Unger, Ira Paull, Wayne Abernathy, Martha Cochran, and Mitchell Feuer for their hard work on this legislation. The Government Securities Act Amendments of 1993 takes up where the GSA left off, creating a comprehensive body of law to regulate the world's most important financial market—the market for Government securities.

The Limited Partnership Rollup Reform Act of 1993 is another important piece of legislation that will protect thousands of investors in limited partnerships throughout the country.

This legislation addresses many of the abuses that have occurred in limited partnership rollup transactions. In the last few years, the Securities Subcommittee has heard ample testimony from investors who were limited partners and whose interests were basically rolled over in a rollup transaction.

There are close to 750,000 limited partners in New York alone. In the past, limited partners have had limited recourse against general partners proposing a rollup of the limited partnership interests into publicly traded securities. Many investors lost a substantial portion of their original investment when their limited partnership interest was included in a rollup transaction.

The Limited Partnership Rollup Reform Act protects all investors in limited partnerships. It encourages investors to communicate about the rollup and it requires clear, concise, and comprehensible disclosure documents so that investors can understand the proposed transaction. The bill also requires that there be sufficient time for limited partners to consider the rollup and requires national securities exchanges to adopt listing standards to protect these limited partners in the resulting rollup.

This legislation also provides protections for limited partners who choose not to participate in the rollup. These protections are sufficiently flexible so that they can be tailored to meet the particular circumstances and structured to ensure that the interests of all limited partners in the rollup transaction are properly balanced.

Mr. BIDEN. Mr. President, I move that the Senate concur in the House amendments with a substitute amendment which I now send to the desk on behalf of Senators DODD and GRAHAM.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. DODD, proposes an amendment No. 1241:

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

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TUESDAY, NOVEMBER 23

Mr. BIDEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10:30 a.m., Tuesday, November 23; that when the Senate reconvenes on that day, the Journal of proceedings be approved to date, the call of the calender be waived, and no motions or reconsiderations come over under the rule; that the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; that immediately following the announcement of the Chair, the Senate proceed to a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

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

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

The assistant legislation clerk proceeded to call the roll.

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

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

AJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. BIDEN. Mr. President, if there is no further business to come before the Senate today, I now move that the Senate stand adjourned until 10:30 a.m., Tuesday, November 23, as previously ordered.

The motion was agreed to, and the Senate, at 9 p.m. adjourned until tomorrow, Tuesday, November 23, 1993, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate November 22, 1993, under authority of the order of the Senate of January 5, 1993:

ACTION AGENCY

JAMES A. SCHEIBEL, OF MINNESOTA, TO THE DIRECTOR OF THE ACTION AGENCY, VICE JANE A. KENNY, RESIGNED.

DEPARTMENT OF STATE

THOMAS L. BALDINI, OF MICHIGAN, TO BE A COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA, VICE GORDON K. DURNIL, RESIGNED.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

CHARLES H. DOLAN, JR., OF VIRGINIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1994, VICE EDWIN J. FEULNER, JR., TERM EXPIRED.

HAROLD C. PACHIOS, OF MAINE, TO BE A MEMBER OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1996, VICE LEWIS W. DOUGLAS, JR., TERM EXPIRED.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

MARTHA B. GOULD, OF NEVADA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1997, VICE JULIA LI WU, TERM EXPIRED.

GARY N. SUDDUTH, OF MINNESOTA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1997, VICE JERALD CONWAY NEWMAN, TERM EXPIRED.

FRANK J. LUCCHINO, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1998, VICE CHARLES E. REID, TERM EXPIRED.

BOBBY L. ROBERTS, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1998, VICE WANDA L. FORBES, TERM EXPIRED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MICHAEL H. TRUJILLO, OF OREGON, TO BE DIRECTOR OF THE INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, FOR A TERM OF 4 YEARS. (NEW POSITION)

FEDERAL EMERGENCY MANAGEMENT AGENCY

ELAINE A. MCREYNOLDS, OF TENNESSEE, TO BE FEDERAL INSURANCE ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE C.M. SCHAUERTE, RESIGNED.

RICHARD THOMAS MOORE, OF MASSACHUSETTS, TO BE AN ASSOCIATE DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE THOMAS F. KRANZ, RESIGNED.

U.S. ENRICHMENT CORPORATION

GRETA JOY DICAS, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 1 YEAR. (NEW POSITION)

FRANK G. ZARB, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 2 YEARS. (NEW POSITION)

KNEELAND C. YOUNG, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 3 YEARS. (NEW POSITION)

MARGARET HORNBECK GREENE, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 4 YEARS. (NEW POSITION)

WILLIAM J. RAINER, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 5 YEARS. (NEW POSITION)

EXECUTIVE NOMINATIONS RECEIVED BY THE SENATE NOVEMBER 22, 1993:

DEPARTMENT OF COMMERCE

GREG FARMER, OF FLORIDA, TO BE UNDER SECRETARY OF COMMERCE FOR TRAVEL AND TOURISM, VICE JOHN G. KELLER, JR., RESIGNED.

GRAHAM R. MITCHELL, OF MASSACHUSETTS, TO BE ASSISTANT SECRETARY OF COMMERCE FOR TECHNOLOGY POLICY, VICE DEBORAH WINCE-SMITH, RESIGNED.

DEPARTMENT OF DEFENSE

ROBERT B. PIRIE, JR., OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE JACQUELINE E. SCHAFER, RESIGNED.

DEPARTMENT OF THE INTERIOR

ROBERT JAY URAM, OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, VICE HARRY M. SNYDER, RESIGNED.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

JILL B. BUCKLEY, OF WASHINGTON, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE ROBERT R. RANDLETT, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS TO TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. GEORGE L. BUTLER, [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. BARRY R. MCCAFFREY, [redacted] U.S. ARMY.

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICER FOR PROMOTION TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3385 AND 3392:

To be major general

BRIG. GEN. ROBERT L. DEZAM, [redacted]

CONFIRMATION

Executive nomination confirmed by the Senate November 22, 1993:

NATIONAL CREDIT UNION ADMINISTRATION BOARD

NORMAN E. D'AMOURS, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE TERM OF 6 YEARS EXPIRING AUGUST 2, 1999.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.