SENATE—*Thursday, April 1, 1982*

(Legislative day of Monday, February 22, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Let us pray.

God of Abraham, Isaac and Jacob, of Jesus, the Apostles and Paul, as the Senate recesses in recognition of the most significant celebrations in the Jewish and Christian years, may the reality of Passover and Easter bring extraordinary blessing to those who celebrate. Help us to understand and appreciate the essential connection between these two ancient acts of worship.

Help Christians to comprehend with gratitude the jewishness of their faith, the priceless legacy received from Judaism and the Old Testment. Thy word declares, "Salvation is of the Jews." Help us to remember the bond we have in one God, His servant, Abraham, and the Law. May Christians honor the Jewish roots from which their faith springs and may we find love for one another in the love of God.

Grant, O Lord, that this recess will be one in which families will enjoy much time together. Help the Senators to rest and relax and be restored physically, emotionally, and mentally for the months of hard work ahead. We ask this in the name of Him who is "Wonderful Counselor". Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that, following the time allocated to the two leaders under the standing order and the special orders in favor of three Senators, there be a period for the transaction of routine morning business of not to exceed 1 hour in length, in which Senators may speak for not more than 10 minutes each.

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

ORDER OF PROCEDURE TODAY

Mr. BAKER. Mr. President, at the conclusion of morning business, Senate Resolution 20, the resolution with respect to TV in the Senate, will be the pending business, will it not?

The PRESIDENT pro tempore. That is correct.

Mr. BAKER. I do not expect, Mr. President, that any action will be taken on that resolution today. I do anticipate, however, that when the Senate reconvenes after adjournment on April 13, debate will resume and will continue, barring unforeseen circumstances, until this measure is completed.

Mr. President, I wish to speak on one subject before I yield to the distinguished assistant Republican leader.

COMMENDATION OF MARTIN BERSON GOLD

Mr. BAKER. Mr. President, Members come and go, staff members come and go; indeed, officers of the Senate come and go. It is usually an event that is viewed with great regret by those of us who remain and sometimes a flooding sense of relief, I am sure, by those who leave. But I should like to speak of one who will leave us before we reconvene on April 13 to assume another position outside Government. I am sure he will not be offended by the descriptions that I am about to make, for he is a man of great wisdom, and also of great good humor.

In beginning to describe our departing friend, I observe that he has enormous feet, and an absolutely insatiable desire to talk on the telephone. His advice and expertise have helped shape the course of floor proceedings here for many years. In my view, he is virtually irreplaceable.

I am speaking, Mr. President, of Martin B. Gold, who is leaving his post as counsel for the majority leader. Senate procedure will never be quite the same.

We have had many distinguished parliamentary scholars, even in the years I have been privileged to serve in the Senate: the present occupant of that position and his staff, his predecessor, and, of course, Dr. Riddick, who preceded them. We have many parliamentary scholars and experts on the floor—none, in my opinion, who have ever even approached the prowess and ability of the distinguished minority leader and whose statements on this subject will form the basis for guidance of parliamentary procedure in this body for many, many years, in my judgment. But at the staff level, Mr. President, Marty has no equal.

In the unique role that he has been called upon to play, I think we are all grateful, as Members, for his guidance, and I am sure there are countless numbers of staff who are grateful to him for his advice.

He has traveled a distinguished path throughout his career in the Senate, working on the staff of the distinguished chairman of the Committee on Appropriations, the Senator from Oregon (Mr. HATFIELD); serving on the staff of the Intelligence Committee and the Rules Committee; serving on my staff, the minority leader's staff at that time; and finally, on my staff as majority leader.

At the end of the last session, he undertook a massive and impressive project which culminated in the publication of "Senate Procedure and Practice," which is now widely distributed in the Capitol and carefully studied for guidance and advice on these matters.

Now, as he leaves the friendly, secure, and challenging, historic world of the Senate and leaps, no doubt, into the dark and uncertain and unpredictable confines of the private sector, all we can do is say, "We don't forgive you, but we understand."

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, I did not know that the Senate was going to lose the services of Marty Gold. I hear this news with some disappointment. I must say that he is an individual who has always been quiet, unassuming, very courteous, very considerate, and cooperative with the minority. We all like him. I do not know why anyone would not like Marty Gold.

I am sorry to see him leave the service of the Senate. Our good wishes will go with him, and I join the distinguished majority leader in everthing that he has said about Marty Gold.

We wish him well and we shall miss him. I hope that, some day, he will return and give his sterling services to the then majority, the Democrats, at a date that is, hopefully, not too far in the future.

Mr. President, I say that facetiously, because I know that Marty is extremely loyal to his own party and to the current majority leader. I say this in the most friendly and good-wishing spirit.

Mr. BAKER. Mr. President, I accept it that way, as I am sure Marty Gold does. In the same vein, I point out, as I did on the first day in the first session of this Congress, that change is inevitable and no doubt, the Republicans will someday again be in the minority, but simple justice suggests that there are 25 years yet to go.

Mr. HATFIELD. Mr. President, I am delighted to join with the majority leader and the minority leader in sponsoring this resolution commending Marty Gold for his service to the Senate. I feel a special pride in Marty's achievement, since it was in my office that he first began his work in the Senate in 1972. First in my personal office, then at the Intelligence Committee, then at the Rules Committee, Marty consistently demonstrated the intelligence, wit, attention to detail, and respect for procedure that have won him the respect and friendship of so many Senators and staff. In fact, it was his outstanding work as minority counsel at the Rules Committee that first caught the eye of the majority leader, and much to my chagrin but to the greater benefit of the Senate, the leader stole Marty from me.

All of us owe a great deal of thanks to Marty. Time and again, over these past few years, he has patiently explained the intricacies of Senate procedure to Senators and staff. Surely he must have become exasperated with his students, who would ask the same questions every time they drafted an amendment, but that exasperation never showed. Instead, he would once again cogently explain the situation, pointing out the advantages of one legislative tactic and the pitfalls of another, and in so doing he participated in innumerable legislative victories in this Senate.

I will miss him greatly. I will miss his assistance, I will miss his many outrageously bad jokes, and his few good ones. Most of all, I will miss his deep respect for this institution, his dedication to its purposes, and his sense of its history. Far too often we do not hold these things dearly enough.

I congratulate Marty Gold, thank him, wish him well, and look forward to his continued friendship.

Mr. BAKER. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 358) commending Martin Berson Gold.

The Senate proceeded to the consideration of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 358) was agreed to.

The preamble was agreed to.

The resolution, together with its preamble, is as follows:

S. RES. 358

Whereas Martin Berson Gold has served as an exemplary Counsel to the Majority Leader of the United States Senate during the 97th Congress;

Whereas he has served his country in various positions since 1969, including service in the United States Army from 1969 to 1972, service as Staff Assistant and Legal Assistant to United States Senator Mark O. Hatfield from 1972 to 1976, service as Professional Staff Member, United States Senate Select Committee on Intelligence from 1976 to 1977, service as Minority Staff Director and Counsel, United States Senate Committee on Rules and Administration from 1977 to 1979, and service as Counsel to the Minority Leader for Floor Operations, United States Senate, from 1979 to 1981;

Whereas he has served the Senate, including especially the Senators of the Republican Majority, with competence, dedication, and loyalty;

Whereas he is an outstanding lawyer, who has used his legal skills in many contributions to the Senate: Now, therefore, be it

Resolved, That the Senate of the United States extends its appreciation and gratitude to Martin Berson Gold for his faithful service to the Senate and to the Nation.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Martin Berson Gold.

Mr. BAKER. Mr. President, at his request, I am pleased to ask unanimous consent that the distinguished minority leader be added as a cosponsor to this resolution.

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

Mr. BAKER. Mr. President, at his request, I also ask unanimous consent that the distinguished Senator from Oregon (Mr. HATFIELD) be added as a cosponsor of the resolution.

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

Mr. BAKER. Mr. President, I thank the Chair, and I thank the minority leader and all Senators.

SENATE SCHEDULE

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. Yes, I yield.

S. RES. 20

Mr. ROBERT C. BYRD. The distinguished majority leader, will he indicate that he does not expect any action today on Senate Resolution 20?

Mr. BAKER. Yes. Mr. President, as I indicated earlier, I do not expect any action on Senate Resolution 20. I will not seek any action on it. I do not expect debate on the measure, for that matter.

It will be the pending business when the Senate concludes morning business, but I do not anticipate asking the Senate to act on that measure today. It will be the unfinished business when we return on April 13.

May I also say in that light, by the way, that Senators should be on notice that there may be rollcall votes today, notwithstanding that they will not be on Senate Resolution 20. There are one or two items that I am told may require rollcall votes on other matters that I will attempt to ask the Senate to consider.

So Senators should not assume there will not be rollcall votes; there probably will be, and they may occur within the next 2 hours.

Mr. ROBERT C. BYRD. I thank the majority leader.

I wanted to be sure on behalf of Mr. LONG that there will be no action on Senate Resolution 20 today.

Will the distinguished majority leader indicate as to whether or not there will be a session tomorrow?

NO FRIDAY SESSION ANTICIPATED

Mr. BAKER. Mr. President, I do not anticipate a session tomorrow. The House has not yet acted on the adjournment resolution which we sent them yesterday. We must, of course, wait for that before we can adjourn.

There are certain other details that must be attended to today, but assuming that those matters are transacted without difficulty, it will be my intention to ask the Senate then to adjourn over until April 13.

Mr. ROBERT C. BYRD. I thank the majority leader. One other question.

Is the majority leader in a position at this time to say any more than he was able to say yesterday with respect to votes on April 13 and during that week?

WEEK OF APRIL 13

Mr. BAKER. Yes. Mr. President, I do not expect that either of the two supplementals, which I believe will reach the Senate before we return, and perhaps after we recess, will be taken up and dealt with during that week, the week of the 13th.

I do expect, however, that action will be taken on Senate Resolution 20. I anticipate votes. I expect as well that other matters may be taken up by unanimous consent and dealt with in a routine way.

So I do expect votes during the week of April 13. I do not expect the need to proceed to consideration of the two supplemental appropriation bills

which will be here by the time we return.

Mr. ROBERT C. BYRD. If the majority leader will indulge one further question, I am not trying to attempt to pin him down, but I should like to know whether or not he can say with assurance that there will or will not be rollcall votes on the 13th.

Mr. BAKER. Yes, there will be rollcall votes on the 13th of April, Mr. President.

Mr. ROBERT C. BYRD. I thank the majority leader.

THE PRESIDENT'S STATEMENT ON ARMS CONTROL NEGOTIATIONS

Mr. BAKER. Mr. President, I believe the President's statement last night represented a responsible approach to arms control that will enhance the likelihood of achieving the results for which we all hope. The ultimate aim for all of us has never been in dispute, and that aim is a more stable nuclear balance in which the risk of war is diminished. I believe that the freeze approach would preserve the Soviet advantage and weaken, if not destroy, any incentive for the Soviets to move toward meaningful reductions.

The President's statement last night indicated that the necessary thorough analysis for the beginning of START negotiations is now nearly complete. I am confident that it will provide the administration a basis for sound and meaningful negotiations.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield my time now to Mr. PROXMIRE.

THE FILM "GENOCIDE" WINS AN ACADEMY AWARD

Mr. PROXMIRE. Mr. President, I was delighted to learn that the film "Genocide" was presented with this year's Academy Award for best documentary feature film. In doing so, the Academy of Motion Picture Arts and Sciences recognized a powerful movie with great instructive significance.

"Genocide" serves to startle and stagger the viewer by presenting footage and accounts of the Holocaust which are often quite vulgar. The director displays naked corpses bulldozed into open trenches, walking skeletons, and gas chambers in an effort to jar the viewer's mind. coupling these scenes with the film's general sense of urgency provides what Newsweek magazine called "an unabashed assault on the emotions." The result is a lasting impression of something most people would prefer to forget.

As I noted upon the work's formal opening at the Kennedy Center in January, this 90-minute documentary is presented with an awareness of what we can forget in less than 40 years. But, as the movie warns us, to cast aside the past is to risk repeating it.

By honoring "Genocide" with this high accolade, the motion picture industry has demonstrated that it is aware of the importance of the past. The industry has voiced its support for continuing exposure of the atrocities of the Holocaust and the crime of genocide.

Mr. President, the Senate, too, has a chance to stand tall and pledge to protect us from repeating past horrors. The motion picture industry has done its part and it is time we do ours. They spoke with an Oscar. Now we can speak with a treaty.

Mr. President, the time has come for us to ratify the Genocide Convention.

S. 2347—FAIR TRADE ACT OF 1982

Mr. ROBERT C. BYRD. Mr. President, unfair export competition is affecting every part of the American economy. Subsidized exports from foreign governments are crippling our steel and auto industries.

Of course, high interest rates and our serious recession are also working to destroy our American standard of living, as anyone who tries to buy a home or a car has found. But the unfair advantages enjoyed by European steel and Japanese automobiles are increasing our Nation's basic industrial weakness. The truth is that foreign competitors often benefit from subsidies that our Government does not provide. In fact, according to Fortune magazine, state-owned steel mills in Belgium, Britain, Italy, and France, will enjoy $30 billion of government subsidies between 1976 and 1983.

The threat of these subsidies to our Nation's steel industry is growing. Steel imports rose to over 1.9 million net tons in January, an increase of 53.6 percent over year-earlier totals. These imports now account for over 26 percent of all steel sold in the country.

The problem is not limited to direct subsidies by European governments. Through a complex combination of nontariff barriers, the Japanese have restricted American access to their markets. In 1981 alone, Japan exported $18 billion more to us than we exported to them. Autos accounted for almost $13 billion, or 72 percent of that. Yet, we are told by the Secretary of Commerce that, with the world's second largest economy, Japan imports less than Switzerland.

What can we do to stem this rising tide of export imbalance? Some have suggested closing our markets to any goods that directly compete with U.S. products. That seems easy, but it is not. If we needed nothing from other countries and had no need to sell anything to them, this might be a way out of our dilemma. But our economic future will increasingly depend on growth through exports as well as increased sales in this country. That is why our answer must concentrate on opening up foreign markets to our products on an equal basis. Trade is a two-way street, and if other nations expect to sell their products here, they must let us compete fairly in their markets. Exports now make up 7.8 percent of our GNP, double their 1970 level.

Although there are some remedies in existing law, notably the 1974 Trade Act and the 1979 Trade Agreement Act, the record, especially on steel imports, is not good. The "Trigger Price Mechanism," established in 1977 to discourage unfairly low-priced steel imports, has been our main weapon against subsidized steel imports.

Unfortunately, the executive branch has never forcefully used this provision and there are no signs of improvement.

With this situation in mind, I am introducing legislation today that will direct the President to assess foreign export subsidies, unfair trade practices, existing foreign barriers to U.S. exports, and require him to propose such actions as are necessary to offset such barriers if international dispute settlement machinery cannot do so. Further, should such negotiations fail, this legislation would require him to inform offending governments what actions he will take against the imports of the offending country, if it does not act to eliminate its own barriers against our products within a reasonable time.

This bill will require the President to identify foreign export subsidies, unfair trade practices, and damaging barriers to U.S. trade abroad, but does not require him to wait for individual complaints by producers who may fear to make such complaints because of possible retaliation by foreign governments.

I realize that my legislation moves beyond more conciliatory proposals already before the Congress. But times are difficult and require drastic remedies. If this bill does no more than to stimulate both the administration and my colleagues to finally solve the trade problems confronting the United States, it will have served a real need. Only when the American Government is armed with the weapons it needs to deal with the unfair and discriminatory trade practices of our trading partners can we redress the grievances suffered by U.S. manufacturers both here and abroad.

Today I am introducing the Fair Trade Act of 1982. The bill amends the Trade Act of 1974, to provide the

United States the means to end foreign subsidies and other unfair trade practices unless foreign markets are opened to U.S. trade to the same extent that U.S. markets are open to exports from foreign countries. It requires the U.S. Trade Representative to report to the President on foreign export subsidies, unfair trade practices, and existing barriers to foreign market access, within 6 months from the date of enactment of this bill. Within 180 days, the President is directed to submit this report to the Finance Committee of the Senate and the Ways and Means Committee of the House of Representatives. He must also propose such actions as may be necessary to correct the damage to both U.S. industry and exporters resulting from such unfair practices. The Congress is required to act within 60 days upon the President's proposals, instructing him which options are to be carried out. Within 60 days of such congressional action, the President shall inform the countries of instrumentalities involved as to which reciprocal actions will be taken against their exports to the United States if their export subsidies unfair practices do not cease within a reasonable period of time.

By strengthening existing trade rules and by providing the executive with the tools it needs to correct the abuses from which we suffer in both domestic and foreign markets, my bill will help open and expand the markets our economy needs abroad while ending unfair competition to our own products here at home.

Part of the problem my bill addresses is that the administration is riddled with absolutist free traders. These ideologies are wedded to an 18th century concept of international trade that simply will not work in the late 20th century. The Government must step in where markets fail to work equitably. When other countries are subsidizing exports, or barring our imports, the market mechanism of free trade will not work. It does not solve our problems at home and it will not solve our problems abroad. We must devise a workable strategy to deal with the unfair advantages enjoyed by the Europeans and especially the Japanese, to the severe disadvantage of American business and labor.

There are also several international mechanisms designed to deal with unfair trade practices, notably the General Agreement on Tariffs and Trade (GATT). Unfortunately, the record of GATT is as disappointing as the "Trigger Price Mechanism" for steel.

The United States has repeatedly tried to make world trade more free and more fair by reducing tariff or nontariff barriers to trade. But we have been repeatedly rebuffed by our foreign trading partners. In fact, if all countries ended export subsidies and accorded our exports the same most favored nation treatment we accord theirs, as the GATT requires, most of our trade problems would disappear.

Perhaps there was a time when we could afford to ignore this imbalance, but sadly, that is no longer true. I do not suggest that we conduct a vendetta against individual producers. That would only intensify the efforts of other governments to close their doors to U.S. products. While we have a severe trade deficit with Japan, we did sell them $21.8 billion worth of goods last year. This was production that employed thousands of American workers who spent their money on American products to help keep our own economy moving. We should not cut off our nose to spite our face.

If unilateral retaliation will not work, what choices do we have? I believe that a more promising and productive approach would be to let our trading partners know that we demand, and are willing to enforce, equal access to foreign markets. Our citizens will no longer support unfair subsidies that put American workers out of jobs. We must work full steam toward a reciprocal agreement that opens markets worldwide to the most efficient competitors.

There are several steps we can take. If American goods are made more uncompetitive than they should be by the climate of high interest and exchange rates, which make our dollars and our exports more expensive in foreign countries, we have to attack the problem here at home.

The administration's tight money policy and outsized budget deficits and their impact on the lives of hard-working American citizens must be turned around. Senate Democrats have already suggested that the administration go back to the drawing board to come up with a workable and credible budget for the next fiscal year.

My legislation, the Fair Trade Act of 1982, forces the executive branch to impose countervailing duties if good-faith efforts to negotiate an end to steel and other foreign export subsidies are not successful.

It would also retaliate against Japanese auto imports if the Japanese do not live up to their promises of export restraint and agree to lower nontariff barriers against our exports.

The key to such an approach is reciprocal understanding with other governments that an end to their unfair export subsidies and improvements in their treatment of our exports will protect healthy, open trading relationships between them and the United States.

And most importantly, these improvements must be made soon.

In the case of the Europeans this means, among other things, considerable liberalization of their common agricultural policy which has kept U.S. farm exports out of Europe. For the Japanese, we must pressure them to abandon the impossibly strict health and safety standards and testing requirements they impose on foreign products, although their own products must meet less severe tests.

Reciprocal fair trade practices will help keep the world trading system healthy. Most important, they can stave off one-sided protectionist measures that will help no one and may spark a trade war with disastrous results for the United States.

The May 1981 voluntary agreement with the Japanese to restrain auto exports is a first step toward such agreements, and I am encouraged by its recent 1-year extension, but they must begin to live up to the spirit as well as the letter of their commitment. Rather than looking for loopholes or escape clauses they should be concentrating on ways to ease the massive trade imbalance between our countries. As a first step, they should remove existing barriers to our autos and our agricultural products, including beef and pork, tobacco and citrus.

Getting our own economy in order, which starts with a workable budget and aggressive pursuit of U.S. trade opportunities overseas, combined with a responsible negotiating posture from our trading partners in Western Europe and Japan, can lead to real reciprocity in our commercial relations and will go a long way toward easing our problems.

Without such developments, the future is not bright. Pressures to take unilateral action will only increase and such action would not help us or our trading partners.

Without the legislative authority my bill creates, I do not see any sign on the horizon that we will be able to solve our trade problems. My bill is a sensible and yet strong alternative to one-sided solutions that in the long run help no one. With the machinery it creates, we can go a long way to solving our trade problems, ending exports subsidies and other unfair foreign competition to our industries, and getting our economy back on track internationally again.

Mr. President, I ask unanimous consent that the text of the bill, together with a summary of its provisions, be printed in the RECORD at this point.

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

S. 2347

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Trade Act of 1982".

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this act are—

(1) to redress imbalances in United States international trade and commerce due to unfair trade practices by United States trading partners;

(2) to give the United States effective weapons to use against subsidized foreign imports into our markets and other unfair trade practices by our trading partners;

(3) to open foreign markets to American products and services in order to improve the United States balance of payments and strengthen the United States domestic economy;

(4) to eliminate barriers imposed by United States trading partners which prevent fair competition between United States exports and products of United States trading partners; and

(5) to establish procedures requiring Presidential action with respect to the importing of products of other countries into the United States unless such countries take, within a reasonable period of time, appropriate steps to remove impediments to American goods in their economies.

SEC. 3. STUDY OF UNFAIR FOREIGN TRADE PRACTICES AND OTHER BARRIERS TO MARKET ACCESS.

(a) IN GENERAL.—Chapter 1 of title III of the Trade Act of 1974 is amended by adding at the end thereof the following new section:

"SEC. 307. STUDY OF FOREIGN EXPORT SUBSIDIES, UNFAIR TRADE PRACTICES, AND BARRIERS TO MARKET ACCESS.

"(a) STUDY OF BARRIERS.—On or before the date which is six months after the date of enactment of the Fair Trade Act of 1982 and each year thereafter, the United States Trade Representative shall. for each designated major trading country, complete and submit to the President a study of any major act, policy, or practice of each such major trading country that—

"(1) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement.

"(2) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce, or

"(3) denies to the United States, with respect to products or commerical activities of the United States which (as determined by the Trade Representative) are internationally competitive, commerical opportunities substantially equivalent to those offered by the United States.

"(b) ACTION BY PRESIDENT.—Within 30 days after a study is submitted to the President under subsection (a), the President shall—

"(1) make public and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives such study, together with an estimate of the trade distorting impact on United States commerce of any acts, policies, or practices identified in such study, including export subsidies, import quotas, and improper fees and duties,

"(2) propose such actions as may be necessary to redress any imbalance resulting from such acts, policies, or practices if efforts to obtain their elimination fail, and

"(3) inform the governments of the major trading countries responsible for such acts, policies, or practices that such actions necessary to redress said imbalances will be taken within a reasonable period of time unless such acts, policies, or practices cease.

"(c) Assistance of Other Agencies.—

"(1) FURNISHING OF INFORMATION.—Each department, agency, and instrumentality of the executive branch of the Government, including any independent agency, is authorized and directed to furnish, upon request, to the Trade Representative such data, reports, and other information as the Trade Representative deems necessary to carry out his functions under this section.

"(2) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States, including any independent agency, may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist it in carrying out his functions.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out any functions under this subsection.

"(d) DEFINITIONS.—For purposes of this section—

"(1) DESIGNATED MAJOR TRADING COUNTRY.—The term 'designated major trading country' means any major trading country which the Trade Representative, after consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, designates as a country with respect to which the study under subsection (a) is necessary and appropriate.

"(2) MAJOR TRADING COUNTRY.—The term 'major trading country' means—

"(A) any major industrial country within the meaning of section 126, and

"(B) any other foreign country or instrumentality designated by the Trade Representative for purposes of this paragraph.

"(3) COMMERCE AND COMMERCIAL OPPORTUNITIES.—The terms 'commerce' and 'commercial opportunities' have the same meaning given such terms by section 301(d)(1).".

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 306 the following new item:

"Sec. 307. Study of unfair foreign trade practices and other barriers to market access.".

SEC. 4. AMENDMENTS TO THE TRADE ACT OF 1974.

(a) ADDITIONAL DETERMINATIONS REQUIRING ACTION.—Section 301(a) of the Trade Act of 1974 (19 U.S.C. 2411(a)) is amended—

(1) by striking out "or" at the end of paragraph (2)(A);

(2) by inserting "or" at the end of paragraph (2)(B);

(3) by inserting immediately after subparagraph (B) of paragraph (2) the following new paragraph:

"(C) denies to the United States commercial opportunities substantially equivalent to those offered by the United States;";

(4) by inserting "(or to redress any imbalance resulting from)" after "elimination of"; and

(5) by striking out the last sentence thereof and inserting in lieu thereof the following new sentence: "Action under this section may be taken on a nondiscriminatory basis or solely against the products or services of the foreign country or instrumentality involved, and need not be limited to the equivalent product or service sector of the offending act, policy, or practice.".

(b) DEFINITIONS AND SPECIAL RULES.—Section 301(d)(1) of the Trade Act of 1974 (19 U.S.C. 2411(d)(1)) is amended to read as follows:

"(1) COMMERCE AND COMMERCIAL OPPORTUNITIES DEFINED.—The terms 'commerce' and 'commercial opportunities' include, but are not limited to, services associated with international trade (whether or not such services are related to specific products).".

(c) RESOLUTIONS OF CONGRESS.—

(1) FILING OF RESOLUTIONS BY COMMITTEES OF CONGRESS.—Section 302(a) of the Trade Act of 1974 (19 U.S.C. 2412(a)) is amended by inserting ", or the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate may file with the Trade Representative a resolution," before "requesting".

(2) CONFORMING AMENDMENTS.—

(A) Section 301(c) of the Trade Act of 1974 (19 U.S.C. 2411(c)) is amended by inserting "or resolution" after "petition" each place it appears in the text and heading thereof.

(B) Section 302 of the Trade Act of 1974 (19 U.S.C. 2412) is amended—

(i) by inserting "or resolution" after "petition" each place it appears in the last sentence of subsection (a), subsection (b), and the heading for subsection (a),

(ii) by inserting "or Committee" after "petitioner" each place it appears, and

(iii) by inserting "or resolutions" after "petitions" in the section heading and the heading for subsection (b).

(C) The table of sections for chapter 1 of the table of contents of the Trade Act of 1974 is amended by inserting "or resolutions" after "Petitions" in the item relating to section 302.

(D) Section 303 of the Trade Act of 1974 (19 U.S.C. 2413) is amended—

(i) by inserting "or resolution" after "petition" each place it appears; and

(ii) by inserting ", the appropriate committee of Congress," after "petitioner".

(E) Section 304 of the Trade Act of 1974 (19 U.S.C. 2414) is amended by inserting "or resolution" after "petition" the first place it appears in subsection (a)(1) thereof.

(d) ASSESSMENT OF IMPACT.—Paragraph (3) of section 304(b) of the Trade Act of 1974 (19 U.S.C. 2414 (b)) is amended to read as follows:

"(3) shall request the views of the International Trade Commission regarding the impact on the economy of the United States (including employment) of—

"(A) the identified acts, policies, or practices with respect to which an investigation was initiated under section 302(b); and

"(3) any options proposed under subsection (a)(4).".

(e) LEGISLATIVE RECOMMENDATIONS OF PRESIDENT.—Section 304(a) of the Trade Act of 1974 (19 U.S.C. 2414 (a)) is amended by adding at the end thereof the following new paragraphs:

"(4) LEGISLATIVE RECOMMENDATIONS OF PRESIDENT.—Notwithstanding any other provision of this chapter, the United States Trade Representative shall within 180 days after an affirmative determination is made under section 302(b) with respect to a decision by the President to take action under section 301(c), make preliminary recommendations to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate with respect to what options the President is considering under this chapter to the extent that any consultation or dispute settlement procedure provided under this chapter does not result, in his judgment, in the enforcement of such rights as the United States may have under any trade agreement or an adequate response to any act, policy, or practice described in section 301(a)(2). Notice of such options shall be published in the Federal Register.

"(5) LEGISLATIVE ACTION BY THE CONGRESS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this chapter, within 60 days of receipt of the recommendations under paragraph (4), the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate shall report out, and the House of Representatives and the Senate shall take final action on, an original joint resolution which sets forth the specific options for Presidential action.

"(B) TIME PERIODS FOR ACTION.—

"(i) DISCHARGE FROM COMMITTEES.—If the Ways and Means Committee of the House of Representatives or the Finance Committee of the Senate has not reported the original joint resolution at the close of the 30th day after receipt of the recommendations, such committees shall be automatically discharged from further consideration of the joint resolution and a joint resolution comprising the options recommended by the President shall be placed on the appropriate calendar.

"(ii) FINAL PASSAGE.—A vote on final passage of the joint resolution shall be taken in each House on or before the 15th day after the resolution is reported by the committee to which it has been referred, or after such committee has been discharged from further consideration of the resolution.

"(iii) CONFERENCE REPORT.—A vote on final passage of the conference report on such joint resolution (if necessary) shall be taken in each House before the 60th day after such recommendations were received.

"(C) NUMBER OF DAYS.—For purposes of subparagraph (B), in computing a number of days in either House, there shall be excluded any day in which that House is not in session.

"(6) NOTIFICATION OF OFFENDING TRADING PARTNERS OF ACTIONS TO BE TAKEN.—Notwithstanding any other provisions of this chapter, if the President determines that the consultation or dispute settlement procedures provided under this chapter will not result, within a reasonable period of time, in the enforcement of such rights as the United States may have under any trade agreement or an adequate response to any act, policy, or practice described in section 301(a)(2) the President shall, within 60 days of the date of enactment of any joint resolution under paragraph (5), notify the foreign country or instrumentality responsible for such acts, policies, or practices that—

"(A) the President is required to exercise the options the Congress has approved to be enforced against such country or instrumentality, and

"(B) such options will be exercised after the expiration of the period of time specified by the President in such notice.".

THE FAIR TRADE ACT OF 1982—A SUMMARY

PURPOSE

To achieve the same degree of access to foreign markets for U.S. exports enjoyed by foreign products in the United States market and to give the United States effective weapons to use to end foreign export subsidies and other unfair trade practices.

HOW THE ACT WORKS

This Act would establish machinery to require the end of unfair foreign trade as a prerequisite for continued access to U.S. markets for products from other countries. After annual studies by our government to identify existing unfair trade barriers and Administration efforts to eliminate such barriers, it would strengthen the provisions of the 1974 Trade Act to direct the President to compel foreign governments to remove trade barriers to bring their practices into line with ours. Finally, it would specify Congressional action to facilitate and expedite this process.

ACTIONS REQUIRED BY ADMINISTRATION

The Administration is required to identify barriers to market access in an annual report to Congress which also reports on progress being made to eliminate these barriers as follows: an annual study of the major policies, acts, and practices of each major trading country that (1) violate the terms of any trade agreement, (2) are unjustifiable, unreasonable, or discriminatory and burden or restrict United States commerce, or (3) that are otherwise found to deny the United States equivalent commercial opportunities to those it extends to said country. These would include foreign export subsidies, unfair, illegal, or discriminatory import duties, fees, quotas, or other restrictions. The President is required to send such reports to Congress on progress being made in negotiating an end to such practices through the use of existing bilateral and multilateral machinery. In the absence of progress by the Administration in removing these obstacles to fair reciprocal trade, the President is also to make recommendations to Congress proposing actions the United States may take to bring pressure to bear on the countries engaging in these unfair trade practices.

ACTIONS REQUIRED BY CONGRESS

Within 60 days of receipt of such studies and recommendations on options, the Finance Committee and the Ways and Means Committee and the Senate and the House are to complete action on legislation endorsing specific actions to be taken against the offending countries and instrumentalities. The President is then required to inform these countries and instrumentalities within 60 days from the date of enactment of such legislation, of the actions he will take if they do not cease their unfair practices within a reasonable time.

AMENDMENTS TO SECTION 301 OF THE TRADE ACT OF 1974

Section 301 of the 1974 Trade Act, as enacted, deals with unfair trade practices by foreign countries. It provides a procedure under which individuals or the President may try to enforce U.S. rights under existing trade agreements or to eliminate unfair trade practices. These include "acts, policies, or practices" by foreign countries that either violate the rules of the General Agreement on Tariffs and Trade (GATT) or are "unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce."

Currently, petitions may be filed with the USTR, who must accept or reject them within 45 days. If he accepts them, he must begin an investigation and request consultations with the offending country under the GATT. If no satisfaction is gained through these consultations, the USTR initiates GATT dispute settlement proceedings, lasting six months to a year. At the end of the process, the USTR must recommend action to the President, who must decide within 21 days, what action, if any, he will take. Among remedies available to him are revoking previously granted trade concessions, imposition of new duties, fees, or other import restrictions on the products or services of the offending country, or any other remedy legally available to him.

This bill strengthens Sec. 301: (1) it adds to the list of unfair practices, practices that would deny access to U.S. exporters substantially equivalent to that enjoyed by the other country in the U.S.; (2) it would now permit Congress to request the USTR to initiate requests for 301 action; (3) the USTR would be required to estimate the impact on the U.S. economy of the barriers under investigation and of retaliatory actions under consideration; and (4) 180 days after initiating a 301 case, the President is required to inform Congress which options he would consider using if the efforts at settlement fail.

RECOGNITION OF SENATOR STEVENS

Mr. STEVENS. Mr. President, I ask that I be permitted to proceed with my special order. I understand there was another special order. That Senator is not here at this time.

CRIME IN THE NATION'S CAPITAL

Mr. STEVENS. Mr. President, before I start, I want to make certain that the RECORD shows that I requested the time for a special order this morning yesterday before I had the opportunity to read the April Fools' Day editorial in the Washington Post, so this is not a reply to that editorial.

I do not think that a Senator has to lower himself to the level of an editorial of that type, which I consider to be a cheap shot, an act of retaliation by people who ought to know better and of whom we have a right to expect better.

Mr. President, earlier this week I made remarks on the Senate floor concerning the city of Washington which were not well received by some residents of the city, and understandably so. As I indicated, those remarks have been mentioned, in passing, in the editorial that appeared in the Post this morning.

My comments were directed to the point that I do not wish to be called a permanent resident of a city, especially our Nation's Capital, where some of the social problems have reached levels which should not be tolerated by any American. In particular, the problem that concerns me the greatest is that of crime in the District of Columbia. There are other problems, also, which I shall mention.

However, I do not think any Member of the Senate should be deluded into believing that I have just discovered the fact of crime in the District of Columbia. For many years, those of us in Congress have watched as things have become progressively worse in the Capital City of our Nation.

Undoubtedly, each of us can give accounts of violence and property crimes committed in the District against our friends, our staff, even ourselves, and, in some instances, against our loved ones.

Mr. President, the time for action has come. It is time for this Congress to act to insure that the Nation's Capital can once again be called an attraction for those who call our Nation what it should be—the home of the free, not the home of the frightened.

It is my intention to work closely with my good friends Senator D'AMATO and Senator MATHIAS to see if any efforts on our part can reduce the criminal violence that pervades the lives of those who live in the District

At the present time, we are not offering legislation on this subject. However, in the coming months we do intend to have proposals—either I will offer them or other Senators will—that we hope the Senate will consider.

My point this morning is to call attention to the statistics, the facts, that have brought us to the conclusion that something must be done.

The problem in dealing with this issue is that information we do have on crime in the District may be inadequate to give us a basis for good policy decisionmaking. So, as a part of our overall effort, we may ask that better baseline data be gathered on the District's crime patterns, its victims, and even its effect on the working environment of Congress itself. It is apparent that effective crime prevention will not become a reality without the assistance of Congress, for the problem touches not only District residents but also tourists, foreign, State and local visiting dignitaries, and others who have an expectation that the Nation's Capital should be an example in crime prevention for other cities to follow.

I am alarmed by the statistic that in the period of 1970 to 1971, the District police officer strength was about 5,080 officers. Now it is between 3,752 and 3,871, hovering somewhere around 3,800.

Mr. President, few cities would envy the District of Columbia's reported crime rates, especially for violent crimes such as robbery.

I ask unanimous consent to have printed in the RECORD that crime data for Washington and seven other cities of comparable population.

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

District of Columbia crime index offenses, 1981

Offense:	*1981*
Homicide	223
Rape	414
Robbery	10,399
Aggravated assault	3,432
Burglary	16,832
Larceny	32,845
Auto theft	3,765
Total	67,910

Source: Government of the District of Columbia.

WASHINGTON, D.C., CRIME DATA COMPARED TO 7 OTHER CITIES OF COMPARABLE SIZE—OFFENSE DATA

Year	Population	Crime index	Modified crime index	Violent crime	Property crime	Murder	Forcible rapes	Robbery	Aggravated assaults	Burglary	Larceny-theft	Motor vehicle thefts	Arson
Cleveland, Ohio:													
1976	642,298	53,141	NA	8,496	44,645	236	498	5,453	2,309	13,150	18,882	12,613	NA
1977	638,793	54,995	NA	9,421	45,574	249	508	6,466	2,198	15,734	16,536	13,304	NA
1978	614,512	50,952	NA	9,697	41,255	213	507	6,354	2,623	14,234	14,364	12,657	NA
1979	601,381	51,994	(12) 52,925	9,736	42,258	274	612	5,760	3,090	14,505	14,217	13,536	(12) 931
1980	572,657	56,602	(12) 58,828	11,466	46,136	265	703	6,802	3,696	17,850	14,100	14,186	(12) 1,226
Honolulu, Hawaii:													
1976	718,424	45,766	NA	1,696	44,070	40	164	1,112	380	13,728	26,082	4,260	NA
1977	721,983	46,984	NA	1,660	45,324	46	176	1,081	357	13,291	28,286	3,747	NA
1978	725,259	51,892	NA	2,044	49,848	38	187	1,473	346	13,878	31,567	4,403	NA
1979	734,368	52,926	NA	2,196	50,730	48	223	1,568	357	12,803	32,166	5,761	NA
1980	762,020	57,718	(6) 57,878	2,456	55,262	65	264	1,729	398	13,848	36,189	5,225	(6) 160
Memphis, Tenn.:													
1976	649,819	49,239	NA	4,780	44,459	113	472	2,429	1,766	16,539	24,261	3,659	NA
1977	667,150	44,992	NA	5,230	39,762	104	581	2,749	1,796	16,192	19,517	4,053	NA
1978	683,112	43,542	NA	5,412	38,130	113	664	2,897	1,738	15,914	17,484	4,732	NA
1979	682,110	44,499	(12) 45,205	5,785	38,714	103	704	3,300	1,678	15,493	18,436	4,785	(12) 706
1980	644,957	50,921	(12) 51,743	6,898	44,023	152	788	3,846	2,112	18,778	20,465	4,780	(12) 822
Milwaukee, Wis.:													
1976	652,517	37,006	NA	2,692	34,314	57	168	1,621	846	7,142	23,052	4,120	NA
1977	640,489	34,547	NA	2,535	32,012	54	213	1,389	879	7,077	21,365	3,570	NA
1978	623,657	33,822	NA	2,438	31,384	48	288	1,212	890	7,209	20,556	3,619	NA
1979	645,097	38,370	(12) 38,633	3,039	35,331	63	283	1,592	1,101	8,546	22,563	4,222	(12) 263
1980	633,845	41,446	(12) 41,808	3,310	38,136	74	213	1,796	1,227	9,638	24,726	3,772	(12) 362
Phoenix, Ariz.:													
1976	669,005	71,957	NA	3,856	68,101	53	240	1,485	2,078	21,501	42,566	4,034	NA
1977	682,200	68,324	NA	4,295	64,029	70	316	1,594	2,315	20,714	39,156	4,159	NA
1978	696,763	71,575	NA	5,401	66,174	88	463	2,031	2,819	20,340	41,125	4,709	NA
1979	718,216	75,147	(12) 76,168	5,803	69,344	91	477	2,337	2,898	19,715	44,344	5,285	(12) 1,021
1980	772,884	88,523	(12) 89,327	7,020	81,503	103	485	3,037	3,395	24,137	51,598	5,768	(12) 804
San Francisco, Calif.:													
1976	665,000	77,284	NA	10,757	66,527	131	619	6,628	3,379	21,992	34,349	10,186	NA
1977	676,625	71,433	NA	9,367	62,066	141	595	5,423	3,208	19,258	32,177	10,631	NA
1978	658,611	70,385	NA	10,509	59,876	118	583	6,509	3,299	18,054	32,878	8,944	NA
1979	659,176	70,745	(10) 71,266	11,041	59,704	112	664	6,694	3,571	17,255	33,943	8,506	(10) 521
1980	674,150	70,424	(12) 70,902	12,710	57,714	110	759	7,527	4,314	16,795	32,772	8,147	(12) 478
San Jose, Calif.:													
1976	557,700	41,510	NA	2,523	38,987	37	296	967	1,223	13,096	22,063	3,828	NA
1977	568,303	39,208	NA	2,670	36,538	41	322	1,031	1,276	12,027	21,064	3,447	NA
1978	587,621	41,831	NA	2,755	39,076	44	367	1,155	1,189	13,749	21,731	3,596	NA
1979	604,993	43,309	(11) 45,043	3,236	40,073	44	407	1,358	1,427	12,042	24,019	4,012	(11) 1,734
1980	628,106	51,831	(12) 53,443	3,788	48,043	62	479	1,714	1,533	13,955	29,608	4,480	(12) 1,612
Washington, D.C.:													
1976	702,000	49,726	NA	10,399	39,327	188	508	7,044	2,659	11,869	24,506	2,952	NA
1977	690,000	49,821	NA	9,843	39,978	192	402	6,655	2,594	11,590	25,646	2,742	NA
1978	674,000	50,950	NA	9,515	41,435	189	447	6,333	2,546	12,497	25,744	3,194	NA
1979	656,000	56,430	(8) 56,629	10,553	45,877	180	489	6,920	2,964	13,452	28,819	3,606	(8) 199
1980	635,233	63,668	(12) 64,041	12,772	50,896	200	439	8,897	3,236	16,260	31,068	3,568	(12) 373

Note: Numbers in parentheses indicate the number of months for which arson data were received.

Source: U.S. Department of Justice.

Mr. STEVENS. Mr. President, it is amazing to me that despite what I think are inaccurate, not total, crime statistics—I am not suggesting that these statistics would be reduced by additional data, but that they would show increased criminal activity in the District—but despite these statistics, the District government has reduced its police force.

I point out that these city comparisons should be looked at with caution. I am trying to be fair to the city of Washington. The cities I have listed in the insert that was just placed in the RECORD are not similar in other areas, but they are similar in population.

The data show that Washington's violent crime problem is a most serious one, and I hope the Senate will take an interest in contributing toward

making our Nation's Capital a safer place to live and to work.

I wish to make one thing clear about what I said about the city of Washington. I was talking about the city of Washington, not the people of Washington. I still make the statement that God forbid anyone would say, "This is my home," because if I had an opportunity to select where the Capital would be, it certainly would not be in this place.

I am here, and I was here previously as a Presidential appointee in the Eisenhower administration, as the editorial pointed out this morning, but that did not mean I came to this city because of a love for the city. I came to the city because of the job I have now and the job I previously had, before I came to the Senate.

There are many things about Washington which used to make this city a great one: Its culture, its historical edifices, its natural attractions. Yet, I firmly believe that that greatness is threatened not only by crime, but also by other modern urban maladies.

Some people may think that my comments the other evening were too harsh on Washington. I say to them, let them study the statistics we have been studying. Let them get away from their editorial desks and go out and look at the city today. Look at the trash on our streets. Look at the situation where people are putting their trash and garbage out 2 and 3 days before the collection, and it is blown all over—all over. Look at the trash even on our major thoroughfares, right outside our famous museums and institutions, such as the Smithsonian. They should look for themselves to see how this city has gone downhill, and no one has done much about it.

I think they should start printing some of the statistics that are in the documents I have put in the RECORD. In any other city, there would be a blotter in the daily paper of the major crimes that had taken place in that city the night before. You do not find one in the Washington Post. The reason is that there are too many. There are so many that they are forced to ignore them.

I point out that the stories of muggings, of rapes, of burglaries that take place here on a daily basis are virtually ignored by the news media here.

Last year, on the Grounds of the Nation's Capitol, there were 29 violent crimes against persons—on our own Capitol Grounds. I found that to be a fairly large statistic, when we think of the small area of this city that is utilized by the Capitol Grounds.

Yet, Mr. President, within six blocks of the Capitol Grounds there were 350 crimes of the same nature—violent crimes within six blocks of the Capitol Grounds, in an area less than the area that the Capitol itself uses.

It is an interesting chart. Members should see it. It is in the office of the Sergeant at Arms. It is entitled "Major Crime In The U.S. Capitol Area."

All one has to do is to look at the chart to see where the crime is. The crime is taking place around the areas that the Federal Government maintains as magnets for tourists, as magnets for people who want to see what their Nation's Capital is all about.

I find that virtually throughout the Senate and the House of Representatives, when we go to other Members' offices to ask them how crime has affected their office, it has touched almost every office in the House of Representatives and the Senate. It certainly has touched my office, and I am really distraught about the way that the young Alaskans who have come down here to work with me to help represent my State in this Senate have been treated in the months gone by.

So, that is what got me into this. It was the repeated stories I hear from my own young people in my office of what has happened to them, muggings, armed robberies, robberies in their homes, and it is not just once. I have had some who have been involved two, three, and four times within 1 year and when they report these crimes they become the criminals, in effect, because of the procedures of the District of Columbia in dealing with visitors to this city.

I am hopeful, Mr. President, that we can find a way to develop some statistics that cannot be ignored that will not be ignored by the city of Washington and even by the Washington Post.

It is unfortunate that we have this situation, the criminal statistics. It is even more unfortunate that the editorial page is used to take cheap shots at a Senator from far away who really does not like to be away from home in a city like this. Instead, it should be used to try to goad the officials who are involved in crime prevention, crime detection, crime prosecution, and in trying to deter crime, to try and clean this city up.

I think it could once again be restored to its greatness and I hope that other Members of Congress will come forth and join us, those of us who have decided to go into this subject and that we will not be deterred because the day is going to come when national conventions will no longer come to this city.

I could tell stories here on the floor of the Senate of things that have happened to Alaskans who have come to this city, not to see me or any member of the Government, but to attend a convention, and how they have literally been stabbed in their own hotel rooms, answering the door, thinking it was a friend knocking on the door, part of a convention, only to have a knife stuck in their stomach. I could tell stories of the young people that we bring down for interns and how we have to warn them they cannot go out at night, they must stay off the streets, that the streets of Washington are not safe. The time is going to come when those words are going to be heard throughout the country and conventions are going to stop coming to this city. That is, I think, probably what will finally goad the city into taking some action to restore the police protection that visitors to this city should have.

And, again, Mr. President, despite increasing crime statistics the alarming statistic that stands out is the District of Columbia has fewer members of its police force to protect an increasing number of visitors, and increasing populations of Government employees. These are people that come here because they have to be here since this is where the Nation's Capital is; yet there is less police protection here than there was 10 years ago.

I do not know if the other Members of the Senate find that as appalling as I do, but I intend to try and do something about it and as I say the first thing we are going to try to do is we are going to try and find a way to make certain we have all of the statistics and then we are going to try to find out, through the appropriations process and the hearings that will be held this year, why is it that the District has reduced its police protection, why is it that the Capitol Police force, which we increased by 20 officers this year, maintains a safer Capitol Ground area than the District police can maintain in the six blocks around the Capitol.

Why is it that these young people who come here to serve and to help make Government function must live in a frightened environment?

I really do find that problem of trying to continue to attract the best and the brightest of our young people to come work with us and make Government work one of the most serious offshoots of this. I perceive it is going to become tougher and tougher and tougher to get those people to come to this city to help us.

VITIATION OF SPECIAL ORDER FOR SENATOR SPECTER

Mr. STEVENS. Mr. President, I am informed that Senator SPECTER does not need his special order and I ask unanimous consent that that special order be vitiated.

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

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of morning business not to extend

beyond 1 hour during which time Senators may speak for no more than 10 minutes each.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE PRINCIPAL ECONOMIC CONCERN

Mr. SCHMITT. Mr. President, as the distinguished occupant of the chair knows, as most Americans know, and I hope all of our colleagues know, the principal economic concern of the American people and of the people in our individual States is now the concern over interest rates, having replaced, for good reason, past concerns over inflation.

Interest rates went through the roof in this country in 1980 because of the Carter administration and the Democratic majority leadership in Congress failing to control inflation. I know of no economist of any note who would not agree that 13 percent inflation, plus the belief that it would get even worse back in 1980, soon drove short-term interest rates to 21½ percent and mortgage rates to over 19 percent by the time Reagan and company took over.

Under the Reagan administration, with the help of the Republican and conservative Democrat leadership in the Congress, and the low money growth policies of Chairman Volcker and the Federal Reserve System, inflation is now below 4 percent on the trend lines, short-term interest rates have dropped to about 16 percent, and mortgage rates to 17 percent and no longer climbing.

However, with inflation running at 4 percent or less, and with every indication that it will only get lower in the foreseeable future, those interest rates ought to be closer to 7 percent than to 17 percent.

It is very important for every Member of this body and our sister body to ask themselves the following question: Why is there a 9- to 10-percent point excess in current interest rates over what is historically justifiable? Either the financial markets are still afraid that inflation will get out of control again or they are using the current furor over deficits and future Federal borrowing as an excuse to rip off the credit market; namely, you, me, and our constituents.

There is no excuse at this time for anyone to believe that inflation will get out of control under this administration or with Chairman Volcker heading the Federal Reserve Board. If anything is clear, we will not see Reagan or Volcker return to ever increasing Federal spending financed by ever increasing supplies of money in excess of the value of goods and services in our economy. Thus, the roots of inflation have been removed and are continuing to be removed by current policies.

In addition, other major contributors to inflation are moderating. For example, unnecessary and costly Federal regulations are being reduced; energy prices are coming down steadily as supply and conservation increase; and taxes are backing off as a result of last year's tax reform legislation. Thus, there are no good technical reasons to anticipate high future inflation and the necessary high interest rates to compensate for that inflation.

The oft-heard excuse that anticipated Federal borrowing to finance recession-related deficits does not make sense to this Senator either. The projected deficits for 1982, 1983, 1984, and 1985 are less in relation to the gross national product than during the Ford and Carter years when interest rates were much lower than today.

These deficits will only be inflationary and thus justify high interest rates if they are financed by creating excessive money, and it does not seem that Volcker is about to do that.

In addition, we must recognize that projected deficits are nebulous, to say the least. Those who project them have been inevitably wrong. One only has to look at the effect of a 1-percent change in unemployment resulting in an almost $30 billion change in deficits, or a 1-percent change in the rate of growth of the gross national product resulting in an almost $20 billion change in deficits, to see that budget deficit projections are tenuous at best.

There is no question that deficits, combined with refinancing of the Federal debt, combined with Federal allocation of credit through low-interest loans and loan guarantees, is soaking up almost 50 percent of the credit now available in this country. That has to change. But the deficits themselves constitute only about one-fifth of that total credit demand. Thus, it seems that there is no excuse, other than faint-hearted greed, for the financial markets to be holding interest rates a full 10 points above where they should be. We all must ask, What can be done to fight this situation?

Well, first I suggest we must stick with the anti-inflation plans of reduced growth of Federal spending, controlled growth of the money supply to more aptly match our growth in the gross national products, maintain as small deficits as is reasonable to do and still meet our national obligations, and maintain the personal and small business tax cuts for economic recovery and increased productivity.

Second, we must make it clear to the financial markets that unless they bring interest rates down to some justifiable level soon, it may be done for them, whether it is the right thing to do or not. I personally believe that credit controls of that nature would, in the long run, be very damaging to the economy, but in the short run the Congress may be forced, by both pragmatic and political considerations, to do something that the financial markets should do for themselves, namely, lower interest rates.

Third, we should do everything we can to rapidly increase the pool of capital by increasing the tax incentives for savings and investment, thus making it even more difficult for the markets to hold interest rates as high as they are today.

This last point is particularly important and has been left out of the Reagan economic recovery plan so far. For example, by exempting from taxation 25 percent of income earned on savings and investments, as I have proposed and some of my colleagues have proposed in the Savings and Investment Incentives Act of 1982, even greater downward pressure on interest rates will result, as well as more rapid economic recovery.

More money in the credit market means both public and private borrowing will cost less.

Mr. President, we have been on the right track for a year in economic policy and fiscal policy. We must stay on that track as it was set last year. If we do fine tune Reagan's budget plans as necessary to accelerate recovery from the recession, high interest rates and high unemployment will go the way of high inflation and high taxes—relics in a museum of "bad economic policy."

Mr. President, it is absolutely essential that our friends in the major financial institutions of this country, with their close ties to the major business interests in this country, recognize the seriousness of the country's situation with the maintenance of interest rates 10 points above any historically justifiable level. I am very concerned, as a Republican, as a conservative, and as a protector of the free enterprise system, that unless they wake up to this situation and quit trying to justify their actions on the basis of projected deficits, not only will we fail to see an adequate economic recovery but we will see the imposition of restrictions on the free enterprise system that will sow the seeds of disaster in our economic future.

Mr. President, I see the distinguished Senator from Kansas. I am happy to yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. MURKOWSKI). The Senator from Kansas is recognized.

REPORT ON EL SALVADOR ELECTIONS

Mrs. KASSEBAUM. Mr. President, I want to comment briefly on the official American delegation's trip to observe the elections in El Salvador on March 28. I want to introduce into the RECORD the official statement that we gave on the day after the election and before we left San Salvador to come home. Mr. President, I ask unanimous consent that it be printed at this point in the RECORD.

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

STATEMENT BY THE UNITED STATES OFFICIAL OBSERVER DELEGATION

The official United States delegation to the March 28, 1982 El Salvador Constituent Assembly elections, having personally visited a number of polling areas around the country, believes these elections were fair and free.

One of our members, Dr. Howard Penniman, an elections expert who has participated in some 45 difficult elections, observes that yesterday's election was one of the most massive expressions of popular will he has ever seen.

The tremendous turnout, perhaps over one million, underscores the sense of commitment of the people.

Over and over again we heard the people say, "We are voting for peace and an end to the violence. We believe this election can be a new beginning for this country."

It is difficult to express the patience and purpose with which the Salvadoran people turned out to vote, enduring long hours in line to cast their ballots and, in some instances, attempts by the insurgents to scare them off. The election clearly is a repudiation of the guerrillas' claim that they represent the will of the Salvadoran people.

In general the election process itself was orderly and peaceful. The voting procedures adhered to rules established by the Central Elections Commission. There were poll watchers from at least two parties at each table we visited, and the election officials worked seriously at their responsibilities, both in processing the voters and later in counting the ballots. We did see some minor technical problems during the day, but we saw no indication of fraud. We believe they had no influence on the outcome of the elections.

Because of the threats of violence during the voting, the Central Elections Commission made the decision to concentrate the polling places in some 300 sites. This did cause some confusion. By the early hours of the morning, there were long lines all over the country. For example in Santa Tecla, a suburb of San Salvador, we estimate that some 10,000 people were standing in line to vote at 9:00 a.m. We were concerned that not all would have a chance to vote. But by the end of the day, election officials assured us that most of the voters were attended to. The Salvadoran people have said in overwhelming numbers that they want peace and an end to the violence.

We hope that the sense of commitment and cooperation that the voters demonstrated yesterday at the polls will be reflected in the efforts of the leadership of the Constituent Assembly that they have elected. The people have asked for a new beginning and they most definitely deserve it.

Mrs. KASSEBAUM. It is important, it seems to me, Mr. President, not to confuse policy at this point with a very important message that was expressed by the people of El Salvador in that election on March 28. The delegation that went from the United States at the request of the Secretary of State included myself, Representative BOB LIVINGSTON, Representative JOHN MURTHA, Deputy Assistant Secretary of State Everett E. Briggs, Father Ted Hesburgh, Dr. Clark Kerr, Mr. Richard Scammon, and Dr. Howard Penniman, the latter two being election experts. We were there along with a number of other national delegations, over 20 official delegations sent from other countries and a number of unofficial observers. Thus, a large number was there trying to cover many different polling areas on election day to observe and render some observation on the fairness of those elections. We attempted to do that with a checklist that we had as the U.S. delegation, on various things that we were looking for: Whether there had been unnecessarily delayed long lines; whether there were poll watchers at the various polling areas; whether the process of counting the ballots was according to the rules.

The Government of El Salvador had gone to great lengths to try to insure that his would be a fair election, really the first fair election, held in 50 years in El Salvador. The election commission, under the direction of Dr. Bustemente, had designed various measures whereby it was believed that there could be no real question of the size of participation and of fairness at that time. One of the ways, for instance, was an opaque ballot box so that the ballots could be seen in that box and to insure that each voter cast only one ballot. In the 1972 election, out of some 800,000 ballots cast, 200,000 of those were falsely cast ballots that had simply been dropped into the box. They had not even been folded, which was the required procedure of the paper ballots. So one form of fraud that has been rampant in past elections was not present at this time. It was the unanimous view, not only of our delegation but of the other delegations, that this massive turnout and fair election really was a historic moment for El Salvador.

It seems to me that there were two very important impressions, one of them being that the people of El Salvador lined up by the hundreds of thousands, frequently waiting as long as 4 or 5 hours in line before they could cast their ballot, because they wished to express, in the only way that they had available to them, their heartfelt desire to see an end to violence and conflict in their country. I was really overwhelmed when I stopped at the first polling area that I went to at about 8:30 in the morning—the polls had opened at 7—to see what was estimated officially by a number of outside observers, not just in our delegation but other delegations, as a crowd of between 8,000 and 10,000 people already in line, quietly and patiently standing, moving imperceptibly, almost, toward the different polling areas in that given section.

It was certainly a crowd response that we would not have here, in this country. I find it hard to imagine Kansans or any voters in this country standing in line that long, so patiently and quietly, determined to take the opportunity that had been given them to cast a vote.

Mr. President, I believe what they wanted to convey was the message that they simply felt they could not endure much longer the violence that has torn their country apart.

Second, it certainly was an expression, and a strong expression, of the democratic process. The difficult part, I suppose, comes next, as the coalitions will obviously have to be formed in order to provide the guidance for the constituent assembly, which has now been elected. The Christian Democratic Party that has been represented by President Duarte received 40.9 percent of the vote. A coalition of all of the other five parties that were on the ballot would be needed to put together a leadership that a majority of the constituent assembly would choose.

The first task of the constituent assembly after forming any coalition will be the drawing up of a constitution. This is going to be an important step. Also, it has been stated that an election will be held in 1983 for the election of a new president.

Mr. President, these may not seem like large steps to us, because we have taken the democratic process for granted in this country, but it is a major step for the people of El Salvador, one which we must continue to give strong support to. It has always been the basis of our policy, as we have reflected it in this Chamber on votes that we have taken, when required, regarding assistance to El Salvador, that we always premise it on a basis of the continuation of reforms—land reform, political reform; and continuation of improvement of human rights.

This has been the basis of our policy as we have exercised it in requiring any assistance, whether through votes here or through the administration's actions.

It will continue to be the basis of our policy. It is not going to be an easy time, as the various contending fac-

tions in El Salvador jockey for political position in putting together a governing coalition in the constituent assembly.

But, I think to assume at this particular time that it is going to be one way or another is an assumption that is too early to make. The best that we can and should be doing is to encourage, as I said earlier, the building on the democratic process that was expressed by the vote on Sunday. We should also encourage the constituent assembly to extend a helping hand, as Secretary Haig said, to those forces in the country that have been operating out of the structure of law and order on both the left and the right to work together to establish a solid and strong foundation for the future stability, economically and politically, of El Salvador.

It was a historic and emotional experience for all of us on the delegation to have been able to witness the election on March 28. It was a small first step, but it is one that we must continue to emphasize and support. We must further encourage the second step and the third and fourth step, as El Salvador puts back together their shattered country. But it is the people of El Salvador that won the election on Sunday, and certainly I think we will, in this country, lend full support to their expression for peace.

The PRESIDING OFFICER. The Senator's time has expired.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

REAFFIRMATION OF U.S. POLICY TOWARD CUBA

Mr. SYMMS. Mr. President, I want to take a moment of two to notify my colleagues in the Senate that at the earliest possible occasion it is my intention to offer a measure to the Senate similar to the joint resolution which passed the House and the Senate in 1962 and that was signed then by President Kennedy. I want to make note of that to the Senate.

I also want to say that this joint resolution is precisely the same language that passed the Congress and was signed into law by President Kennedy in 1962. I shall read some of this language to my colleagues here in the Senate so they will be notified that this will be dealt with by this body as soon as possible. On the first appropriate piece of legislation, it will be my intention to offer this language as an amendment so that we can deal with it properly.

I do that because I think we noticed that the President in his address to the Nation last night commented on the fact that there have been violations of the 1962 Kennedy-Khrushchev agreement. But the joint resolution that passed the Congress in 1962, has been introduced by myself and by 19 cosponsors, so we now have 20 percent of the membership of this body supporting it. I have had several other of my colleagues who are not cosponsors tell me that they would be pleased to have the opportunity to vote for this resolution to give the President a signal of support from the American people for a firm policy in the Caribbean Basin to resist the communization of Latin America which certainly, very obviously to most of us, is being promulgated under Fidel Castro out of Cuba.

It was resolved by the Senate and the House of Representatives of the United States of America that it be the policy of the Government of the United States to continue its relations with the Government of Cuba in policy set forth in a joint resolution dated September 20, 1962. It stated that the policy of this country would be to support the Monroe Doctrine to oppose any attempt on the part of any foreign powers, European or others, to extend their influence into this hemisphere. It supported the Rio Treaty of 1947, which agrees that "an armed attack by any State against an American State shall be considered as an attack against all American States and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self defense recognized by article 15 of the charter of the United Nations."

It also pointed out that "whereas the Foreign Ministers of the Organization of American States in January 1982 declared that the present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extra-continental Communist powers, including the threat of military intervention in America on the part of the Soviet Union, and whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence," it should therefore be resolved by the Senate and the House of Representatives of the United States of America "that the United States is determined to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or threat of force its aggressive or subversive activities to any part of this hemisphere; to prevent in Cuba the creation or use of any externally supported military capability endangering the security of the United States, and to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination."

Mr. President, I think that it is important that this body act on this measure in the very near future, because I see that there is a sense of urgency, in my opinion, regarding what is happening in the Caribbean Basin. We have heard the comments of our colleague, Senator KASSEBAUM from Kansas, speaking about the efforts of the people in El Salvador to have self-government. In spite of the fact that there are external forces that have involved themselves there, making it difficult to carry out an election, they did so very successfully. I think that this needs to be discussed and dealt with by the Congress to give the signal to the administration and to our adversaries that the United States cannot tolerate the expansion of the cancer of communism in the Caribbean Basin.

As I mentioned, Mr. President, last night in his press conference President Reagan stated, and I quote, "The only place that he"—meaning Soviet leader Brezhnev—"could install nuclear weapons in this hemisphere would be Cuba, which is Brezhnev's satellite now but this would be in total violation of the 1962 Kennedy-Khrushchev agreement. You know there have been other things we think are violations of the 1962 agreement at the time of the Cuban missile crisis."

President Reagan stated, and I repeat for emphasis: "You know there have been other things we think are violations of the 1962 agreement at the time of the Cuban missile crisis." What are these other things that the Soviets have done in Cuba? I shall detail them in a moment.

President Reagan, himself, has therefore confirmed the already authoritative statements of Joint Chiefs of Staff Chairman General Jones, CIA Director Casey, and Under Secretary of Defense Ikle that the Soviets have in fact violated the 1962 Kennedy-Khrushchev agreement by establishing offensive military and even nuclear weapons bases in Cuba. President Reagan himself has therefore explicitly acknowledge that the Soviet threat from Cuba is as great or even greater now than it was in 1962.

Pravda, the authoritative newspaper of the Soviet Communist Party, has openly stated that Brezhnev is threatening the United States with Soviet nuclear weapons already in Cuba, if the United States and NATO go ahead with their long-agreed plan to deploy equalizing ground-launched cruise and Pershing II intermediate-range ballistic missiles in Western Europe. The Soviets have thus openly engaged in

nuclear blackmail of the United States over the last 2½ weeks, but no one has yet responded.

Mr. President, I believe that it is the solemn duty of the Senate to take a position on Soviet nuclear blackmail.

The question is, Should we show our strong support for our Commander in Chief, President Reagan, by reaffirming existing U.S. policy and law expressing American opposition to Soviet military bases in Cuba? Are we for enforcing the Monore Doctrine, or are we not? Do we support Soviet and Cuban-backed subversion and aggression in the Western Hemisphere, or do we oppose it?

I am reminded of President Kennedy's inaugural address in January of 1961. I do not have the text with me, but I ask unanimous consent that that text be printed in the RECORD at this point.

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

JOHN F. KENNEDY INAUGURAL ADDRESS, JANUARY 20, 1961

Mr. Chief Justice, President Eisenhower, Vice President Nixon, President Truman, reverend clergy, fellow citizens, we observe today not a victory of party, but a celebration of freedom—symbolizing an end, as well as a beginning—signifying renewal, as well as change. For I have sworn before you and Almighty God the same solemn oath our forebears prescribed nearly a century and three quarters ago.

The world is very different now. For man holds in his mortal hands the power to abolish all forms of human poverty and all forms of human life. And yet the same revolutionary beliefs for which our forebears fought are still at issue around the globe—the belief that the rights of man come not from the generosity of the state, but from the hand of God.

We dare not forget today that we are the heirs of that first revolution. Let the word go forth from this time and place, to friend and foe alike, that the torch has been passed to a new generation of Americans—born in this century, tempered by war, disciplined by a hard and bitter peace, proud of our ancient heritage—and unwilling to witness or permit the slow undoing of those human rights to which this Nation has always been committed, and to which we are committed today at home and around the world.

Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, in order to assure the survival and the success of liberty.

This much we pledge—and more.

To those old allies whose cultural and spiritual origins we share, we pledge the loyalty of faithful friends. United, there is little we cannot do in a host of cooperative ventures. Divided, there is little we can do—for we dare not meet a powerful challenge at odds and split asunder.

To those new States whom we welcome to the ranks of the free, we pledge our words that one form of colonial control shall not have passed away merely to be replaced by a far greater iron tyranny. We shall not always expect to find them supporting our view. But we shall always hope to find them strongly supporting their own freedom—and to remember that, in the past, those who foolishly sought power by riding the back of the tiger ended up inside.

To those peoples in the huts and villages across the globe struggling to break the bonds of mass misery, we pledge our best efforts to help them help themselves, for whatever period is required—not because the Communists may be doing it, not because we seek their votes, but because it is right. If a free society cannot help the many who are poor, it cannot save the few who are rich.

To our sister republics south of our border, we offer a special pledge—to convert our good words into good deeds, in a new alliance for progress, to assist free men and free governments in casting off the chains of poverty. But this peaceful revolution of hope cannot become the prey of hostile powers. Let all our neighbors know that we shall join with them to oppose aggression or subversion anywhere in the Americas. And let every other power know that this hemisphere intends to remain the master of its own house.

To that world assembly of sovereign states, the United Nations, our last best hope in an age where the instuments of war have far outpaced the instruments of peace, we renew our pledge of support—to prevent it from becoming merely a forum for invective—to strengthen its shield of the new and the weak—and to enlarge the arena in which its writ may run.

Finally, to those nations who would make themselves our adversary, we offer not a pledge but a request: that both sides begin anew the quest for peace, before the dark powers of destruction unleashed by science engulf all humanity in planned or accidental self-destruction.

We dare not tempt them with weakness. For only when our arms are sufficient beyond doubt can we be certain beyond doubt that they will never be employed.

But neither can two great and powerful groups of nations take comfort from our present course—both sides overburdened by the cost of modern weapons, both rightly alarmed by the steady spread of the deadly atom, yet both racing to alter that uncertain balance of terror that stays the hand of mankind's final war.

So let us begin anew—remembering on both sides that civility is not a sign of weakness, and sincerity is always subject to proof. Let us never negotiate out of fear. But let us never fear to negotiate.

Let both sides explore what problems unite us instead of laboring those problems which divide us.

Let both sides, for the first time, formulate serious and precise proposals for the inspection and control of arms—and bring the absolute power to destroy other nations under the absolute control of all nations.

Let both sides seek to invoke the wonders of science instead of its terrors. Together let us explore the stars, conquer the deserts, eradicate disease, tap the ocean depths, and encourage the arts and commerce.

Let both sides unite to heed in all corners of the earth the command of Isaiah—to "undo the heavy burdens and to let the oppressed go free."

And if a beachhead of cooperation may push back the jungle of suspicion, let both sides join in creating a new endeavor, not a new balance of power, but a new world of law, where the strong are just and the weak secure and the peace preserved.

All this will not be finished in the first 100 days. Nor will it be finished in the first 1,000 days, nor in the life of this administration, nor even perhaps in our lifetime on this planet. But let us begin.

In your hands, my fellow citizens, more than in mine, will rest the final success or failure of our course. Since this country was founded, each generation of Americans has been summoned to give testimony to its national loyalty. The graves of young Americans who answered the call to service surround the globe.

Now the trumpet summons us again—not as a call to bear arms, though arms we need; not as a call to battle, though embattled we are; but a call to bear the burden of a long twilight struggle, year in, and year out, "rejoicing in hope, patient in tribulation"—a struggle against the common enemies of man: tyranny, poverty, disease, and war itself.

Can we forge against these enemies a grand and global alliance, North and South, East and West, that can assure a more fruitful life for all mankind? Will you join in that historic effort?

In the long history of the world, only a few generations have been granted the role of defending freedom in its hour of maximum danger. I do not shrink from this responsibility—I welcome it. I do not believe that any of us would exchange places with any other people or any other generation. The energy, the faith, the devotion which we bring to this endeavor will light our country and all who serve it—and the glow from that fire can truly light the world.

And so, my fellow Americans, ask not what your country can do for you: Ask what you can do for your country.

My fellow citizen of the world: Ask not what America will do for you, but what together we can do for the freedom of man.

Finally, whether you are citizens of America or citizens of the world, ask of us the same high standards of strength and sacrifice which we ask of you. With a good conscience our only sure reward, with history the final judge of our deeds, let us to forth go lead the land we love, asking His blessing and His help, but knowing that here on earth God's work must truly be our own.

Mr. SYMMS. Mr. President, I will paraphrase a part of President Kennedy's inaugural address. He said, let it be known by our adversaries and our friends that we, the people of the United States, will go to any extent to support our friends and oppose our enemies and those who are in opposition to the liberty of the human race. He went on and made a very clear policy statement on the part of the United States, that we will defend our liberties and freedoms from all adversaries.

Mr. President, the people of El Salvador themselves have spoken on the question of Soviet-Cuban-backed aggression. Over 60 percent of the Salvadoran people went to the voting booths last Sunday, and all of these people voted for candidates who oppose Soviet-Cuban-backed aggression. The will of the Salvadoran people was expressed democratically, and clearly—the Salvadoran people voted overwhelmingly against Marxist-Leninist subversion and revolution.

Mr. President, the U.S. Senate should do no less than the people of El Salvador. We, too should register our

opposition to Soviet-Cuban-backed aggression at our own front door and vote to reaffirm existing policy and the law of the land. President Reagan needs our support at this time of national danger, when the Soviets are openly trying to use nuclear blackmail from Cuba.

Mr. President, I wish to reiterate my statement of a few moments ago, to notify my colleagues in the Senate that I believe we should deal with this issue as soon as possible. It will be my intention to bring this issue to a head on every vehicle that comes before the Senate in the future, and I hope we will be able to deal with the issue.

It may be impossible to come to a vote as early as today, but I hope that when we return from the recess, we will be able to deal with this issue and dispose of it and give the Commander in Chief, President Reagan, the support I believe he needs, just to reaffirm what the law of this land is, to reaffirm the present treaties we have supported, to reaffirm America's policy and America's commitment to helping free people in the world, particularly in this hemisphere, who wish to resist intervention in their affairs by those who have designs on taking over control of their country.

Mr. President, I ask unanimous consent to have printed in the RECORD the Wall Street Journal editorial of Wednesday, March 31, entitled "The Soviet Cuba Card."

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

[From the Wall Street Journal, Mar. 31, 1982]

THE SOVIET CUBA CARD

Leonid Brezhnev's call for a nuclear weapons freeze a few weeks ago received considerable attention in the Western media. Such a grandstand play had been anticipated, however, and it was given the short shrift it deserved by the U.S. and its allies.

But wrapped in the sheep's clothing of Mr. Brezhnev's "peace" proposal was an ugly little threat that has received less notice. The Brezhnev statement warned that if the U.S. and West Europe take steps to offset the enormous buildup of Soviet nuclear strength threatening Europe, Moscow will feel "compelled" to place U.S. territory in an "analogous" position.

And just in case anybody missed this threat, it was repeated last week by two other high Soviet officials. Again, the exact nature of the threat wasn't stated, merely that deployment of intermediate-range missiles by NATO "invites the Soviet Union in the same manner to adopt adequate measures of response." This might mean additional Soviet submarines off the U.S. or some other scheme, of course, but the Soviet spokesmen did nothing to allay publicly expressed fears that Mr. Brezhnev had been talking about Cuba—a significant omission, given the history of U.S.-Soviet confrontation there.

Quite clearly, this is an escalation of the hardball game that began when the Soviets first aimed their big SS-20 missiles at Europe. First, the Soviets directed their intimidation at Europe's request for the offsetting U.S. missiles, knowing that if the Europeans can be forced to reconsider, the Soviets will have scored a big victory over NATO. Now the intimidation effort is being aimed directly at the U.S. The Soviets know full well that even though the theater weapons are really for the protection of Europe, describing them as American weapons is a way of justifying the Soviet military buildup that is taking place in the Caribbean. This could provide added leverage at the Geneva talks on theater weapons. The Soviets probably hope, as well, that it will unnerve Americans and spur the disarmament movement.

Some in the administration argue that the statements should be ignored, since to get worked up about them is merely to carry the propaganda ball for the Soviets. We disagree. Moscow may indeed be bluffing for propaganda or negotiating purposes. Failure to respond, however, could prove more dangerous in the long run than whatever cheap debating points the Soviets hope to score. It's not as if the Soviets have no record of recklessness when it comes to Cuba. In addition to the 1962 missile crisis, there was the attempt in 1970 to establish a nuclear submarine base at Cienfuegos on Cuba's southern shore. Why should we now assume that the Russians don't mean what they say?

The threat, after all, comes at a time when the U.S. is beginning to react to Cuban-Soviet aggressiveness in the Caribbean. The Reagan administration has made it clear that it considers Central America a vital interest of the U.S. and that it holds the Cubans and Soviets responsible for organizing and sustaining the guerrilla movements that afflict the area. Last Sunday's election in El Salvador gave the complete lie to the notion that the terrorists there and elsewhere in Latin America are simply homegrown agrarian reformers who express the will of the masses. Not that anyone needed any more proof that Fidel Castro, backed by his Soviet masters, has been exporting revolution to his neighbors.

So it's equally likely that the Soviets are trying to force U.S. acceptance of a military buildup in Cuba that has already started. A second squadron of MiG-23s was reported being uncrated there recently; if it's the ground attack version, it's a far superior bomber to the IL-28s Khrushchev was forced to withdraw from Cuba in 1962. Even if not it's apparently no great trick to adapt it to that role.

Meanwhile, intelligence officials say Nicaraguan pilots are being trained in Bulgaria and runways being lengthened to accommodate MiG-21s. The presence of such jets in either location greatly influences the tactical and strategic picture in the area, as can be seen from the accompanying map, which also shows what SS-20 missile coverage from Cuba would mean.

Defense analysts estimate Soviet military shipments to Cuba in 1981 tripled from 1980 and are increasing again this year. The shipments are at their highest level since 1962. It's worth pondering that in 1962 shipments of conventional Soviet military equipment caused the Congress to pass and President Kennedy to sign into law, in September, a joint resolution pledging "to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere."

Despite the October missile "understandings," which have no statutory standing, this resolution is arguably still U.S. law and policy. After the missile crisis, President Kennedy stated that "if all offensive weapons are removed from Cuba and kept out of the hemisphere in the future, under adequate verification and safeguards, and if Cuba is not used for the export of aggressive Communist purposes, there will be peace in the Caribbean." That in no way altered the joint resolution pledge.

By our reckoning, the second part of that formula hasn't been lived up to, and the Soviet buildup that has already taken place in Cuba comes perilously close to violating the first part even if one places the most benign view on the equipment that's already there. Soviet threats, however ambiguous, to emplace missiles or other nuclear attack weapons in Cuba or anywhere else near our shores should be treated with the gravest concern.

It will be argued that this is not the time or the place for another confrontation. The changes in relative naval power since 1962 might make it even more dangerous to engage in the sort of showdown on the high seas that Kennedy undertook; the Soviets also now have long-distance airlift capabilities that might make a quarantine or blockade a practical impossibility without getting into a shooting match.

If so, that speaks volumes about what we have allowed to happen to our military capabilities in the last 20 years, and how the Soviets have used detente to their own ends. But we are far from powerless, and it is a matter of fundamental national security that we not permit further Soviet intrusion into this hemisphere. The Soviets are dangerously mistaken if they think American public opinion will allow them to play a Cuba card, or even to bluff at it.

Mr. SYMMS. Mr. President, I call this editorial to the attention of my colleagues. It articulately points out the things I have said: that we are now witnessing brazen and bold actions on the part of the Soviets due to the massive commitment they have made to a military buildup and their belief that brandishing raw power is the only way they know how to conduct international relations. I believe this editorial deserves the commendation and the attention of all of us in the Senate.

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

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

TRIBUTE TO THE NCAA CHAMPION FIGHTING SIOUX OF THE UNIVERSITY OF NORTH DAKOTA

Mr. BURDICK. Mr. President, while the attention of most college sports fans this past weekend was focused on New Orleans and the NCAA basketball tournament, a discriminating few looked toward providence, R.I., where

the NCAA hockey championship was decided on Saturday night.

I want to take this opportunity to congratulate Coach Gino Gasparini and the Fighting Sioux of the University of North Dakota, who defeated the University of Wisconsin Badgers by a score of 5–2 for their second NCAA hockey title in the last 3 years. Knowledgeable hockey observers and most North Dakotans expect them to make it three titles in 4 years when the tournament is played on the Fighting Sioux's home ice in Grand Forks next year.

North Dakotans are very proud of our State's rich harvests of wheat, sunflowers, and other agricultural commodities, as well as the contribution we make to the Nation's energy independence by our production of oil, natural gas, and coal. This week, we are also very proud to have the best college hockey team in America.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TELEVISION AND RADIO COVERAGE OF SENATE PROCEEDINGS

The PRESIDING OFFICER. The Senate will now resume consideration of Senate Resolution 20, which will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 20) providing for television and radio coverage of proceedings of the Senate.

The Senate resumed consideration of the resolution.

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

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

UP AMENDMENT NO. 869

(Subsequently numbered amendment No. 1348.)

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

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, Senate Resolution 20 is the pending business, is it not?

The PRESIDING OFFICER. The leader is correct.

Mr. BAKER. May I say that I have discussed this with the distinguished Senator from Idaho and with other Senators, including the Senator from Louisiana and the distinguished minority leader.

I know, of course, that the Senator from Idaho intends to offer this amendment, which he has a perfect right to do. But he understands as well, I believe, that I have made a commitment publicly on the floor that there will be no action on Senate Resolution 20 today. So it would not be the intention of the leadership to have a vote on this amendment or any amendment in respect to Senate Resolution 20 during this day.

I certainly have no problem at all with the introduction of this amendment and with statements and debate in the course of this day. But I would point out to all those who are listening that it is not the intention of the leadership that we would proceed to a vote on this amendment at this time.

Mr. SYMMS. Mr. President, will the distinguished majority leader yeild?

Mr. BAKER. I yield.

Mr. SYMMS. I thank the majority leader. It would be my intention to order a vote but it would not be taken today.

Mr. BAKER. Yes.

Mr. SYMMS. I appreciate the majority leader's commitment to the Members of the minority, and I certainly would be willing to honor that.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho (Mr. SYMMS), for himself, Mr. HEINZ, Mr. HELMS, Mr. DENTON, Mr. EAST, Mr. MATTINGLY, Mr. HAYAKAWA, Mr. GOLDWATER, Mr. WARNER, Mr. THURMOND, Mr. MCCLURE, Mr. BAKER, Mr. KASTEN, Mr. TOWER, Mr. GARN, Mr. HATCH, Mr. WALLOP, Mr. NICKLES, Mr. LAXALT, and Mr. GRASSLEY, proposes an unprinted amendment numbered 869.

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

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

The amendment is as follows:

At the end of the resolution add the following new section:

"SEC. . Resolved by the Senate, That it is the policy of the Government of the United States to continue in its relations with the Government of Cuba the policy set forth in the Joint Resolution entitled "A Joint Resolution Expressing the Determination of the United States with Respect to the Situation In Cuba," passed by the Senate on September 20, 1962 and by the House of Representatives on September 26, 1962, and signed into law by the President on October 3, 1962 (76 Stat. 697) as follows:".

Mr. SYMMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 870

(Subsequently numbered amendment No. 1349.)

(Purpose: Perfecting amendment to Symms and others amendment)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho (Mr. SYMMS), for himself, Mr. HEINZ, Mr. HELMS, Mr. DENTON, Mr. EAST, Mr. MATTINGLY, Mr. HAYAKAWA, Mr. GOLDWATER, Mr. WARNER, Mr. THURMOND, Mr. MCCLURE, Mr. BAKER, Mr. KASTEN, Mr. TOWER, Mr. GARN, Mr. HATCH, Mr. WALLOP, Mr. NICKLES, Mr. LAXALT, and Mr. GRASSLEY, proposes an unprinted amendment numbered 870 to unprinted amendment No. 869.

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

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

The amendment is as follows:

Add at the end of the Symms amendment the following:

"Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "To extend their system to any portion of this Hemisphere as dangerous to our peace and safety", and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations", and

Whereas the Foreign Ministers of the Organization of American states of Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental communist powers, including even the threat of military intervention in America on the part of the Soviet Union", and Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence; Now, therefore, be it

Resolved by the Senate and House Representatives of the United States of America in Congress assembled, That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination;

Mr. SYMMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SYMMS. Mr. President, I earlier discussed this amendment at length and in detail during morning business, but I would like to make a few more points in support of this amendment.

On March 18, 1982, Defense Secretary Weinberger appeared on the NBC-TV "Today" show. Weinberger was asked what the United States would do if the Soviets had nuclear weapons in Cuba. Weinberger responded:

If there is any kind of threat of that sort (i.e. Soviet nuclear or offensive weapons in Cuba) I would assume we would deal with it in the same way we did in the 1960's.

Under further questioning, Weinberger added:

I'm talking about whatever it would be necessary to do, so as not to have missiles in the Cuban area . . .

Weinberger was thus stating that the United States would resist Soviet missiles or bombers in Cuba, Mr. President. My amendment is designed to reinforce just such a U.S. policy.

Now Soviet President Brezhnev himself has threatened to activate Soviet strategic nuclear offensive forces which may already be in Cuba. Brezhnev has tried to brandish these Soviet nuclear weapons in Cuba, in a blatant attempt at nuclear blackmail. Brezhnev stated on March 16, 1982, in a speech to the Congress of Soviet trade unions in Moscow that:

If the governments of the U.S. and its NATO allies, in defiance of the will of the nations for peace, were actually to carry out their plan to deploy in Europe hundreds of new American missiles capable of striking targets on the territory of the Soviet Union, a different situation would arise in the world. There would arise a real additional threat to our country and its allies from the United States.

Brezhnev then added threateningly:

This would compel us to take retaliatory steps that would put the other side, including the United States itself, its own territory, in an analogous position. This should not be forgotten.

Soviet spokesmen in the Soviet newspaper Pravda have made clear after Brezhnev's speech that Brezhnev was threatening to activate Soviet offensive nuclear weapons and bases already in Cuba. So Brezhnev was already brandishing Soviet nuclear weapons in Cuba, and engaging in a policy of nuclear blackmail much like Nikita Khrushchev so unsuccessfully attempted back in October 1962.

Mr. President, we should bear in mind that the Soviet diplomat Vasily V. Kuznetsov, now Deputy Foreign Minister and Politbureau member, stated back in November 1962 to President Kennedy's special representative at the United Nations, that never again would the Soviets back down to U.S. power in a crisis as they were forced to do in Cuba in October 1962. Mr. Kuznetsov in fact was promising 20 years ago to stage another Cuban Missile Crisis, only the second time around the Soviets would turn the tables and force the United States to back down. It would be a Cuban Missile Crisis in reverse. This is in fact what is occurring right now, in 1982, in Cuba. The Soviets are openly violating the Kennedy-Khrushchev Agreement of October 1962 by deploying strategic offensive nuclear weapons and bases in Cuba.

What is the evidence of Soviet violation of the Kennedy-Khrushchev Agreement, Mr. President? Let me summarize it once again in the following 11 points of evidence:

The Soviets have built a strategic submarine base at Cienfuegos, complete with a new nuclear warhead handling facility, new quays, and reportedly even new submarine pens are being constructed.

During the 1970's there were many visits to the Cienfuegos strategic submarine base of Soviet strategic offensive Golf and Echo class submarines, carrying long-range strategic offensive missiles equipped with nuclear warheads. These missiles are more dangerous than the SS-4 medium range ballistic missiles deployed to Cuba in 1962.

Soviet TU-95 Bear heavy intercontinental bombers, capable of carrying nuclear bombs or nuclear air-to-surface missiles, have been regularly flying to Cuba since 1969. There are reportedly nine Cuban airfields capable of handling TU-95 Bears.

There are now 40 Soviet nuclear delivery capable MIG-23/27 fighter-bombers deployed in Cuba. These bombers are more lethal than the IL-28 medium bombers sent to Cuba in 1962.

There have been several nuclear-missile equipped Soviet naval task force visits to Cuba in 1981, which cruised around the periphery of the Caribbean, directly threatening vital Venezeulan, Mexican, and American oilfields.

There is a Soviet combat brigade in Cuba, equipped with tanks, armored personnel carriers, long-range artillery, and supported by long-range air transport capabilities.

There have been 66,000 tons of Soviet military equipment shipped to Cuba during 1981, three times more than in 1962.

Long range Soviet SS-N-3 and SS-N-12 Shaddock-type naval and land-based mobile, nuclear-warhead-equipped cruise missiles have been photographed being paraded in Havana in 1964, 1965, and 1966. These missiles have a range of 1,550 nautical miles, which is even greater than the 1,000-mile range of the Soviet SS-4 medium-range ballistic missiles supposedly removed from Cuba in 1962.

In fact, 4 of the 42 Soviet SS-4 MRBM's were never confirmed by U.S. aerial reconnaissance photographs as having been removed from Cuba in 1962, and may have remained in some of the many caves of Cuba.

Soviet FROG strategic offensive missiles carrying nuclear warheads with a range of about 37 miles were paraded in Havana in 1965. These are clearly offensive weapons. There is no evidence that the Soviet FROG and Shaddock missiles were ever removed from Cuba.

The number of Soviet MIG's and tanks in Cuba has tripled since 1962. These are the most important offensive ground warfare weapons. Thus Soviet capabilities for conventional, ground, offensive warfare have tripled since 1962. The Soviet conventional threat to the United States and to the Caribbean and Latin America has tripled since 1962.

The above evidence is all public, reliable, and from authoritative defense and intelligence sources. None of it has been disputed by administration leaders. In fact, Under Secretary of Defense Ikle has publicly confirmed it as accurate in open testimony to the Subcommittee on Terrorism and Subversion.

Mr. President, as Defense Secretary Weinberger has stated, the United States will resist Soviet strategic offensive nuclear bases in Cuba in 1982, just as we did in 1962. What Mr. Weinberger seems to be asking for is precisely a reaffirmation of the September 1962 joint resolution on U.S. determination in Cuba, which I am proposing. This reaffirmation would be the perfect response to the authoritative statements by JCS Chairman General Jones, CIA Director Casey, and Under Secretary Ikle, that the Soviets are violating the Kennedy-Khrushchev Agreement of 1962. A reaffirmation of the 1962 resolution would also be the perfect expression of solid support from the U.S. Senate for Defense Secretary Weinberger's call for firm measures to resist Soviet violation of the Monroe Doctrine and to oppose Soviet-Cuban aggression and subversion in the Western Hemisphere.

Mr. President, the former Foreign Minister of Costa Rica, Mr. Gonzalo Facio, 3 months ago told U.S. journalist Jeffrey St. John that the Soviets were already staging a Cuban missile crisis in reverse. We need to show strong Senate support for firm U.S. action against renewed Soviet-Cuban provocation.

Former Costa Rican Foreign Minister Gonzolo Facio stated in the interview 3 months ago:

The object of the current Communist offensive in Central America is Mexico and its vast oil riches and its geographical proximi-

ty to the United States. If the Reagan administration does not soon take prompt action, the whole Central American region will go to the Communists in Havana and Moscow by default.

I think Mr. Facio has a message for all of us, and he is correct.

He has also stated that the Caribbean crisis facing President Reagan is even more dangerous than the Cuban missile crisis of 1962.

Mr. President, the vote on my amendment will be a vote for the Monroe Doctrine and a vote for prevention of a Soviet military base in Cuba. It will be a vote for opposing Soviet-Cuban aggression and subversion in the Western Hemisphere.

I think it comes at a very appropriate time, as our colleague, Senator KASSEBAUM, has returned from El Salvador with the stories she has to tell about how those people in El Salvador have resisted the threats, the terrorism, and even risked their lives in order to vote. Some 60 percent of the people in that country voted and they all voted for political parties that were in opposition to the terrorist-guerrila activities that are backed by the Cubans and the Soviets in El Salvador.

Mr. President, I refer to an article in the New York Post of March 11, 1982, with the headline, "Soviet Nuke War Bases in Cuba." I ask unanimous consent to include that article in the RECORD.

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

[From the New York Post, Mar. 11, 1982]

SOVIET NUKE WAR BASES IN CUBA—SITES BEING READIED FOR SUBS, JETS, SAYS REPORT

(By Niles Lathem)

WASHINGTON.—The Soviet Union is building bases for nuclear submarines, strategic bomber planes and chemical weapons in Cuba in a steady and flagrant violation of 1962 accords signed by the Kremlin in the aftermath of the missile crisis, the Post has learned.

Intelligence reports were obtained by the Post last night as tension between Cuba and the United States increased over El Salvador and Nicaragua.

Many Pentagon and CIA analysts have concluded that the threat to the security of the U.S. from Cuba and its partner Nicaragua is now much greater than it was in 1962 when President Kennedy sent out a worldwide alert and demanded that the Kremlin withdraw nuclear missiles and offensive bombers it had stationed in Cuba.

The new reports give a startling picture of the Soviet military buildup in Cuba, just 90 miles from the coast of Florida.

They reveal:

The Soviets are building a strategic submarine base in Cienfuegos where Soviet Golf and Echo subs armed with nuclear-tipped ballistic and cruise missiles frequently stop.

The base apparently also has a "nuclear weapons handling facility" representing an "instantaneous strategic offensive threat" to the United States.

Some Russian-built surface-to-air missiles have been modified to include "strap-on booster stages" which give them a much longer range than is required for defense.

Many analysts believe that with the addition of the boosters, these anti-aircraft missiles could strike targets in the Southern and Eastern U.S.

The Soviet Union is flying and basing versions of the sophisticated TU-95 bomber, which can also carry nuclear weapons, in Cuba.

According to some intelligence reports the Soviets have established a secret airfield near Havana.

The Soviets claim the TU-95s in Cuba are not equipped for offensive purposes and are used only for reconnaissance.

But U.S. officials note they are far more sophisticated than the IL-28 jets President Kennedy demanded the Soviets withdraw from Cuba in 1962 and can easily be "retooled" for bombing missions.

Cuba also recently received a shipment of about 40 nuclear-capable MIG-23 warplanes, although sources say they probably do not have atomic weapons on board.

The Soviets may have recently sent equipment and ingredients for chemical and biological weapons to Cuba.

Once made, these weapons can easily be deployed on MIG or TU-95 fighters, modified SAM rockets or submarine-launched missiles—equipment Cuba already has.

Cuba received 66,000 tons of Soviet military hardware in 1981—a figure three times higher than was dispatched by the Kremlin in 1962.

The reports also noted that early last year a fleet of Soviet ships sailed, virtually unchallenged by the U.S., around the Caribbean and Gulf Coast near oilfields in Mexico, Venezuela, Texas and Louisiana.

Rep. Jack Kemp (R-NY) has joined Sens. Jesse Helms (R-NC) and Steve Symms (R-Idaho) in demanding that the State Department release all documents on the 1962 Krushchev-Kennedy accords and possible changes in them that were negotiated by Henry Kissinger during the SALT talks.

"The Soviet Union's record of an extensive military buildup in Cuba and its systematic expansion of Cuba's postion to serve as a base for aggressive action (in Nicaragua and El Salvador) leads me to believe it has violated its pledge not to place offensive weapons in Cuba," Kemp said.

Mr. SYMMS. Mr. President, I would also like to say that this amendment is the identical language as in Senate Joint Resolution 158, which I introduced earlier this year, which has 19 cosponsors plus myself, 20 percent of the Members of the Senate being in support of reaffirming the existing law of the land and longstanding U.S. policy toward Cuba. I appreciate the support of those cosponsors. I would like my colleagues to know that we do have substantial support for Senate Joint Resolution 158, which is the identical language of this amendment.

The cosponsors are Mr. HEINZ, Mr. HELMS, Mr. DENTON, Mr. EAST, Mr. MATTINGLY, Mr. HAYAKAWA, Mr. GOLDWATER, Mr. WARNER, Mr. THURMOND, Mr. MCCLURE, Mr. BAKER, Mr. KASTEN, Mr. TOWER, Mr. GARN, Mr. HATCH, Mr. WALLOP, Mr. NICKLES, Mr. LAXALT, and Mr. GRASSLEY.

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

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

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past the hour of 1:30 p.m. in which Senators may speak for not more than 10 minutes each.

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

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I believe we are prepared now to proceed with a matter that has been cleared on both sides. I see the distinguished chairman of the Governmental Affairs Committee is here, and I believe he is prepared to proceed, if the minority leader is in a position to approve that action at this time.

Mr. ROBERT C. BYRD. Mr. President, the minority is ready to proceed.

Mr. BAKER. Mr. President, I yield the floor so that the chairman of the Governmental Affairs Committee may seek recognition.

PERMISSION FOR AN OFFICER OR EMPLOYEE OF THE U.S. GOVERNMENT TO RECEIVE CONTRIBUTIONS FROM CHARITABLE ORGANIZATIONS

Mr. ROTH. Mr. President, I send a bill to the desk and ask unanimous consent that it be immediately considered.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2333) to amend section 209 of title 18, United States Code, to permit an officer or employee of the United States Government, injured during an assassination attempt, to receive contributions from charitable organizations.

The PRESIDING OFFICER. The bill will be considered as having been read twice by title. The Senator may proceed.

The Senate proceeded to consider the bill.

Mr. ROTH. Currently, Federal employees are prohibited from receiving contributions or remuneration in any form from sources outside of the U.S. Government. This prohibition is included in section 209 of United States Code, title 18. The section would also prohibit any employee from receiving any funds from a charitable organization.

This bill would make it possible for any Federal officer or employee injured during an assassination attempt to receive outside remuneration from a lawfully established charitable organization, despite the fact that they are still receiving a Government salary.

This provision would cover cases, like that of Jim Brady, the President's press secretary, whose friends and associates wish to assist them in coping with the costs resulting from their injuries but are prevented from doing so under current interpretations of Federal law.

Mr. President, this legislation has been cleared, as was already indicated, by both the majority and minority leaders. It has been cleared with the ranking member of the Governmental Affairs Committee as well.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time, was read the third time, and passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 209 of title 18, United States Code, is amended by adding a new subsection as follows:

(f) This section does not prohibit acceptance or receipt, by any officer or employee injured during the commission of an offense described in section 351 or 1751 of this title, of contributions or payments from an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1954 and which is exempt from taxation under section 501(a) of such Code.

Mr. ROTH. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

JAPAN ISSUES WARNING ON TRADE CURBS

Mr. COHEN. Mr. President, the Los Angeles Times last week carried an article, "Japan Issues Warning on Trade Curbs," which contained some truly alarming statements by a Japanese trade official.

Kazuo Wakasugi, director of the Japanese Ministry of International Trade and Industry's Trade Policy Bureau, warned foreign journalists that Japan might begin exporting weapons to Communist countries if the United States and European nations adopt protectionist measures against Japanese products.

If the quotes attributed to Wakasugi are correct, they are disturbing in their implications. Even if he was speaking theoretically about a situation which he did not expect to occur, Wakasugi's comment that Japan "would probably join the Communist bloc" if protectionist measures are taken by America and the European nations cannot go unchallenged.

This kind of threat at a time when Japan enjoys considerable economic advantages while failing to accept a fair share of the burden of defending its interests and those of the alliance is, in my view, unconscionable. At the same time that Japan's economy is allowed to burgeon and its imports to enjoy considerable success in the United States, I do not believe it is appropriate for a top Japanese official to make the kinds of statements attributed to Mr. Wakasugi.

I have pointed out before that I do not appreciate the irony of having the Japanese argue that they cannot increase their defense expenditures or their share of the burden of protecting the alliance, while simultaneously selling the Soviet Union a large dry dock—one of the largest in the world—which helps the Soviets to build ships which, in turn, threaten the alliance itself or by carrying on some extensive trade with North Korea while we pick up a large measure of the burden of helping the defense of South Korea. They simply cannot have it both ways.

The message which I hope the Reagan administration will impart to Japanese leaders is that statements of the sort made by Mr. Wakasugi are both inappropriate and counterproductive. What needs to be made clear is that our two nations, and all the nations of the free world, must work together toward the mutual strengthening of the alliance.

We will accomplish that goal not through veiled and unveiled threats. Rather, we will achieve it through cooperation to resolve differences and bolster mutual interests.

Mr. President, I ask unanimous consent that the article written by Sam Jameson be printed in the RECORD so that my colleagues can more closely review Mr. Wakasugi's remarks.

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

[From the Los Angeles Times, Mar. 25, 1982]

JAPAN ISSUES WARNING ON TRADE CURBS

PROTECTIONIST MOVES MAY BRING CLOSER TIES TO COMMUNISTS

(By Sam Jameson)

TOKYO—If the United States and European nations adopt protectionist measures against its products, Japan could be forced to step up its trade with Communist countries and might even begin exporting weapons, a high official of the Ministry of International Trade and Industry said Wednesday.

Kazuo Wakasugi, director of the ministry's trade policy bureau, told foreign correspondents that Japan was determined to open up its market to products from foreign countries.

But he warned, if protectionist measures are taken by its American and European trading partners, "Japan cannot commit suicide."

"To survive," he said, Japan would be forced to increase its trade with Communist countries.

TOTAL BAN UNLIKELY

Emphasizing that he saw no possibility of the United States and Western Europe totally banning imports from Japan, Wakasugi nonetheless said some Americans and Europeans had declared that neither the United States nor Europe needs to trade with Japan.

Then he added: "If the United States and Europe don't trade with Japan, politics here would change. There would be no benefit for Japan to remain a member of the Free World. If that happens, we would probably join the Communist bloc."

Reminded that he was speaking for the record, Wakasugi added:

"There is nothing strange about such a comment. I don't believe there will be an end to trade with Europe and the United States. For Europe and the United States to take such an action would go down in history as one of the great blunders of all time. But if it did happen, there would be no other way for Japan to live."

THEORETICAL SITUATION

No Japanese government official has ever before suggested that Japan might join the Communist block under any circumstance, and Wakasugi emphasized he was speaking of a theoretical situation that he did not expect to occur. His comments, however, underscored what he called at another point in the news conference "repulsion" in Japan against trade-related charges being made against it, especially by the United States.

Wakasugi said the Japanese thought some of these statements were "outrageous," others were based upon misunderstanding, and still others constituted "insults."

Wakasugi was asked if U.S. or European protectionist measures might induce Japan to start exporting weapons.

Responding, he pointed out that Japan pays for its oil and natural resource imports by its trade surpluses with advanced nations. "Without this balance," he said, "the Japanese economy would contract, living standards would be reduced and, to survive, we would have to increase our transactions with Communist countries.

"As for exporting weapons, we wouldn't want to do it, but, depending upon the extent of the damage (suffered from protectionism), there would be voices advocating that."

As a political policy, Japan presently bans exports of all weapons made here, voluntarily creating one of the few areas in which Japan does not compete with the United States in the trade of manufactured products.

Despite his unprecedented statements, Wakasugi's overall presentation stressed the positive aspects of U.S.-Japanese trade.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMBASSADOR LEE ANNENBERG

Mr. PERCY. Mr. President, I would like to bring to the attention of my colleagues the outstanding accomplishments of Ambassador Lee Annenberg, who served as the first Chief of Protocol for the Reagan administration.

As we all know, this was a year of extraordinary accomplishment by the President and Secretary of State in reaching out to meet with Chiefs of State from all over the world who were anxious to personally meet President Reagan and learn more of the policies of the administration with respect to foreign affairs.

Throughout her term of office, Lee Annenberg served with great distinction and honor. She immediately developed a close rapport with the Foreign Relations Committee of the Senate and, because of this, was always extended an invitation to join with the committee when we had working luncheons with foreign dignitaries. This enabled us to more frequently speak with one voice and demonstrate to our foreign guests the close working relationship between the executive branch of Government and the Senate of the United States.

In my years in the Senate, I have seldom heard as many compliments from foreign dignitaries as were directed to Ambassador Annenberg. She was superbly backed up, whenever occasion permitted, by her husband, Walter Annenberg, one of America's great businessmen and himself former Ambassador to the United Kingdom.

Lenore Annenberg was sworn in at the White House by Chief Justice Berger as Chief of Protocol on March 20, 1981. A hearing was held by the Senate Foreign Relations Committee on April 22, 1981, and she was confirmed unanimously by the U.S. Senate on May 8. On May 15, 1981, she had her swearing-in ceremony for the rank of Ambassador.

Ambassador Annenberg hosted several dinners at the Blair House in honor of the Diplomatic Corps. Also, she and Mr. Jack Valenti of the Motion Picture Association, jointly gave buffet-film showings to members of the Diplomatic Corps.

Ambassador Annenberg has administered the oath of office to approximately 20 American ambassadors.

She conducted six White House credentials ceremonies where the newly accredited foreign ambassadors present their credentials to the President.

During her tenure as Chief of Protocol there have been approximately 93 private visits to Washington by Heads of Government, Chiefs of State, Foreign Ministers and miscellaneous visitors.

It is interesting to note the list of official/state visits during Ambassador Annenberg's tenure as Chief of Protocol:

February 25-28, United Kingdom, Prime Minister and Mr. Thatcher—Official.

March 10-11, Canada, President Reagan's trip to Canada.

March 30 to April 1, Netherlands, Prime Minister van Agt—Official working visit.

May 4-9, Japan, Prime Minister and Mrs. Suzuki—Official.

May 20-23, Federal Republic of Germany, Chancellor and Mrs. Schmidt—Official.

June 7-9, Mexico, President Lopez-Portillo—Official working visit.

June 29 to July 1, Australia, Prime Minister and Mrs. Fraser—Official.

July 9-10, Canada, Prime Minister Trudeau—Working visit.

August 4-9, Egypt, President and Mrs. Sadat—State visit.

September 9-15, Israel, Prime Minister Begin—Official.

October 9-11, Egypt, Funeral delegation for President Sadat.

October 12-17, Spain, King Juan Carlos and Queen Sofia—State.

November 1-12, Jordan, King Hussein and Queen Noor—State.

November 16-19, Venezuela, President and Mrs. Herrera Campins—State.

President Reagan has selected a fine replacement, "Lucky" Roosevelt, to become Chief of Protocol. We welcome Mrs. Roosevelt and at the same time express admiration and sincere appreciation to Ambassador Annenberg for her distinguished service to the President of the United States and to her Government. She has my greatest admiration.

THE DEATH OF AMBASSADOR THEODORE E. CUMMINGS

Mr. PERCY. Mr. President, I would like to express today my sincere condolences and sympathy to the family and many friends of a great American, Theodore E. Cummings, whose unfortunate death just 2 days ago has been a loss to our Nation.

Ambassador Theodore E. Cummings was a man of infinite kindness and a man dedicated to serving the interests of his country and community. His many humanitarian endeavors and recent service for the President as U.S. Ambassador to Austria, where he was born, only minimally reflect the depth of feeling and commitment of Ambassador Cummings.

His presence and cheerful spirit, as well as his dedication and abilities, will be sorely missed by both his country and his friends.

AMERICANS WANT ARMS CONTROL

Mr. PERCY. Mr. President, on March 21, I participated in a town meeting in Winnetka, Ill., that focused on the crucial question of preventing nuclear war. At this jam-packed meeting, which was the largest such gathering on the north shore of Chicago in which I have ever been involved, one clear and consistent signal came through: Americans want action on arms control now. At the meeting, Americans from all walks of life, from all educational levels, and from all parts of the political spectrum spoke virtually with one voice, demanding that our Government move immediately to halt the threatening and destabilizing competition in nuclear arms.

Earlier this year, I was pleased to approve a request from Senator PRESSLER, chairman of the Arms Control Subcommittee, and Senator CRANSTON, the ranking minority member, to hold field hearings in South Dakota and California. The results of these hearings were vividly summarized in a recent article by Senator PRESSLER. As Senator PRESSLER cogently observes: "Americans want arms control." This grassroots appeal is not unique to Winnetka, San Francisco, or Sioux Falls; rather, it is being raised in cities and towns across the land.

Mr. President, Senator PRESSLER notes in his article that the mandate for the administration and the Congress is clear: "Explore every opportunity to control and reduce armaments, but do so vigilantly." I commend the article to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

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

[From the New York Times, Mar. 9, 1982]

AMERICANS WANT ARMS CONTROL

(By LARRY PRESSLER)

WASHINGTON.—"It is a fallacy to think that nuclear war can be won. I support and encourage the establishment of learning centers by the world's nations to study alternatives to war."

These remarks, by Al Schock, a staunch South Dakota Republican, were representative of testimony heard in January when the Senate Foreign Relations Subcommittee on Arms Control held arms-control hearings outside of Washington for the first time in 26 years.

The proceedings clearly show strong grassroots support for a verifiable arms-control agreement with the Soviet Union. Many witnesses said that the 1980's present an international climate particularly conducive to the achievement of an arms accord. For one thing, they pointed out, the Soviet Union is suffering severe agricultural and economic hardships and, like the United States, cannot indefinitely support an enormously costly arms race. More important, even the most liberal witnesses agreed that President Reagan, as a conservative Republican, is in a unique position to sell an arms-control agreement to the public and Congress because he could overcome the reluctance of conservative groups.

The bipartisan hearings, in San Francisco, Los Angeles, and Sioux Falls, S.D., were held by the subcommittee in an effort to encourage more Americans to take part in the crucial arms-control dialogue. The turnout in all three cities was enthusiastic. Scores of witnesses were heard, including representa-

tives from business, the clergy, labor, agriculture, science, and education. Some were experts on arms control and defense issues; others were private citizens who are deeply concerned over the spiraling arms race and weary of living in the shadow of the nuclear peril.

While the sentiment for arms control was clear, many witnesses also stressed that any agreement reached with the Soviet Union must be accompanied by a strong verification system that would include on-site inspection. In Sioux Falls, Mr. Schock, a Republican senatorial candidate in 1974, described this need: "No corporate venture ever succeeds where the accounting or auditing is not done or is done haphazardly." He testified in favor of arms talks although he believes our defense forces are inadequate.

Other witnesses emphasized the importance of strong national defense and the need to negotiate from a position of strength. Gen. Justin Berger (Ret.) of the South Dakota Air National Guard said: "America's best chance for peace is through strength and deterrence. If an enemy perceives us to be strong enough to cause them more destruction than they are willing to accept, they will let us live in peace. Perhaps we then would have the opportunity to negotiate a meaningful arms-limitation agreement."

LeRoy Mutschelknaus, a Sioux Falls barber who represented organized labor, also called for a strong military establishment but noted that arms talks could be a vital part of national defense while contributing both to peace and economic progress.

In Los Angeles, the dominant viewpoint evident in all the hearings was expressed by Dr. Marvin L. Goldberger, president of the California Institute of Technology: "I believe the climate in this country and in the Soviet Union is more favorable than it has been for a long time for a truly bold step in arms reduction."

Clergymen addressed the moral issue. Archbishop John R. Quinn of San Francisco, calling the arms race "dangerous" and "wasteful," asserted that "the prohibition of any use of nuclear weapons is the primary moral imperative of the moment." The Rev. John McEneaney of the Sioux Falls Roman Catholic diocese said: "What an idiotic lunacy it is to see tanks rolling down the streets of undeveloped countries when tractors should be in the fields!"

In South Dakota, a pragmatic assessment was provided by Prof. Thomas Magstadt of Augustana College. The Soviet Union is experiencing severe economic difficulties, similar to ours, he observed, "and they are more likely now than in some time to negotiate seriously." He added: "The Soviets cannot put all their eggs into a military-industrial complex. We have a mutual interest in that respect."

The mandate to the Administration and the Congress is clear: Explore every opportunity to control and reduce armaments, but do so vigilantly.

President Reagan has made it clear that he hopes to achieve dramatic reductions in nuclear arms through negotiations with the Russians. I have long believed that he could be to nuclear-arms reduction what Richard M. Nixon was to our China-normalization policy. Since the field hearings, I am also convinced that the majority of Americans—conservatives and liberals, Democrats and Republicans—will support the President in arms-control efforts.

COOK COUNTY ANTIARSON EFFORT A SUCCESS

Mr. PERCY. Mr. President, I rise to applaud the successful efforts of a citizens organization in Illinois that has achieved substantial results in its efforts to decrease arson-for-profit incidents.

It is led by my long-time friend, Judge Saul A. Epton. It is called the Coordinating Council on Arson for Profit and it was formed in February 1980. It is made of representatives from the insurance industry, civic groups, and law enforcement agencies.

Since this council's inception, some 64 arsonists have been convicted in Cook County and Federal criminal courts. Arson fraud claims have declined 47 percent over the same period.

In 1977, I chaired a major set of hearings on arson-for-profit by the Governmental Affairs Committee Investigations Subcommittee and I also introduced legislation that would declare arson-for-profit a Federal crime.

I salute Judge Epton and Don H. Mershon, who helped organize the council 2 years ago. On January 19, 1982, Mr. Mershon retired as president of the Metropolitan Chicago Loss Bureau after 25 years of service.

He was fighting arson long before it was recognized as a national problem.

Mr. President, I ask unanimous consent that a biography of Mr. Mershon, a speech given by Judge Epton outlining the achievements of the council, and a roster of council members be printed in the RECORD.

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

DON H. MERSHON

Don H. Mershon (66) has been active in the insurance industry for the past 46 years. Don lives at 91 East Marion Avenue, Lake Forest, Illinois. He is President of the Metropolitan Chicago Loss Bureau and has been associated with the MCLB for the past 25 years. The MCLB provides claim supervision service for 85% of the insurance companies in the Chicago metropolitan area.

Don Mershon has been the number one activist against arson in the country. Two years ago he helped to organize the Coordinating Council on Arson for Profit with Judge Epton, Chairman. He was instrumental in unifying 40 non-partisan members of the committee which caused a reduction of claims during the past two years from $12 million to $5 million per year.

Chicago has the best conviction record in the country by virtue of the fact that during the past two years, 64 arsonists have been sent to jail giving the county a 63% conviction rate while nationwide the conviction record is less than 1%.

By virtue of Don Mershon's activities the insurance industry has contributed $25,000 in awards to tipsters. The committee has unlimited funds from the insurance industry in the furtherance of the battle against arson in the State of Illinois.

Don is married to Donna and lives with his wife and three children; Donald, Mary and Tracy.

ADDRESS BY JUDGE SAUL A. EPTON (RETIRED)

Thank you for the kind introduction and for inviting me to speak to this important group about the fight Cook County citizens are waging against arson-for-profit.

As I look back on the work which began in February 1980 the Nonpartisan Coordinating Council on Arson for Profit—was established and the accomplishments we have made are impressive.

In the past year and eight months—65 arsonists have been convicted in the U.S. and the criminal courts of Cook County. On November 5, 60-year-old Emil Crovedi was sentenced to 5 years in the penitentiary even though he had medical problems. 65 arsonists face sentences of 357 years during the past 20 months. Prior to that time, there were very few arson convictions.

Arson insurance claims have fallen from $12 million a year to $5 million a year.

Yes, the council has brought arson in Cook County closer to extinction—yet this terrible crime still occurs. Arsonists are still active. We still have a great deal to do.

Together we can do it. Our nonpartisan group was organized on the premise that the fight against arson requires the cooperation and coordinated effort of Government law enforcement agencies, private industry and civic leaders.

Accordingly, the council's members come from the insurance industry, the police, and fire departments, the city, county, state and Federal law enforcement agencies and concerned citizens groups.

Our monthly meetings are open to the public and they come to the attention of the community because of the media's support.

Thanks to the cooperate efforts of these people, we are fulfilling our primary goals. They are:

First, to review current procedures of governmental agencies and the insurance industry and recommend ways to coordinate efforts to fight arson for profit.

Second, to determine the most effective method of establishing a central repository of information to assist arson investigations; and

Third, to evaluate existing arson laws and recommend appropriate new legislation.

In a nutshell—we must be nonpartisan—dedicated and cooperative!

As we began our efforts last year, we were eager, but also aware that Cook County had much to learn. In talking with arson officials from other metropolitan areas, we learned that arson is a crime which feeds on neglect.

When buildings are ignored—they become likely arson targets. When neighborhoods are allowed to decay, the arsonist steps in to speed up the pace.

When the public is uninformed about the seriousness of the crime, the arsonist has little to fear in court.

During our first meeting, in February 1980, we set up important committees.

A Legislative Committee which makes recommendations about new laws.

An Ownership Information Analysis Committee which finds ways for law enforcement to recognize probable arson targets.

An Arson Evidence Committee which makes recommendations on the prosecution of arsonists.

In the months which followed, members of the council volunteered to serve on additional committees. An arson awareness committee helps neighborhoods focus on the problem. With the help of generous funding from the Illinois Fair Plan—an arson awards

program recognizes the courage of individual citizens calling the arson hotline (922-2323).

On behalf of insurance companies, the Illinois Fair Plan has provided more than $15,000 for the program thus far. To date more than 50 awards have been made in amounts varying from $100.00 to $1,500.00.

The insurance industry is so pleased with the program's success—we are assured of "unlimited funds" for future awards by the awards committee.

The director of public safety, Sam Nolan, provided a Chicago hotline, and with the cooperation of the Chicago Crime Commission and the Chicago Association of Commerce and Industry—established a neighborhood awareness program.

Commander Ed Nickels, of the bomb and arson squad—together with Supt. Richard Brzeczek gave priority to all arson hotline tips, and a 5 member committee was appointed to make the awards.

The willingness of our citizens to come forward with information has made arson a dangerous crime for the criminal. Most arsonists do not have witnesses, and the evidence is circumstantial. As a result, prosecutors around the country have shunned arson cases.

However, in Cook County, prosecutors are using all the tools at their disposal.

Arsonists are going to jail. When I was on the bench—hard pen time was a rarity. Today—we are getting real hard pen time sentences. Exhibit "a"—Judge Aspen's 5 year sentence to a 60-year-old gentleman—who had a "serious medical problem". In my day on the bench a "serious medical problem"—was a sure "probation ticket".

Cook county's arson conviction rate is the highest in the nation. 63 percent versus less than 1 percent nationwide. (we are No. 1)

These results have been accomplished thru doing our homework and strengthening our defenses.

Last year, the Chicago Police Department's bomb and arson squad was increased to almost double its former strength.

The State's attorney of Cook County established an additional arson special prosecutions division. Task force members have become effective in helping police at the scene of the fire to obtain evidence necessary for prosecution.

Another major change is using the beat officer to protect the scene of an arson for evidence technicians, and to assist in the first stage of the investigation.

This new procedure has resulted in increased cooperation from witnesses and increased arrests.

Finally, we are implementing a management system which will allow investigators to have information from a computer about the factors in a case. Everything from building ownership, and previous fire history, to establishing arson patterns in the city and State.

From the officer on the beat to the lawyer in the State's attorney's office, Cook county law enforcement agencies are working together to solve arson cases. Arsonists are getting the message! Our cooperative efforts are putting them out of business.

Arson has been called the fastest growing crime in America. In Chicago and Cook County it is the fastest shrinking crime. This is the result of cooperation of all the law enforcement agencies. Let us all continue to work together in the fight against this terrible crime.

MEMBERS OF THE COORDINATING COUNCIL ON ARSON FOR PROFIT

Judge Saul A. Epton, (Retired) Chairman. Epton, Mullin, Segal & Druth, Ltd.

Samuel W. Nolan, Vice-Chairman. Director of Public Safety.

William R. Blair, Fire Commissioner, City of Chicago.

Charles F. Botkin, Director of Security, Zenith Radio Corporation.

Richard J. Brzeczek, Superintendent of Police.

Herbert Carroll, Director, Chicago Association of Commerce & Industry.

Jack Carter, Fire Marshall, State of Illinois.

Patricia Cassiday, Assoc. Counsel, Illinois Insurance Study Commission.

Gilbert Cataldo, Commissioner, Department of Housing.

Terry Chiganos, Asst. State's Attorney, Chief of Arson Prosecution.

Frederick Crystal, Attorney, Paul J. Wisner, Ltd.

Richard M. Daley, State's Attorney of Cook County.

William Duggan, Director, Dept. of Inspectional Services.

Richard J. Elrod, Sheriff of Cook County.

Richard E. Friedman, Attorney, Epton, Mullin, Segal & Druth, Ltd.

Frank D. Hart, Special Agent, Bureau of ATF, U.S. Treasury Dept.

Patrick F. Healy, Executive Director, Chicago Crime Commission.

John E. Henrici, Regional Fire Representative, U.S. Fire Administration.

James O. Ingram, Special Agent-in-Charge, FBI.

Dr. Mark Iris, Senior Research Analyst, Dept. of Public Safety.

Ralph J. Jackson, Loss Prevention Manager, Allstate Insurance Company.

Gregory Jones, First Assistant U.S. Attorney.

Judge Richard H. Jorzak, Housing Court, Supervisor.

Jeffrey Kent, Chief, Special Prosecution Unit, Asst. State's Attorney.

John W. McCaffrey, Chief Asst. Corporation Counsel, Revenue Division.

Richard J. Mercurio, Asst. Director, Illinois Dept. of Law Enforcement.

Donald H. Mershon, President, Metropolitan Chicago Loss Bureau.

Commander Edward M. Nickels, Bomb and Arson Squad, Chicago Police Dept.

Terrance A. Norton, Better Government Association.

Philip R. O'Connor, Director, Illinois Dept. of Insurance.

Robert Piper, Special Investigator, Illinois Dept. of Insurance.

LeRoy Rehfeldt, State of Illinois, Fire Marshall's Office.

Martin Rogan, Deputy Director, Region 5 H.U.D.

Joan B. Safford, Asst. U.S. Attorney, Special Prosecution Unit.

Robert Scott, Special Agent-in-Charge, Bureau of ATF.

Julie Swano, Director, Mayor's Home Rehabilitation Office.

Robert Thrasher, "ONE" Housing Action Committee.

Daniel K. Webb, U.S. Attorney, Northern District of Illinois.

Daniel Welter, Chief Asst. Corp. Counsel, Bldg. Housing & Urban Conservation.

James Zagel, Director, Illinois Dept. of Law Enforcement.

BYELORUSSIAN INDEPENDENCE DAY

Mr. PERCY. Mr. President, March 25 marked the 64th anniversary of the declaration of independence of the Byelorussian Democratic Republic in Minsk in 1918. Soon thereafter, a provisional constitution guaranteeing free elections and basic human rights was adopted.

History records that Byelorussian independence was shortlived. Nine months later Byelorussia was forcibly incorporated into the Soviet Union, and a Soviet republic installed.

Recalling these events, our hearts go out to the courageous people of Byelorussia who have persisted in maintaining their identity and culture against heavy odds. We express our special concern for those Byelorussian human rights activists who languish in Soviet prisons.

We shall not forget them.

PEACE AMONG NATIONS

Mr. HUMPHREY. Mr. President, as springtime begins again the cycle of nature's renewal, in our Nnation there blossoms a yearning for a new season of peace among nations. This is not remarkable in America, for we have been a peace-loving nation from the beginning.

The ardent desire for peace and disarmament is widespread this springtime of 1982. Public attention has been caught by a number of disarmament proposals which have universal appeal. A chorus of voices is raised, calling for a freeze in nuclear weaponry. Support for such a halt in arms production is broad. And why not, for the cost in heightened world tensions which these weapons engender is very great indeed.

Let us remember, however, as we redouble our efforts to make the world safer, that the Soviet Union, a powerful, aggressive, and imperialistic nation, has a sorry record on the issue of peace. Indeed, the unelected Communist dictators of that oppressed country has compiled a record in international affairs which can only be described as outrageous and criminal. Let us remember, as our American idealism rushes forward and hopes leap, that peace and disarmament cannot be secured by slogans and demonstrations. And, most of all, let us remember that we seek both peace and freedom.

What is needed is a balanced and practical approach. We need constantly to seek to ease tensions with our adversary, while at the same time keeping up our guard against those who have shown only contempt for the weak. I believe President Reagan is providing such a balanced approach, and I commend him for it. The President seeks to restore a margin of

safety to our Nation's defenses, after years during which we neglected the balanced approach so essential to peace and freedom. The American people strongly support the President in these essential efforts.

Likewise, the President has sought to engage the Soviets in negotiations not only to freeze nuclear arsenals, but to actually reduce them. The President has entered into talks in Geneva to reduce the levels of nuclear arms in Europe and has made a bold and sweeping offer which I hope the Soviets will accept, ultimately. The President is committed to reducing the strategic arsenals in talks which apparently will begin in just a few months. The acronym START—the Strategic Arms Reduction Treaty—signifies the President's intent to go beyond past efforts at placing ceilings on weapons levels to the actual reduction in those levels.

What a wonderful day it will be for Americans and Russians, indeed all the people of the world, when such an agreement is reached. And, I believe it will be, ultimately. We must persevere, for the day must come when the Soviet leadership will see the folly of spending national treasure and the future of her people on destructive weapons. So we must keep trying, and I believe President Reagan has been faithful in this regard. I emphasize the point, because it seems to this Senator that implicit in some of the rhetoric heard today is the suggestion that the President has not been active in pursuing peace. To the contrary, President Reagan, has pursued the balanced approach which is precisely what we should expect of him.

A number of proposed resolutions have come forward in recent weeks which emphasize the importance of nuclear arms control. Some of these resolutions, if embraced, would have our Nation abandon the balanced approach to arms control. They would have us act unilaterally. They would have us forbear to modernize our arsenal, while trusting the Soviets to cease their massive arms buildup. We have tried this approach before, and it not only failed to work, but led to an imbalance which made the world more dangerous, not safer. Those who would freeze the status quo, would have us embrace Soviet superiority, for that is the present reality.

Mr. President, we must remember that what we all seek is the reduction of weaponry. Any initiatives which block the reduction of weaponry, then, work against our universal goal. I submit that any program which embraces the status quo, which permits the Soviets to possess a modern and superior arsenal, while thwarting our efforts to modernize ours, is a program that will block the effort to reduce armament. For, what incentive will there be for the Soviets to negotiate in good faith at the START talks if, beforehand, we pledge to forgo all our options? The Soviets will have achieved what they have striven for all these years. It would be highly unlikely that the START talks would then succeed, and our highest hopes would be dashed. No, Mr. President, freezing the status quo would harm our cause, not help it.

For the reason that we must provide an incentive to the Soviets to reduce weaponry, I have withheld my support from a number of Senate resolutions that would not permit a balanced approach to peace and freedom.

However, Mr. President, I and others who have been unable to support the Kennedy-Hatfield resolution, have urged an alternative. I take second place to no one in my enthusiasm for a balanced approach to peace and freedom. Therefore, while supporting the overdue strengthing of our defenses, I am pleased to support as an original cosponsor a Senate resolution calling upon the United States to propose to the Soviet Union a long-term, mutual, and verifiable freeze of nuclear forces at equal and sharply reduced levels.

Mr. President, Senate Joint Resolution 177 states to all the world that once again the United States is ready, eager, and willing to reduce tensions and armaments. There can be no doubt of it. Let us pass this Senate resolution forthwith. Likewise, let us get on with the imperative of restoring a margin of safety to our national defenses. Let us strike that necessary balance that will both guarantee our freedom and promote peace.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EQUAL ACCESS TO VOTING RIGHTS ACT

Mr. DURENBERGER. Mr. President, there is not a more important privilege in a democracy than the right to vote. The right to vote is our personal stake in what happens in this country; it is our voice in determining who will govern us.

Sadly, it seems that the right to vote is most precious to those who are denied the privilege. In many areas of our country fewer than half of those eligible to vote bother to show up at the polls. In other countries, where democracy is still more of a goal than a guarantee, it is not uncommon for citizens to risk their lives for the right to express their choice.

Even in our own country, it has been those who are denied the right to vote to whom that privilege has been most sacred. Over the more than two centuries of America, the persistence of the poor, women, racial minorities, young adults, and others has extended suffrage and strengthened our country by guaranteeing everyone the right to vote.

There is, however, a large group of people still unable to exercise the right to vote which we fought so hard to achieve. The barriers these individuals face are not legislatively imposed—they are the darkness of blindness, "the frustration of physical paralysis," and the frailty of age. The bill I am introducing today is designed to overcome these barriers and offer all qualified voters the freedom to exercise their right to vote.

It will overcome the disappointment of a citizen, confined to a wheelchair, who arrives at the polls on election day only to find that there is no way to enter. A simple flight of stairs may be the only barrier standing in the way, but it effectively means that his or her opinion will not be heard.

It will overcome the distress of an elderly woman who wakes on election day to find her arthritis so painful she cannot get out of bed. In many States, handicapped individuals must have a doctor's verification of disability before they can file an absentee ballot. Those suffering from sporadic illness can only hope for a flareup when they seek absentee status.

It will overcome the frustration of a blind voter who must rely on a total stranger at the polling place to cast his or her vote. In some cases, the voter must be accompanied by the designee of a political party who, though unquestionably honest, provides a psychological disincentive to split-ticket voting by his very presence. And many disabled voters would simply prefer to select the person who accompanies them into the voting booth. Unfortunately, this is a privilege not allowed in many States.

But, Mr. President, most importantly, the legislation I prepare today will overcome the fear of these obstacles. It is the fear of inaccessibility that keeps untold numbers of elderly and handicapped citizens away from the polls.

The Equal Access to Voting Rights Act removes barriers to voter participation. Its provisions are simple and inexpensive, yet offer a real chance for thousands of disabled, handicapped, and elderly voters to participate in the electoral process.

Today there is no legal requirement that Federal election polls be accessible to the handicapped. My act would require the Attorney General of the United States, in consultation with the Secretary of the Department of

Health and Human Services, to set minimum standards for registration and voting sites used in national elections to insure that physical barriers associated with these facilities do not prevent the elderly and the handicapped from voting. Wherever practical, polling and registration facilities will be located in buildings with either temporary or permanent ramp access. Where this is not possible, special procedures must be planned to insure handicapped access to the voting process.

Registration and voting facilities must also be accessible to the elderly. A voting booth up three flights of stairs with no elevator denies an older American the opportunity to vote. This legislation would insure that voting and registration sites are located on the ground floor of multistory buildings, or in an area of a multistory building accessible by elevator.

Other provisions of the bill include a requirement that voter information notices, already required by Federal law, be printed in large type to assist the visually impaired. My bill would also require that in Federal elections, absentee ballot provisions be available not only to those who are physically absent from the jurisdiction on the date of the vote, but also to those whose age or physical handicap would be likely to prevent their presence at a polling place.

In Minnesota, we already have a State statute which permits a blind voter to select a person to assist him or her in the voting booth. The act would give this opportunity to all disabled voters in a Federal election.

Access to the polls should not be contingent upon two strong legs, perfect vision and robust physical health. Every member of society loses when access to the electoral process is abridged.

Mr. President, I am proud to have the endorsements of this legislation from so many major organizations representing the disabled and senior citizens. In working on this bill with people from these groups, I have heard story after story about individuals being denied the right to vote by everyday barriers:

Polling booths in a church room accessible only by two flights of stairs;

Voting machines with levers too high to be reached from a wheelchair; and

Ballots and registration information printed in type too small to be read by the visually impaired.

These are just a few of the many examples I could share with you. To most of us, they may be nothing more than a minor inconvenience. To some Americans they are the difference between exercising a constitutional right and isolation from the democratic process.

We have fought and gained the legal right to suffrage constitutional amendment. Let us back up this voting right with the means to make it truly possible for every American to exercise his or her right to vote.

THE POSTAL SERVICE AND ELECTRONIC MAIL

Mr. STEVENS. Mr. President, for the past several months there has been increasing concern by public officials over the possibility of the U.S. Postal Service encroaching in the telecommunications field, an area in this country reserved for the private industry. This possible encroachment would take the form of the electronic transmission of computer-originated mail commonly known as electronic mail. The primary fear, as I understand it, is that regular letter mail will subsidize the operation of an electronic mail arm of the Postal Service allowing low rates, thus unfairly competing with private firms wishing to get into this field.

I believe these concerns are unfounded. It is my hope and expectation that the contrary would be true—that computer-originated or electronic mail would help defray overhead costs of the Postal Service to help keep regular postal rates down. In addition, this service will provide a supplemental mail service to all Americans. For those Americans who live in rural areas, electronic mail transmission is but a dim hope and one that may never come to fruition. All they have to rely on now for communicating and transporting parcels is the normal mail delivery system.

If we are to continue this viable universal postal system, it is absolutely essential that we find additional sources of revenue other than increasing postal rates or Federal subsidy. I am sure there are few who would disagree with me that current postal rates are already too high, despite the fact that Americans have the lowest postal rates of any nation in the free world. It is vitally important that electronically originated mail be available for use by the U.S. Postal Service. Without this additional income, the only alternative will be ever increasing postal rates, reduction in service, increased taxpayer subsidy, or all three.

Mr. President, a sensible alternative is to allow the Postal Service to proceed with their plans to implement specific electronic mail or computer-originated mail services. Many organizations have had the foresight to see the positive importance of this issue on the well-being of all Americans. One such group is the National Association of Postmasters of the United States. They have taken a stand in support of allowing the Postal Service to utilize modern technology to transport the mails. I ask unanimous consent to have printed in the RECORD the NAPUS position on this matter.

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

POSITION OF NATIONAL ASSOCIATION OF POSTMASTERS OF THE UNITED STATES REGARDING THE POSTAL SERVICE AND ELECTRONIC MAIL

The U.S. Postal Service is, and always will be, a valuable public service essential to the business and personal lives of the American people. It is imperative for the future of the Postal Service that its role in the electronic transmission of mail now be clearly established and, preferably, generally accepted by all segments of American life.

To this end we exhort the Congress of the United States, the business community, and the general public to become fully acquainted with current Postal Service policy concerning the use of electronic technology in its business, such policy being one which we firmly believe places the Postal Service in exactly the proper role.

It is apparent that absence of a knowledge of exactly what the Postal Service electronic mail policy is, and a mistrust of the Postal Service's intent, are contributing to a sincere but misguided opposition to a proper place for the Postal Service in electronic mail. In the hope of being a catalyst in this matter we publish this paper outlining our position on this vital subject.

The Postal Service is either now involved in or developing three distinct electronic mail programs and we support these efforts fully.

E-COM

This is a computer-originated bulk mail program very similar to the present successful Mailgram. E-COM service will allow business and government bulk mailers with in-house computer capability to make large volume mailings with two-day guaranteed service anywhere in the U.S. While the mail originates in a computer, the final product is an enveloped and addressed letter.

INTELPOST

This is a facsimile service whereby original letters are scanned, transmitted electronically, and reproduced as an exact copy of the original at international destinations for overnight delivery. Again, the final product is an enveloped and addressed letter.

ELECTRONIC MAIL SERVICE SYSTEM

This is a service (scheduled for a live test in 1985) in which the original letter can either be computer-originated or scanned from the original letter. The letter can then be transmitted electronically within the 50 states, reproduced as an exact copy, enveloped and addressed for next day delivery almost anywhere in the U.S. Obviously, this is a great improvement in the speed of currently-offered postal services. Estimates are that the postage on such an electronically transmitted letter could be significantly less than that for a current first-class letter due to the reduction in transportation and mail processing costs. This contributes to postage rate stability and will mean sizeable savings to businesses since approximately 80% of all letter mail is generated by businesses. Another salient point is that by starting with a test city network, the Postal Service has demonstrated its sensitivity to the need for actual operating experience and market testing prior to implementing a full electronic mail system.

It should again be stressed that an enveloped, addressed letter is the final product in all of the U.S. Postal Service electronic mail programs. The Postal Service is merely planning to utilize the new transmission (transportation) capability of electronics to speed the movement of mail and reduce conventional transportation and mail processing costs.

We support the following reasonable limitations on the Postal Service's entry into the electronic mail market.

1. The Postal Service should not take revenues generated by the conventional classes of mail (actually, the Postal Reform Act prohibits this anyway) and use them to buy its way into the electronic transmission of mail.

2. The Postal Service should not seek to apply the Private Express Statutes to electronic transmission systems. (The Postal Service has never even attempted to do this.)

3. The Postal Service should not own or operate any electronic mail transmission network. All necessary transmission and interconnection services should be purchased from common carriers.

4. The Postal Service should not engage in point-to-point, wholly-electronic transmission service. This service is available now from private sector carriers. We strongly support the position that government should do only those things which need to be done and aren't being done by the private sector, or need to be done and can be done more equitably or efficiently by government. We support the Postal Service position that if the delivery of an enveloped, addressed letter is involved, such delivery is U.S. Postal Service business alone, under the law.

In order to clearly and unequivocally frame guidelines for the Postal Service's use of electronics in its business of serving the American people and moving the mails, we urge the need for and will strongly support a joint effort by the U.S. Postal Service and the Congress to immediately set forth and widely publicize an agreed-upon role for the U.S. Postal Service in electronic mail. This should allay industry's fear of competition from a huge government agency, Congressional fear of excessive and costly ventures into electronics. It should also quiet a general apprehension that we feel is rooted only in a lack of a full understanding of the Postal Service electronic mail activities and policies.

Mr. STEVENS. Mr. President, it should be noted that the U.S. Postal Service inaugurated E-COM service on January 4, 1982, utilizing 25 strategically located serving post offices to insure service 24 hours a day, 7 days a week, and provide delivery within 2 days throughout the United States.

Five telecommunications carriers have signed dedicated access agreements to work in partnership with the U.S. Postal Service. They are: ITT World Communications, Inc.; Dialcom, Inc.; TRT Telecommunications; Network, Inc.; and Taipon Industries.

More than 100 business mailers have applied to use E-COM. Among those are: Shell Oil Co., Merrill Lynch, Union Oil of California, Temple University, Hallmark Cards, The Equitable Life Assurance Co. of New York, and the AFL-CIO.

NUCLEAR WASTE

Mr. INOUYE. Mr. President, it was with great interest and admiration that I recently read a statement by my distinguished colleague, Senator MATSUNAGA, on why the United States should oppose the dumping of nuclear wastes in the Pacific. He delivered his address on February 18, 1982, to the Pacific and Asian Affairs Council in Honolulu, Hawaii.

As all Members of this body know, Senator MATSUNAGA has long been an outspoken critic of nuclear dumping in the Pacific. His leadership in this area is exemplified by his latest speech, which is a major contribution to our hopes for tranquility in the region.

Mr. President, it is my hope that as many people as possible will be able to read Senator MATSUNAGA's profound and thoughtful statement. I therefore ask unanimous consent that the full text of his speech be printed in the RECORD.

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

[From the Honolulu Star-Bulletin, Mar. 23, 1982

NUCLEAR WASTE—WHY U.S. SHOULD OPPOSE NUCLEAR DUMPING IN THE PACIFIC

(By U.S. Senator Spark M. Matsunaga)

I could spend several hours citing facts and figures indicating that nuclear dumping in the seabed is unsafe. Then I could spend several more hours citing facts and figures indicating just the reverse, that nuclear dumping may even improve our health.

And finally, I could spend several more hours blending the pro facts and figures with the con facts and figures in order to come up with a measured statement that establishes me as a judiciously minded man of reason.

The only trouble is, my entire presentation would have been conducted within the bounds of what I would call ethnocentric logic; that is, a logic emerging from a set of values and interests originating within my culture and not necessarily shared by other cultures.

For instance, my tendency to juxtapose reason and emotion, and place a high value on the former and a low value on the latter in shaping policy, might be viewed elsewhere as a peculiar cultural trait, leading to what one Middle Eastern diplomat referred to as an "aggressive rationalism" in American policymaking.

That is why it is so important that we first try to step outside the context in which we perceive nuclear storage in the Pacific, so that we can see our arguments as the people we are trying to convince might see them.

Let me give it a try.

A generation ago, the United States set off the world's first hydrogen bomb on an island in an ocean enshrined in Western consciousness for the images it evokes of peace and tranquillity. After several more proud demonstrations of our heretofore undreamed of capacity for destruction, we departed, leaving behind an invisible, as yet undetermined lethal, radioactive environment and a traumatized community.

Now, once again, we are proposing to conduct nuclear experiments in our Pacific island possessions, even as various American agencies and citizens wrangle over the effects of the last experiments. Our newest contribution to island life would consist of storage sites for spent fuels from abroad, and perhaps for some of our own nuclear garbage.

It's all legal and in the interest of the nation and the world, of course. The vehicle is the Nuclear Non-Proliferation Act of 1978. The non-proliferation act is itself a product of the global proliferation of nuclear reactors.

In nuclear reactor proliferation, the United States, fortunately, leads the pack, for if we didn't, we might be out-distanced by nations less committed to international peace and tranquility.

To maintain the lead so self-evidently in the interest of the pacific principles we hold dear, the United States actively promotes reactor sales abroad and finances their construction with Export-Import Bank loans at the most favorable rates.

But the nuclear weapons industry feeds upon spent fuel produced by the nuclear reactor industry. So, in order to prevent an American-financed nuclear reactor weapons industry from mothering a global nuclear weapons industry, we have offered ourselves as a dumping ground for nuclear wastes generated by our foreign clients, under the Nuclear Non-Proliferation Act of 1978.

To Pacific islanders observing all that exquisite argumentation turning round and round upon itself, and now moving ominously in their direction a second time, the reasoning process guiding American nuclear policy—that process itself—seems lethal.

And considering where it has taken us in 40 years, who can blame them if they resist being drawn into it? Never mind the arguments. The idea itself of dumping our nuclear waste in territory of sacred value to Pacific island peoples is understandably offensive.

We may bend them to our will, employing the leverage of foreign aid, but all history argues that in that case we would be sowing the seeds of resentment that would one day grow to haunt us, as is in fact already beginning to occur.

Keeping in mind that opposition to nuclear testing and storage is the most strongly felt and deeply unifying issue in the Pacific, what should we do?

My suggestion can best be presented in terms of the point I want to make about nuclear waste storage and American security. In a recent address, Ambassador William Bodde sagaciously outlined the dangers the growing "nuclear-free Pacific" movement posed for American policy—one which would bar the ocean transport of nuclear weapons, thus upsetting our entire system of nuclear deterrence.

Let me at that point interject my own value system. I may not be happy with our global nuclear buildup contest with the Soviets, but I do not favor unilateral disarmament either. The trouble is, I do not for a moment believe that we can convince Pacific islanders to recognize to the same degree as we do the importance of the Soviet threat because that problem does not have anywhere near the same immediacy for them as it does for us.

Moreover, the "nuclear-free Pacific" movement is a direct outgrowth of the movement against testing and dumping. I would even argue that had we shown more empathy in regard to the nature of the opposition to nuclear dumping, we would not be faced with a mushrooming "nuclear-free Pacific" movement today.

And therein lies the key to reversing the tide of resentment. In the interest of developing social and economic ties with the Pacific island community, and in the interest of American national Security, I propose that the United States take the following steps:

1—In plain English, make known our opposition to any nuclear testing in the Pacific Basin that risks permanent damage to the immediate environment or to the underwater food chain extending across the length and breadth of the Pacific Ocean.

I am referring, of course, to French nuclear testing that has virtually destroyed one Pacific atoll and that now threatens to do the same to another while leaking radioactive materials into the seabed.

I realize the French will be offended, just as we have been offended by many of their policies in the Third World, such as the transfer of military equipment to Nicaragua. But I also think that our relations with the French will survive an American position against Pacific testing, as they have survived far more serious differences. The French are professionals in such matters. They understand our interests in the area.

So long as we do not invoke sanctions, and I am not advocating sanctions, they can be expected to live with our position, which, if nothing else, will encourage stricter safeguards that are in everyone's interest. And you can be sure that such a position by the United States would be received with unanimous acclaim throughout the Pacific.

2—In plain English, the United States should make known its opposition to the construction of interim nuclear waste storage facilities on remote Pacific islands or atolls. If we cannot guarantee the security of disposal sites on the American continent, how can we possibly guarantee them on tiny, comparatively fragile Pacific islands, especially for high-level wastes such as spent fuel?

Since we obviously cannot guarantee security, should we, then, rekindle nightmares that we ourselves had induced?

In that context, it is worth pointing out that as the senior user of nuclear power, we are only just beginning to discover how complex and uncertain are the safety measures surrounding its production and containment.

Shortly after the Three Mile Island incident, a Nuclear Regulatory Commission safety expert said, and I quote, "We saw failure modes the likes of which have never been analyzed." And we are only just beginning to analyze them.

As recently as a few weeks ago, a full one-third of the 72 nuclear reactors operating in the United States were shut down, for safety reasons. That was not the result of demonstrations by so-called emotionalists. It was the result of cold-blooded findings by nuclear engineers and scientists.

Why, then, stir up a hornet's nest in the Pacific at this point? In my view, we should not even talk about new interim storage sites in the Pacific until we develop standards for permanent disposal that we ourselves find acceptable.

3—In plain English, we should make known our opposition to deep sea nuclear storage, as a matter of principle at this point in time. That does not mean that we should not study the problem on a contingency basis. But we should do it on our own, for our own background purposes.

We should not, at this point, when feelings of resentment are growing stronger day by day, aggressively seek to involve Pacific islanders in a decision-making process whose very nature they find offensive and whose outcome they view to be foreordained. They do not want more of our reasoning on this issue. They want more of our understanding.

Still, I can appreciate how some individuals might find a policy based on empathy "unrealistic," considering the present state of world affairs. For them, let me close by donning my aggressively rationalistic hat and making these points.

Does anyone seriously believe that the United States and Japan will actually go ahead and build a nuclear storage site on Palmyra? And begin shipping nuclear garbage into the area? Can you imagine the reaction? Can you imagine what such a move would do for the "nuclear-free Pacific" movement?

Is that in the best interests of U.S. policy? If we want to halt the movement that Ambassador Bodde correctly describes as the most serious threat to American interests in the Pacific, we need to address its roots, which are in the unanimous Pacific island-wide opposition to nuclear dumping or storage on islands or in the seabed.

As for the argument that we if don't build an island storage facility, nations such as Japan will be tempted to do their own reprocessing, thus acquiring a nuclear weapons capability, let me add this: Does anyone seriously believe that, with or without a dumping site on Palmyra, Japan or any other nation will not develop a nuclear weapons capability if it has the wherewithal and decides it wants one?

The key to that problem is not waste storage sites. It is nuclear power plants, the development of a nuclear technocratic elite and its association with overheated nationalistic ambitions. But that would be the subject for another speech.

From every point of view, in the exercise of reason, empathy and plain common sense, it seems to me that the United States should cease being associated with an unclear and least popular position in the Pacific, and instead adopt a firm, but most popular policy, for a change.

In the process we would serve the American national interest, the interests of Pacific island peoples, and, I believe, the deepest aspirations of all concerned individuals.

SENATOR CLAIBORNE PELL'S TESTIMONY ON THE STATE OF THE INTERNATIONAL ENVIRONMENT 10 YEARS AFTER STOCKHOLM

Mr. CRANSTON. Mr. President, nearly 10 years ago the United Nations held a landmark conference in Stockholm on the human environment. One of the participants at that conference representing the United States was our colleague and ranking minority member on the Foreign Relations Committee, Senator CLAIBORNE PELL.

Recently, in an eloquent and thoughtful commentary, Senator PELL testified before the House Subcommittee on Human Rights and International Organizations on the state of the international environment on the 10th anniversary of Stockholm.

Senator PELL's statement points to the very great achievements that have been made since Stockholm and offers some very sensible suggestions for further steps to protect our global environment. Senator PELL rightly stresses the central role of the United States in the successes of Stockholm and the necessity of strong U.S. leadership to solve, with the other countries of the world, our very serious environmental problems.

Few, if any, of our colleagues are as qualified to speak on this subject as Senator PELL. He has been a chairman of the Subcommittee on Arms Control, Oceans, International Organizations, and Environment, and he is the author of numerous important initiatives in the international environmental area including the Environmental Warfare Treaty, amendments to the foreign aid legislation upgrading the priority accorded environmental projects, and the legislation supporting the creation of a United Nations environmental program and authorizing a U.S. contribution to it.

I commend Senator PELL's statement to the Senate and ask unanimous consent that it be printed in the RECORD.

STATEMENT OF SENATOR CLAIBORNE PELL

Mr. Chairman, at the outset, I would like to commend you and the Subcommittee on holding these very important hearings on the state of the international environment ten years after Stockholm. More than any other set of foreign policy issues—except, of course, for the ultimate environmental disaster of nuclear war—the future of this fragile planet depends on how we treat it today. Regrettably, this subject does not receive the priority it deserves from policy makers and media preoccupied with the crisis of the hour. Your hearings, therefore, rightly focus attention on the long term nature of this important problem.

Nearly ten years ago I reported to the Senate on the just-concluded United Nations Conference on the Human Environment, at which I had been a participant. At that time I said:

"The end of this Conference marks the beginning of a new era in the history of international relations. It is the first small step in a global cooperative effort designed to preserve and improve our planet's environment."

I believe the Stockholm Conference has been the kind of turning point we all hoped it would be. One test of its success is the action that was taken on its recommendations. While I do not intend to review all 109 such recommendations, I think there has been remarkable follow through on the most important ones. These include:

(1) The establishment of a permanent organization to coordinate environmental programs within the United Nations.—Shortly after Stockholm, the 27th General Assembly adopted Resolution 2997 and created the United Nations Environmental Program (UNEP) with its headquarters in Nairobi. In its brief existence, this agency has developed a remarkable record as a catalyst for international cooperation in the environmental arena.

(2) The establishment of a United Nations Environmental Fund.—This fund, which consists entirely of voluntary contributions, has approached $125 million in the period 1978-81.

(3) A convention to control ocean dumping.—This convention, the "Convention on the Prevention of Marine Pollution by Dumping Wastes and Other Matter", was completed by December 1972 and came into force August 30, 1975. The Convention obligates parties to enact legislation and regulations controlling the quantity and toxicity of pollutants dumped into the oceans.

(4) A ten year moratorium on commercial whaling.—Although the International Whaling Commission (IWC) has not approved a moratorium, the Commission has sharply reduced whale quotas so that, in 1980-81, the overall whale kill was just a bit more than one-third of the 1974-75 figures. Even more dramatic reductions have been made in the quotas of the more threatened species, notably the Sperm and Sei whales, and I am hopeful a moratorium will eventually be adopted.

(5) The establishment of an "Earthwatch" program for monitoring pollution levels.—The "Global Environmental Monitoring System" (GEMS) was set up pursuant to this recommendation and is generally considered one of UNEP's most successful programs. Information is exchanged through Infoterra, the computer-based network of national environmental systems which provides the 112 participating countries with access to 8,500 information sources. In 1975, the International Register of Potentially Toxic Chemicals (IRPTC), became operational. This facilitates efforts to avoid serious unintended consequences of chemical use.

(6) Conventions to protect wildlife.—These include: (1) the highly successful Washington Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), now with 75 contracting parties, and which has provided significant protection to endangered species by reducing drastically the demand for them; (2) the "Convention on the Protection of World Cultural and Natural Heritage" which is acceded to by more than 50 nations; the Bonn Convention on the Conservation of Migratory Species; and regional conventions on the Conservation of Polar Bears, the Conservation of Nature in the South Pacific, and for Amazonean Cooperation.

As important as these concrete achievements are, the Stockholm Conference had an even more profound result. For the first time, the nations of the world recognized that pollution and environmental degradation have global consequences and, for the first time, the world community committed itself to deal with the problem globally. It is that recognition and that commitment that has made possible the kind of results—almost unprecedented for a U.N. conference—that have followed from Stockholm. It is also this recognition and commitment that has made the United Nations Environmental Program an extremely effective catalyst for environmental action and is, of course, the reason I have consistently advocated a high level of U.S. support for UNEP.

I want to stress that so much of the international environmental movement, and the measures I cited a minute ago, were the results of United States initiatives. Ten years ago, following the Stockholm Conference, President Nixon issued a statement which is justifiably boastful in tone. "The United States" he said "achieved practically all of its objectives at Stockholm." He went on to describe the establishment of UNEP as "an important step which had our full support", the approval of the $100 million U.N. environmental fund as something "which I personally proposed last February." President Nixon also expressed pride in the approval of "the U.S. proposal for a moratorium on commercial whaling", in the endorsement of "our proposal" on ocean dumping, and in the support given the "U.S. proposal for the establishment of the World Heritage Trust."

Ten years later, how sad it is to note today that this Administration, in its fiscal year 1983 budget, proposes to cut our contribution to UNEP by 70% of the fiscal year 1981 level.

I believe we must, as a matter of the highest priority, restore U.S. leadership in the international environmental area and reaffirm our commitment to the multilateral approach to resolving these serious global problems. I would like to suggest some specific steps that can be taken to strengthen our resolve in these matters. The range of problems is, of course, immense, and my own proposals are by no means exhaustive.

First, I would urge a consistent and high level of U.S. support for the United Nations Environmental Program. Last year, I proposed earmarking $10,000,000 for the U.S. contribution to UNEP, a level which your committee has also supported. I believe UNEP has played a critical role as a catalyst for reaching international agreement on environmental measures, as a monitor of global environmental developments, and as a source of information on environmental questions. Two UNEP initiatives are of particular interest to me—the Regional Seas Program and the effort to develop a system of environmental law.

One important achievement of UNEP—perhaps the most important—is often overlooked. This is the success UNEP has had in persuading Third World countries that environmental degradation is very much a Third World concern and not merely a problem for high consumption societies. Credit for this consciousness-raising is particularly due to UNEP Director Mustafa Tolba.

Second, I would urge a strong U.S. commitment to the UNEP Regional Seas Program including U.S. participation and financial commitment to the Caribbean and South Pacific Action Plans.

The Mediterranean Action Plan—with the participation of all the littoral states except Albania—is a model of how necessary and how productive regional cooperation can be in protecting ocean environments and the watersheds. It is, in my view, a strange ordering of priorities that this Administration should propose hundreds of millions of dollars for the Caribbean Basin Initiative and for regional military assistance and yet has so far failed to come up with a mere $500,000 contribution to the Caribbean Trust Fund.

The U.S. failure to contribute to the Caribbean Action Plan is, even in security terms, penny wise and pound foolish. Deforestation, destruction of watersheds, and a worsening of water quality—all problems to be addressed by the Action Plan—are very much part of the cause for the deteriorating economic base of the Caribbean.

I also find it unfortunate that, at the recent meeting in Rarotonga, Cook Islands on the South Pacific Action Plan, twenty states were represented including France, Australia, Great Britain and New Zealand—but not the United States.

Third, I would urge the Administration to proceed to negotiate a treaty requiring the preparation of an International Environmental Assessment for any major project, action, or continuing activity which may adversely affect the physical environment or environmental interests of another nation or the global commons.

This treaty proposal, in which I have a certain pride of authorship, has been unanimously endorsed by the U.S. Senate (S. Res. 49; 1978).

Such a treaty would take cognizance of the consequences of large scale economic projects—for example, dams, canals, nuclear reactors, the clearing of tropical forests—which may have an impact, even if unintended, beyond a country's borders. With this treaty, the potentially aggrieved party would at least have an opportunity to make its views known before the damage was done.

UNEP, through its work in developing a system of international environmental law, is making progress towards such a treaty and should be strongly supported in this endeavor.

Finally, we must move to conclude and approve a Law of the Sea Treaty containing strong marine environment protections. Many of you may be aware of the important provisions of the current draft treaty—provisions which for the first time would codify international environmental laws agreed to by the conference, as well as establish a framework for further elaboration of international environmental law.

To summarize briefly, the treaty contains provisions which establish general obligations for nations to cooperate in avoiding pollution, to monitor the state of the marine environment, to assess possible adverse effects of planned activities, and to promote technical assistance to developing countries in order to improve their capacity to cope with pollution associated with industrial development.

As I have done in S. Con. Res. 74, I would urge the Reagan Administration to conclude the LOS negotiations at the earliest possible moment, for failure to reach agreement on other provisions of the treaty—notably the deep seabed mining provisions—could mean that the marine pollution control provisions will be lost as well.

Mr. Chairman, as I saw the pictures of earth taken from the Space Shuttle I was reminded of Ambassador Stevenson's final speech at the U.N. Inspired by similar photographs from an earlier American space flight he said:

"We travel together, passengers on a little space ship, dependent on its vulnerable reserves of air and soil, all committed for our safety to its security and peace; preserved from annihilation only by the care, the work, and I will say, the love we give our fragile craft."

Only by working together can we, the passengers on this planet, protect its fragile environment.

COMMUNITY SERVICE EMPLOYMENT FOR THE ELDERLY

Mr. PELL. Mr. President, community service employment under the Older Americans Act, known as title V, has meant dignity, meaning, a modest increase in income, and appreciation by their communities for hundreds of Rhode Island senior citizens, and for thousands of other older Americans throughout the country. Approximately 300 Rhode Islanders 55 and over are currently able to work in part-time jobs because of this valuable program.

Under the administration's proposed budget for fiscal year 1983, all 300 of those Rhode Islanders will lose their employment. Despite the 3-year reauthorization of the program recently passed by Congress and signed by the President, the administration plans to eliminate funding for title V in the coming fiscal year.

Since the administration announced its proposed budget for the next fiscal year, hundreds of Rhode Islanders have written to tell me of their support for this program. Senior citizens who have been employed through the program, their friends and relatives, and the community agencies that have benefited from their services have all written. They have told me that this is a program which has provided invaluable skills and experience to public agencies, and has provided invaluable commitment, meaning, and supplemental income to our senior citizens.

The agencies which have benefited from seniors' assistance under title V perform a wide variety of services in Rhode Island. The Providence Police Department, the Providence Public Library, the Rhode Island Division of Personnel, the Rhode Island Department of State Library Services, and the Providence Housing Authority have each written to me to tell me how valuable their senior citizen aides have been. Senior citizen centers, community centers, children's homes, and nursing homes have also expressed their concern about the termination of funding which the administration proposes.

> Our seniors have brought a wealth of knowledge and experience to this agency which we could not afford through regular budgetary means.

is the comment of one agency head, and his comment is typical of others.

> These employees have filled strategic positions in the operations of this department * * *. Over the years, these workers have been diligent in their performance of duty and have provided services which are vital to the operation of this department.

is another voice of support.

The letters of senior aides who are employed by this program are particularly compelling. One woman, Willa May Waldon of Woonsocket, R.I., is 69 years old and works as an assistant cook in a Head Start and day care program. She writes:

> Before I went to work there I was feeling nervous, depressed, and very lonesome. I do not want to go back to that way of life. I also worried how I could pay my bills and buy food. My job gives me the added income so I no longer have to worry each day how I will live. I can now pay my rent and bills and still have enough money to take the bus and buy food. Please do not cut this program, it is very special to me. I feel like a new person since I've taken this job.

Ms. Waldon's statement is eloquent, but the thoughts that she expresses are common to almost all of the letters that I have receieved from senior citizens on this proposed change.

Mr. President, community service employment for older Americans was first funded in 1965. In the 1981-82 program year, there are 54,216 positions funded at $277.1 million. Throughout the history of the program, it has received nothing but praise and gratitude. It is a program worthy of the strongest support. Congress and the President have given that support by authorizing title V for another 3 years. The administration's proposal to cease funding title V, only months after the new authorization has been signed into law, makes a mockery of that commitment. It is a mockery especially in view of our high rate of unemployment, which means seniors will have more difficulty than ever in finding employment, and in view of other services for seniors which the administration has reduced or eliminated.

I call on my colleagues to join with me in opposing any attempt to reduce funding for the valuable title V program.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS UNTIL 2 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until 2 p.m. today, under the same terms and conditions as previously ordered.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

LOW-INCOME ENERGY ASSISTANCE

Mr. DOLE. Mr. President, several of my colleagues have inquired as to the resolution of the uncertainty surrounding jurisdiction over the low-income energy assistance program. When the various programs were created, it was unclear whether jurisdiction would lie with the Committee on Labor and Human Resources or whether the programs, as social security programs, would fall within the jurisdiction of the Finance Committee. This uncertainty continued until this year. In the reconciliation process, an agreement to maintain permanent joint jurisdiction over the program was agreed to between the distinguished Senator from Utah, chairman of the Labor Committee, and this Senator. Thus, bills relating to the low-income energy assistance program will be referred by unanimous consent jointly to both the Labor and Finance Committees.

Mr. HATCH. I am pleased to join my distinguished colleague from Kansas in reporting the resolution of the uncertainty surrounding this program. It will enable us to bring to this important program the combined legislative talents of both of our committees. I look forward very much to working with the Senator from Kansas and his committee on legislation relating to this program.

Mr. BAKER. I applaud the efforts by Senators DOLE and HATCH to resolve the uncertainties surrounding jurisdiction over the low-income energy assistance program. This resolution will add to the speedy and efficient working of the Senate and I thank them for letting all of us know of the judicious resolution of this issue.

MESSAGES FROM THE HOUSE

At 1:59 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 67. Joint resolution to establish National Nurse-Midwifery Week; and

S.J. Res. 102. Joint resolution to authorize and request the President to designate the month of April 1982 as "Parliamentary Emphasis Week."

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 435. Joint resolution providing for the designation of April 12, 1982, as "American Salute to Cabanataun Prisoner of War Memorial Day."

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 78. Concurrent resolution providing for an adjournment in April of the House and Senate for more than three days.

ENROLLED JOINT RESOLUTIONS SIGNED

At 2:40 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

H.J. Res. 410. Joint resolution to designate April 19, 1982, as "Dutch-American Friendship Day"; and

H.J. Res. 447. Joint resolution to authorize and request the President to issue a proclamation designating April 4, 1982, as the "National Day of Reflection."

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

At 3:10 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the following bills, without amendment:

S. 1937. An act to extend the expiration date of section 252 of the Energy Policy and Conservation Act; and

S. 2333. An act to amend section 209 of title 18, United States Code, to permit an officer or employee of the U.S. Government, injured during an assassination attempt, to receive contributions from charitable organizations.

ENROLLED BILL SIGNED

At 3:36 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bill:

S. 1937. An act to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILL PRESENTED

The Secretary reported that on today, April 1, 1982, he had presented to the President of the United States the following enrolled bill:

S. 1937. An act to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, with amendments:

S. Con. Res. 68. A concurrent resolution regarding membership in the United Nations General Assembly (Rept. No. 97-328).

By Mr. PERCY, from the Committee on Foreign Relations, without amendments:

S. Con. Res. 69. Concurrent resolution urging the Soviet Union to allow Ida Nudel to emigrate to Israel, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

J. J. Simmons III, of Oklahoma, to be a Member of the Interstate Commerce Commission for the remainder of the term expiring December 31, 1985.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominees commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. EXON:

S. 2328. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officals; to the Committee on Governmental Affairs.

By Mr. MATTINGLY:

S. 2329. A bill to establish an Efficiency Advisory Roundtable to assist the Advisory Commission on Intergovernmental Relations in its activities concerning the New Federalism; to the Committee on Governmental Affairs.

By Mr. SCHMITT (for himself, Mr. D'AMATO, Mr. STEVENS, Mrs. HAWKINS, Mr. MATTINGLY, and Mr. GRASSLEY):

S. 2330. A bill to provide for the minting of the American Eagle gold coin pursuant to article I, section 8 of the Constitution of the United States; to the Committee on Finance.

By Mr. SPECTER:

S. 2331. A bill to direct the Secretary of Agriculture to conduct a study of and establish a program to control and eradicate gypsy moth infestation; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McCLURE:

S. 2332. A bill to extend the expiration date of section 252 of the Energy Policy and Conservation Act; to the Committee on Energy and Natural Resources.

By Mr. ROTH:

S. 2333. A bill to amend section 209 of title 18, United States Code, to permit an officer or employee of the U.S. Government, injured during an assassination attempt, to receive contributions from charitable organizations; considered and passed.

By Mr. DURENBERGER:

S. 2334. A bill to provide that registration and polling places for Federal elections be accessible to handicapped and elderly individuals, and for other purposes; to the Committee on Rules and Administration.

By Mr. WEICKER (for himself, Mr. D'AMATO, Mr. STEVENS, Mr. MOYNIHAN, Mr. DIXON, Mr. DODD, Mr. HUDDLESTON, Mr. KASTEN, Mr. KENNEDY, Mr. LEVIN, Mr. MURKOWSKI, Mr. RANDOLPH, Mr. STAFFORD, Mr. WARNER, and Mr. ZORINSKY):

S. 2335. A bill to amend the Internal Revenue Code of 1954 to provide that any small issue which is part of a multiple lot shall meet the requirements of the small issue exemption; to the Committee on Finance.

By Mr. GORTON (for himself, Mr. PACKWOOD, Mr. STEVENS, and Mr. KASTEN):

S. 2336. A bill to authorize appropriations for fiscal year 1983 for certain maritime programs of the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND:

S. 2337. A bill to amend title 10, United States Code, to establish a program to provide vocational training assistance to persons in technical programs leading to associate and community college degrees in return for a commitment for enlisted service in the Armed Forces; to the Committee on Armed Services.

By Mr. PERCY (for himself, Mr. ROTH, Mr. SASSER, Mr. JACKSON, Mr. LEVIN, Mr. ARMSTRONG, and Mr. NUNN):

S. 2338. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials; to the Committee on Governmental Affairs.

By Mr. MATHIAS (by request):

S. 2339. A bill to amend the District of Columbia Stadium Act of 1957 to provide for the transfer of such stadium and the associated land to the District of Columbia Government; to the Committee on Governmental Affairs.

S. 2340. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the provisions establishing the National Capital Service Act; to the Committee on Governmental Affairs.

S. 2341. A bill to authorize the setoff of annuity payments and refunds payable from the Civil Service Retirement and Disability Fund to former employees of the government of the District of Columbia in order to liquidate debts owed to the government of the District of Columbia; to the Committee on Governmental Affairs.

S. 2342. A bill to amend title 11 of the District of Columbia Code to require the Council of the District of Columbia to establish the fees for jurors serving in the Superior Court of the District of Columbia; to the Committee on Governmental Affairs.

S. 2343. A bill to convey the District of Columbia Employment Security Building to the District of Columbia and to provide for the payment of a note entered into to finance the construction of such building; to the Committee on Governmental Affairs.

By Mr. BAKER (for Mr. LUGAR (for himself and Mr. CRANSTON)):

S. 2344. A bill to amend section 235 of the National Housing Act; considered and passed.

By Mr. BENTSEN (for himself, Mr. WALLOP, Mr. RIEGLE, Mr. JACKSON, Mr. CRANSTON, Mr. DODD, Mr. DIXON, Mr. STENNIS, Mr. SARBANES, Mr. ROBERT C. BYRD, Mr. TSONGAS, and Mr. LEVIN):

S. 2345. A bill to amend the Internal Revenue Code of 1954 to permit foreign pension plans to invest in the United States on a nontaxable basis for residential housing financing and investment purposes; to the Committee on Finance.

By Mr. RIEGLE (for himself, Mr. JACKSON, Mr. BAUCUS, Mr. ROBERT C. BYRD, Mr. CRANSTON, Mr. DIXON, Mr. DODD, Mr. FORD, Mr. LEAHY, Mr. LEVIN, Mr. MELCHER, Mr. RANDOLPH, and Mr. TSONGAS):

S. 2346. A bill to amend the National Housing Act to provide additional authorization for the Government National Mortgage Association tandem program and to express congressional opposition to certain rescissions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROBERT C. BYRD:

S. 2347. A bill to amend the Trade Act of 1974 to insure fair trade opportunities, and for other purposes; to the Committee on Finance.

By Mr. HELMS (for himself, Mr. COCHRAN, Mr. PRYOR, and Mr. ANDREWS):

S. 2348. A bill to amend the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act to authorize the Secretary of Agriculture to determine the degree of inspec-

tion to be conducted in meat, poultry and egg products processing plants, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATCH:

S. 2349. A bill to authorize appropriations for the National Science Foundation for fiscal year 1983; to the Committee on Labor and Human Resources.

By Mr. DOLE (for himself and Mr. LONG):

S. 2350. A bill to revise subchapter S of the Internal Revenue Code of 1954 (relating to small business corporations); to the Committee on Finance.

By Mr. HELMS (by request):

S. 2351. A bill to authorize the Secretary of Agriculture to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be used for such carriage (ATP), and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HELMS:

S. 2352. A bill to amend the Food Stamp Act of 1977, to improve the administration of the food stamp program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BENTSEN (for himself, Mr. CHAFEE, Mr. BOREN, Mr. DURENBERGER, Mr. BAUCUS, Mr. BRADLEY, Mr. MOYNIHAN, Mr. MITCHELL, Mr. SYMMS, Mr. WALLOP, and Mr. MATSUNAGA):

S. 2353. A bill entitled "The Life Insurance Taxation Act of 1982"; to the Committee on Finance.

By Mr. CANNON:

S. 2354. A bill to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers; to the Committee on Commerce, Science, and Transportation.

By Mr. CANNON (for himself, Mr. GOLDWATER and Mr. RIEGLE):

S. 2355. A bill to amend the Communications Act of 1934 to provide that persons with impaired hearing are insured reasonable access to telephone service; to the Committee on Commerce, Science, and Transportation.

By Mr. HART (for himself, Mr. HEINZ and Mr. CRANSTON):

S. 2356. A bill to authorize negotiations directed towards opening foreign markets to U.S. exports of high technology products, and for other purposes; to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. BAUCUS, Mr. BOREN, Mr. BOSCHWITZ, Mr. BURDICK, Mr. CANNON, Mr. COHEN, Mr. DECONCINI, Mr. DOMENICI, Mr. DURENBERGER, Mr. GARN, Mr. GOLDWATER, Mr. GORTON, Mr. HATFIELD, Mr. HAYAKAWA, Mr. LAXALT, Mr. LEVIN, Mr. MATSUNAGA, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. PROXMIRE, Mr. RIEGLE, Mr. STEVENS, Mr. SYMMS, and Mr. WALLOP):

S.J. Res. 184. A joint resolution to designate January 28, 1983 as "Native American Day"; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. HUDDLESTON, Mr. JEPSEN and Mr. BOREN):

S.J. Res. 185. A joint resolution to establish a national policy on exports of U.S. produced food and food products; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOLE (for himself, Mr. ANDREWS, Mr. BAUCUS, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. COHEN, Mr. DIXON, Mr. GORTON, Mr. Grassley, Mr. HATCH, Mr. JEPSEN, Mr. LAXALT, Mr. LUGAR, Mr. MATSUNAGA, Mr. MITCHELL, Mr. NICKLES, Mr. PERCY, Mr. QUAYLE, Mr. RANDOLPH, Mr. SARBANES, Mr. STAFFORD, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP and Mr. WEICKER):

S.J. Res. 186. A joint resolution to authorize and direct the President to designate the week of September 19 through 25, 1982, as "National Cystic Fibrosis Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAKER (for himself, Mr. ROBERT C. BYRD and Mr. HATFIELD):

S. Res. 358. A resolution commending Martin Berson Gold; considered and agreed to.

By Mr. LEAHY (for himself and Mr. HUDDLESTON):

S. Res. 359. A resolution relating to environmental law enforcement; to the Committee on Environment and Public Works.

By Mr. MATHIAS (for himself, Mr. KENNEDY, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. TSONGAS, Mr. DURENBERGER, Mr. MATSUNAGA, Mr. GLENN, Mr. LEVIN, Mr. BRADLEY, Mr. LEAHY, Mr. STAFFORD, Mr. RIEGLE and Mr. PROXMIRE):

S. Con. Res. 79. A concurrent resolution recognizing the month of April as "Fair Housing Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EXON:

S. 2328. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board members; to the Committee on Governmental Affairs.

MEMBERSHIP OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. EXON. Mr. President, I am introducing legislation today which adds three elected school board officials to the membership of the Advisory Commission on Intergovernmental Relations, ACIR. ACIR is a bipartisan Federal panel created by Congress in 1959. Its historic task has been to promote communication between local, State and Federal governments while seeking solutions to the conflicts that can occur between these different levels.

This bill would increase ACIR's membership from 26 to 29. The three new elected school board representatives would be selected by the President from a list of six submitted by the National School Boards Association. No more than two could be of the same political party affiliation and each would hail from a different State. The three new members would join the mayors, county leaders and State legislators already serving on ACIR with Congressmen and private citizens.

Our Nation's school districts spend about 36 percent of all the money spent on local government purposes. Our schools employ some 44 percent of all the people working at the local government level. School boards, composed in the main of unpaid citizens with a strong sense of civic duty, are the best example we have of government at the "grassroots." At the same time, though, school districts must cope daily with a vast complex of State and Federal education policies and standards. Elected school board officials, I believe, deserve the opportunity to be represented on ACIR.

This infusion of new blood which I am proposing for ACIR could not come at a more appropriate time. ACIR will soon be asked to play an important and even more visible role as President Reagan proceeds with his concept of the New Federalism.

A number of the turnback programs included in the New Federalism are related to education and will at some point deeply involve the Nation's school districts. School board members would help the ACIR develop answers to some of the major questions posed by New Federalism.

ACIR must not be an exclusive commission which narrowly defines the meaning of government but a broad-based group which can truly explore all the ramifications of New Federalism. School board officials could do much to improve and expand the communications network ACIR has spent 23 years building between and among our many levels of government.

By Mr. MATTINGLY:

S. 2329. A bill to establish an Efficiency Advisory Roundtable to assist the Advisory Commission on Intergovernmental Relations in its activities concerning the New Federalism; to the Committee on Governmental Affairs.

EFFICIENCY ADVISORY ROUNDTABLE

Mr. MATTINGLY. Mr. President, I rise today to introduce legislation to create a bipartisan Efficiency Advisory Roundtable or (EAR) legislation to the Advisory Commission on Intergovernmental Relations. For 2 years only, the ACIR would have the benefit of the 20 people of this roundtable to work with them on any discussions and considerations they might have regarding the New Federalism.

The ACIR has had many such advisory panels in the past. I feel that the extreme importance of the entire issue of a reconsideration of the Federal role in government deserves the attention of not only our best State and local officials, but also other individuals who have worked with the types of programs that are being considered. Congress must and has demanded to have a full hearing on this issue.

The ACIR is composed of many good people who already have an extensive knowledge of State, local and Federal governmental responsibility. The purpose of this panel is to aid ACIR in whatever sort of discussion it may choose to undertake regarding the New Federalism.

This bill will offer aid to those good people at the ACIR who have helped us out so much already. As they turn to a further consideration of the New Federalism, sparked by the President's proposal and speeded along by Senator DURENBERGER'S good work, I merely want to insure that they have direct input from people who are quite familiar with many of the options they may consider.

I envision this panel to be a bipartisan mixture of people such as school board members, representatives of health projects and others who have dealt with programs that will be transferred from the Federal level to State and local levels.

The discussion of the Federal versus that State role in government is certainly not new: Our Founding Fathers spent a great deal of their time debating just this issue. I think it is only proper that Congress turn to this subject with renewed interest every so often as the complexion and composition of this great Nation changes, so as to insure that every man, woman, and child is adequately represented in our land. Democracy is a muscle that must be exercised.

Mr. President, I certainly have come to no decision regarding most of the various New Federalism proposals that are being discussed today. I feel that I have not yet had the sort of advice and information that is necessary for me to make the best possible decision on this topic. I look forward to the work that the ACIR may choose to do in this area, in addition to the already fine job that they have done in gathering and analyzing this issue. With the addition of the monitoring panel, Congress will have the sort of clear, apolitical advice that is so necessary to insure that the public good is performed.

One question that I am asked by my dollar-conscious colleagues about this bill is the amount of money that it will cost. I feel that the amount is truly minimal. The members of the panel will be volunteers. They will be serving their country, and asking for nothing more than travel expenses to and from the meetings. My legislation calls for 10 regional hearings to be held. I have hoped that this panel will be able to hold hearings in each of the 10 regions about the effects of any such "realinement" of Federal responsibilities and solicit output. I understand that the various House and Senate committees with jurisdiction in this area may hold hearings on their own, and thereby eliminate the need for hearings throughout the country. In any event, I feel that it is important that we stipulate that there be hearings held throughout the country to insure that Congress receives the sort of unbiased information we desperately need in this area.

I hope my colleagues will join me in supporting this bill. Only through direct input by people with experience can Congress hope to be fully informed and create a real and equitable "New Federalism" proposal. For my part, I want the people of America to know that I value their input, and will actively work to see that I have their advice before initiating anything on the fundamental question of every true democracy: The size and scope of its government.

By Mr. SCHMITT (for himself, Mr. D'AMATO, Mr. STEVENS, Mrs. HAWKINS, Mr. MATTINGLY, and Mr. GRASSLEY):

S. 2330. A bill to provide for the minting of the American Eagle gold coin pursuant to article I, section 8 of the Constitution of the United States; to the Committee on Finance.

AMERICAN EAGLE GOLD COIN ACT OF 1982

● Mr. SCHMITT. Mr. President, today I am introducing a bill on behalf of myself, Mr. D'AMATO, Mr. STEVENS, Mrs. HAWKINS, Mr. MATTINGLY, and Mr. GRASSLEY.

On March 12, the U.S. Gold Commission adopted a series of preliminary recommendations to Congress on the role of gold in the economy. This bill provides the legislation to implement one of those recommendations—the minting of a U.S. gold coin called the American Eagle. The Gold Commission's preliminary recommendations are that any gold coin minted by the United States should have the following characteristics:

First. It should not be legal tender.

Second. It should be exempt from capital gains and sales tax.

Third. The coin should be denominated by ounces, not in dollars.

The Commission decided that the American Eagle should not be legal tender because of the constantly fluctuating price of gold relative to the dollar. Instead, individuals who so choose *may* accept the coin in payment for debts, goods, and services. The law, however, will not compel a seller or creditor to accept the coin in lieu of payment.

The Commission chose to recommend that the coins be exempt from capital gains and sales tax for two reasons:

First, the American Eagle is intended to compete directly with such coins as the South African Krugerrand, the Canadian Maple Leaf, and the Mexican Golden Peso. These tax exemptions will increase the incentives for Americans to hold the American Eagle for investment and transactional purposes.

Second, as members of the Gold Commission noted, holders of gold coins rarely report capital gains but always capital losses. This means that gains are not reported, therefore not taxed; but losses are reported, and deducted from income. The result is reduced revenues to the Treasury. The American Eagle will have no provision for capital gains or losses. The net revenue effect is zero. I would also note that Secretary Regan, who chairs the Gold Commission, voted in favor of these tax exemptions.

The American Eagle will be denominated in 1-ounce, ½-ounce, ¼-ounce, and 1/10-ounce denominations to insure that they will be available to the widest possible variety of people. With the rapid runup in the price of gold in recent years, at current market prices, a 1-ounce coin would cost about $325 and a ½-ounce coin about $170. By minting ¼- and 1/10-ounce denominations, we will permit individuals with as little as $40 to invest to own an American gold coin.

The bill also establishes a procedure for the distribution and marketing of the American Eagle gold coin. Past issues of gold medallions by the Treasury have failed because of abysmal marketing procedures.

As the American Eagle will be a coin, not a medallion, the Treasury will distribute it to commercial banks, savings and loan institutions, credit unions, mutual savings banks, coin dealers, and others who may wish to make bulk purchases. The markup will be low, between 2 and 4 percent over the bullion value of the gold to cover the minting, distribution, and marketing costs. This is relatively modest markup and is roughly equal to that of coins produced by foreign governments. South Africa, for example, has a formidable marketing system based on a 3 percent seigniorage on the Krugerrand.

This legislation will authorize one design for the American Eagle, based on the beautiful 1908, $20 gold piece crafted by Augustus St. Gaudens on the request of President Theodore Roosevelt. This coin is frequently cited as one of the most beautiful American coins ever made.

The coin will bear the St. Gaudens flying eagle on one side. This is one of the most graceful depictions of an American eagle ever to appear on an American coin. On the reverse will appear the other half of the Great Seal which depicts the "unfinished pyramid" capped by the "eye of providence." This rendering symbolizes the unfinished work confronting the original 13 Colonies which we face even today: the task of creating a more perfect union. This part of the Great Seal also contains the phrases "Annuit

Coeptis" and "Novos Ordo Seclorum" which, translated from Latin, means: "He has looked with favor upon our beginning" and "The New Order of the Ages." I might point out to my colleagues that they will find these words inscribed over the doorways at either end of the Senate Chamber.

I believe that these are coins that the American people will be proud of, and I would note that I have consulted carefully with the Smithsonian Institutions specialists in this area in developing this legislation.

Mr. President, it is clear that the American people have a desire to own coins of this kind.

In the first three quarters of 1981, 1,858,689 ounces of gold coins were imported into the United States. At approximately $400 an ounce, that is $743 million—nearly three-fourths of a billion dollars flowing to treasuries of foreign governments.

I think it is time that the citizens of this country be allowed to possess a gold coin made in this country rather than abroad. It would be far preferable to have the revenues from sales of gold coins flowing into the U.S. Treasury rather than to foreign governments. I urge my colleagues to join in support of this measure.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2330

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

SHORT TITLE

SECTION 1. This Act may be cited as the "American Eagle Gold Coin Act of 1982".

AUTHORIZATION FOR MINTING

SEC. 2. (a) The Secretary of the Treasury shall mint gold coins which shall be referred to as "American Eagles", and which shall be minted as provided in this Act in accordance with the following specifications:

(1) an "Eagle", having a gold content of one fine troy ounce and a diameter of 1.28 inches;

(2) a "Half Eagle", having a gold content of ½ fine troy ounce and a diameter of 1.06 inches;

(3) a "Quarter Eagle", having a gold content of ¼ fine troy ounce and a diameter of 0.87 inches; and

(4) a "Tenth Eagle", having a gold content of $\frac{1}{10}$ fine troy ounce and a diameter of 0.65 inches.

(b) Coins minted under this Act shall be of a fineness of 900 parts per 1,000 of pure gold and 100 parts per 1,000 of alloy. Coins shall not be struck from ingots which deviate from the standard contained in this subsection by more than one part per thousand.

(c) Coins minted under this Act shall bear—

(1) on the obverse side, the design of the 1908 double eagle, together with inscriptions specifying the gold content and the year of minting;

(2) on the reverse side, the reverse of the Great Seal of the United States; and

(3) have reeded edges.

(d) The Secretary of the Treasury may mint the American Eagle coins authorized by this Act in the weights and sizes set forth in subsection (a) of this section, in such quantities as he determines to be necessary to meet public demand.

(e) Except as provided in section 5, not more than 20 million fine troy ounces of gold may be used for coins authorized by this Act.

(f) Notwithstanding section 102 of the Coinage Act of 1965 (31 U.S.C. 392), coins minted under this Act shall not be legal tender for public debts, public charges, taxes, duties, or dues. Nothing in this subsection shall prevent the use of such coin for the payment of private debts.

DELIVERY AND MARKETING

SEC. 3. (a) Coins minted under the authority of this Act shall be delivered to banks and other institutions and retailers for distribution and sale to the public, pursuant to rules and regulations of the Secretary of the Treasury.

(b) The Secretary of the Treasury shall begin delivery of the one-ounce American Eagle coins authorized by this Act, not later than January 1, 1984, and delivery of the one-half, one-quarter, and one-tenth ounce coins not later than January 1, 1985.

PRICE

SEC. 4. (a) Coins authorized by this Act shall be sold to the public in accordance with section 3 of this Act, at a price to be determined daily by the Secretary of the Treasury, according to their relative weight of gold, equal to the price of gold bullion sold on the Commodity Exchange, Incorporated, New York, at 4 o'clock postmeridian on the previous business day, plus an amount determined by the Secretary to pay for the minting, delivering, and distribution expenses of the coins, and all other related expenses.

(b) The Secretary of the Treasury shall have the power to—

(1) adjust the seigniorage charge on the sale of all coins authorized by this Act to finance the expenses for minting, delivering, and distributing such coins, and

(2) regulate or suspend the quantity of coins made available for distribution or suspend sales of coins authorized by this Act, as he deems necessary to avoid manipulation of gold prices or coin prices.

EXCHANGE OF BULLION FOR COINS

SEC. 5. (a) Any owner of gold bullion may deposit such gold in any mint of the United States designated by the Secretary for such purpose and receive in exchange for its relative weight of gold content an equal weight of gold in American Eagle coins, less an amount to be determined by the Secretary of the Treasury to be equal to the charge established pursuant to section 4(a) and any other related expenses.

(b) All gold bullion deposited in any United States mint pursuant to subsection (a) of this section shall be available for the minting of American Eagle coins. Any coin minted pursuant to this subsection shall not be included in the total troy ounces of gold authorized in section 2(e).

(c) The Secretary may prescribe such regulations as may be necessary to carry out this section, including regulations specifying charges for assay and other related expenses.

TAXATION

SEC. 6. (a) Any gain or loss derived from the sale, exchange, or other disposition of any coin authorized by this Act shall not be recognized as a capital gain or loss under any Federal, State, or local income tax.

(b) Any purchase or sale of any such coin shall be exempt from any Federal, State, or local sales, personal property, or excise tax.●

By Mr. SPECTER:

S. 2331. A bill to direct the Secretary of Agriculture to conduct a study to establish a program to control and eradicate gypsy moth infestation; to the Committee on Agriculture, Nutrition, and Forestry.

GYPSY MOTH INFESTATION

Mr. SPECTER. Mr. President, I rise today to introduce the Gypsy Moth Control Act of 1982, S. 2331.

The gypsy moth is one of the worst defoliators of our Nation's forests. Last year, gypsy moths defoliated nearly 13 million acres of forests from coast to coast. This year, it is likely that the infestation will be even greater.

The economic impact of the gypsy moth has been severe. Pennsylvania, as well as many other States, has suffered a serious loss of tourism, tourist-related business, and second-home sales and construction. In light of the alarming unemployment rate in the Northeast and Midwest, we cannot afford to lose even more housing construction jobs as a result of this persistent pest.

The insect is multiplying at an alarming rate. It has the ability to successfully feed on over a hundred species of trees and shrubs, and its reproductive potential is increasing. It is not uncommon for as much as 20 percent of the trees in a heavily and repeatedly defoliated forest to die. Aside from the obvious economic cost of such extensive tree loss, a defoliated forest stand creates a fire hazard until new foliage is produced by the remaining trees.

Public concern has been aroused about the devastating effects of the moth on our forests. As it spreads south and west, it threatens commercial hardwood trees. There is speculation that water supplies will become contaminated, creating a major health hazard.

In an effort to control this destructive species, my bill directs the Department of Agriculture to perform a scientific study for purposes of eradication of the gypsy moth. This study, whose cost is not to exceed $3 million, will focus on the moth's economic, social, and environmental impact; development of improved gypsy moth control by the homeowner; improved technology to monitor and predict the growth and direction of the moth population; and eradication of the moth.

In addition, my proposal directs the Department of Agriculture to contribute $10 million as part of the Federal share of the spraying and eradication

effort in infested lands. While effective research is only in the preliminary stages, it is necessary that the spread of the moth be controlled, primarily by coordinated spraying efforts.

It is essential that the Federal Government join in a partnership with State and local governments to combat this destructive pest. Only through cooperative funding, experimentation, and research efforts will the moth's rapid reproduction and destruction be halted. If we work toward development of an effective pest management system which encompasses all aspects of research, data management, and environmental treatment, we can curb and eventually eliminate this scourge from our forests.

The State of Pennsylvania has set up a task force to study this problem. I have been informed that the task force will issue a report within 2 weeks and I look forward to reviewing that report to help further develop this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2331

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

(1) gypsy moth infestation throughout the United States has drastically increased during the past several years;

(2) gypsy moths defoliated approximately thirteen million acres of forest land in the United States during 1981, resulting in severe damage to the Nation's forests and badly marring the Nation's scenic landscape; and

(3) gypsy moth infestation has adversely affected tourism, vacation home sales, and related business in affected areas.

SEC. 2. (a) The Secretary of Agriculture shall conduct a study on the nature, impact, and control of gypsy moth infestation. The study shall particularly focus on—

(1) development of information on the nature of gypsy moth infestation,

(2) improvement in monitoring and predicting the locations and severity of gypsy moth infestations,

(3) assessment of the economic, social, and environmental impact of such infestations,

(4) reduction of such infestations in public lands and forests,

(5) development of methods for the effective control of gypsy moth infestations that can be safely used by private landowners, and

(6) exploration of the technical and financial feasibility of eradication of the gypsy moth.

(b) The Secretary shall, within one year after the date of enactment of this Act, report the results of the study conducted pursuant to subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, together with such recommendations as the Secretary considers appropriate.

SEC. 3. The Secretary of Agriculture shall develop and carry out a program (including research) to control and eradicate gypsy moths in infested areas of the United States. The Secretary shall, to the maximum extent practicable, coordinate such program with similar programs conducted by State and local governments.

SEC. 4. There are authorized to be appropriated not to exceed $3,000,000 to carry out section 2 and not to exceed $10,000,000 to carry out section 3.

By Mr. WEICKER (for himself, Mr. D'AMATO, Mr. STEVENS, Mr. MOYNIHAN, Mr. DIXON, Mr. DODD, Mr. HUDDLESTON, Mr. KASTEN, Mr. KENNEDY, Mr. LEVIN, Mr. MURKOWSKI, Mr. RANDOLPH, Mr. STAFFORD, Mr. WARNER, Mr. SPECTER, and Mr. ZORINSKY):

S. 2335. A bill to amend the Internal Revenue Code of 1954 to provide that any small issue which is part of a multiple lot shall meet the requirements of the small issue exemption; to the Committee on Finance.

INDUSTRIAL DEVELOPMENT BOND PROGRAM

● Mr. WEICKER. Mr. President, I am introducing legislation to restore the small issue, industrial development bond program to its status as of August 23, 1981, so that it can continue to be a source of low cost affordable capital for small and medium sized businesses. I am pleased to be joined on this bill by my colleagues, Senators D'AMATO, STEVENS, MOYNIHAN, DIXON, DODD, HUDDLESTON, KASTEN, KENNEDY, LEVIN, MURKOWSKI, RANDOLPH, STAFFORD, WARNER, ZORINSKY, and SPECTER.

On August 24, 1981, the Internal Revenue Service issued revenue ruling 81-126, which denied tax exemption for multiple lots of bonds of $1 million or less that were pooled and sold as one bond. That ruling reversed longstanding, previous IRS interpretations of the law which permitted States to issue so-called umbrella bonds. Since that ruling, State umbrella bond programs have been dead. At the very time that devastatingly high interest rates continue to dry up traditional sources of credit and drive small businesses into bankruptcy, this avenue of affordable capital is also foreclosed by the IRS.

Since the IRS issued that ruling, we have tried several approaches to having the umbrella bond programs restored. Immediately after the ruling, we wrote to the Secretary of Treasury urging him to withdraw 81-216; we subsequently introduced a bill to postpone the date of the ruling so that the Congress could deal with this issue. At that time, we pointed out the poor timing and the counter-productive effects of the ruling.

Later we tried to revive the umbrella bond programs by successfully amending the continuing appropriations resolution to prohibit IRS from using funds to enforce their ruling and the proposed regulations. But instead of reconsidering their position or moving to restore the umbrella bond programs, the IRS took an overly restrictive interpretation of the amendment that they would not grant even transitional relief, that is "Grandfathering," of those projects in the pipeline. In other words, projects which would have gone forward were stopped.

Most recently the Treasury Department has proposed a series of legislative restrictions which, although permitting the pooling of bonds, would, for all intents and purposes, eliminate the program. These latest proposals are unnecessary, ill-timed and totally counter-productive.

Mr. President, this is not the time to cut off an important source of affordable capital for small businesses. Our economy simply cannot afford it. Indeed the situation today is worse than last August when Treasury took the first swipe at the IDB program. The concern over high interest rates continues, followed closely by the concern about rising unemployment.

According to Wednesday's New York Times, many economists predict that more businesses will fail this year than in any year since the Great Depression. Dun & Bradstreet reports that 448 businesses failed last week, compared to 291 at the same time last year. Let me assure you that small businesses are a high percentage of those failures. As a result of high interest rates, small firms are going bankrupt every day.

Behind these business failures and bankruptcies are increased numbers of unemployed people. Now at 8.8 percent, the national unemployment rate is already too high. This situation will not improve with policies that restrict productive programs such as the IDB program, which has helped countless numbers of small businesses to expand. At a time when small businesses have virtually no access to capital at reasonable interest rates, it is ill-founded to propose to cut back programs which are absolutely essential, as is the IDB program.

In my home State of Connecticut, as well as in other States around the country, the small-issue IDB program, and the umbrella bond program have been an important source of jobs. Since 1973 over 100,000 jobs have been created or retained and more than 900 companies have been assisted through tax-exempt financing. Needless to say, this program has been vital to the Connecticut economy, as well as to the economy of virtually every other State in the Union.

On March 12, 1982, the Connecticut Development Authority announced the last sale of $37 million of bonds for 83 small- and medium-sized companies at an interest rate of approximately 14.4 percent. These bonds were marketed under the umbrella bond program. Only because the commit-

ments for these loans were made before 81-216 was issued and the IRS granted transitional relief, were these bonds able to go forward. Since last August, because of 81-216, the CDA has had to say no to businesses seeking their assistance.

Mr. President, we cannot afford to let our States go on saying no to businesses any longer.

The legislation that we are offering today would amend section 103(b)(6) of the Internal Revenue Code of 1953 to permit the issuance of multiple lots of small issue IDBs, and bring these essential State umbrella bond programs back to life.

Now is the time when we should be seeking out ways to get low-cost financing to our small- and medium-sized businesses for expansion and development, not slamming the door on them. For years, the small issue IDB program has helped thousands of businesses expand and grow, creating new jobs and giving a boost to local economies. For our businesses, for our communities, and for the overall health of our national economy, we must get the IDB program back on track again.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 2335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 103(b)(6) of the Internal Revenue Code of 1954 (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraph:

"(K) SPECIAL RULE FOR MULTIPLE LOT ISSUES.—

"(i) IN GENERAL.—An obligation which is part of an issue which issue otherwise meets the requirements of this paragraph shall not be treated as not meeting such requirements if such issue is part of a multiple lot issue.

"(ii) MULTIPLE LOT ISSUE.—For purposes of this paragraph, a multiple lot issue consists of 1 or more issues with respect to which—

"(I) all of the obligations are sold substantially at the same time and at substantially the same rate of interest,

"(II) the obligations are sold under a common plan of marketing, or

"(III) a common or pooled security will be used, or is available, to pay debt service on the obligations.".

(b) The amendments made by this section shall apply to obligations sold after August 23, 1981.●

Mr. DIXON. Mr. President, I ask unanimous consent to make a statement concerning a bill that Senator WEICKER will be introducing today regarding IDB's and that it be printed in the RECORD at the appropriate place immediately subsequent to the introduction of the bill and a statement by Senator WEICKER supporting that bill.

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

Mr. DIXON. Mr. President, I am pleased to join the distinguished Senator from Connecticut (Mr. WEICKER) in introducing legislation to reverse revenue policy 81-216 and the superseding proposed regulations in order to restore State umbrella bond programs.

Mr. President, back in October I joined with Senators WEICKER, D'AMATO, and STEVENS in sponsoring an amendment to the continuing resolution that would prohibit the use of funds to enforce a controversial Internal Revenue Service ruling, 81-216. Despite the action of Congress, the Internal Revenue Service has continued its stand in opposition to umbrella bond programs.

Mr. President, the decline in the national economy, coupled with the increasing number of bankruptcies, is shrinking the small business base. Small businessmen need access to capital at interest rates which are affordable.

Mr. President, when used properly, these tax-exempt bonds help save businesses; these bonds help save jobs; these bonds help finance needed expansion and plant modernization.

Small firms are the greatest users of small issue IDB's and the largest creators of new jobs in the United States. This ruling of the IRS jeopardizes small businesses' access to essential capital, threatening to further destabilize employment everywhere. The Congressional Budget Office's own estimate indicates that IDB's serve as one of the Federal Government's least expensive programs.

Mr. President, I recognize there are some problems with tax-exempt bonds that need to be addressed. But these problems are miniscule compared to the benefits to businesses, State and local governments and the national economy that these bonds provide.

Mr. President, I urge all of my colleagues to support this legislation.

● Mr. D'AMATO. Mr. President, today Senators WEICKER, STEVENS, and I are introducing a bill, cosponsored by several of our colleagues, to restore the industrial development bond (IDB) program to its status as of August 23, 1981. The purpose of this bill is to render Internal Revenue Service Revenue Ruling 81-216 moot by amending section 103(b)(6) of the Internal Revenue Code to explicitly allow pooling of IDB's. Despite earlier IRS rulings specifically sanctioning the clearly legitimate practice of pooling, the IRS, by administrative fiat, has now killed much of the IDB program with ruling 81-216.

This cannot be allowed. The IDB program must be preserved. Congress has made this clear by adopting an amendment I sponsored which prohibited the IRS from enforcing 81-216 as part of both the third and fourth continuing resolutions. This amendment has been adopted overwhelmingly by both Chambers, clearly demonstrating congressional intent that pooled IDB's be allowed.

Yet Treasury and the IRS have been intransigent. The pooled IDB program is still shut down. In addition, Treasury has even ceased granting regulatory relief ("grandfathering") to those pooled IDB's which were already in the pipeline as of last August 24 when 81-216 was issued.

Thus, Congress must act again. Suspending enforcement of 81-216 was insufficient in the face of a recalcitrant bureaucracy. We must now change the law, retroactive to last August 23, to explicitly allow pooled IDB's. We must make it clear to the IRS that they cannot, and should not, ever again shut down the IDB program—pooled or standing alone—by administrative fiat.

That is what passage of this bill will do. I regret that we must go through this process all over again, but it is necessary given the fact that the pooled IDB program is still dormant.

Although IDB's have provided affordable capital to small businesses since the 1980's, it was not until the Revenue and Expenditure Control Act of 1968 that Congress specifically legitimized their use. At that time the annual IDB volume was $1.8 billion. By 1980 it had reached $8 billion. Tens of thousands of jobs have been created in thousands of communities across the Nation. Corporate profits have increased. Personal income has increased. Unemployment has gone down. Counting "feedback" effects, the Federal Government has gained more than it has lost from the IDB program. Active IDB programs now exist in 47 States.

By requiring that decisions be made at the State or local level, IDBs are the essence of federalism. It is only proper that local officials determine how best to foster their own community's economic development. Thus, there is no surprise in the fact that the National Governors Association has unanimously endorsed the IDB program.

Under the IDB program State and local governments issue tax-exempt bonds, which obviously carry a lower interest rate than conventional business loans, and use the proceeds to buy or build plant and equipment which private companies have prearranged to buy, usually on installment, or lease for periods of up to 30 years. In most cases, business expansion financed in this manner would not have occurred without IDB financing. Necessary capital would either have been unavailable or unaffordable.

The pooling of IDB's, specifically sanctioned by the IRS in earlier reve-

nue rulings, entails including within a single issue the funds for several different projects. This results in a large saving in underwriting costs and administrative expenses. Thus, more of the capital raised can be put to productive uses.

To prohibit pooling, therefore, is to require waste. To shut down umbrella (pooled) programs, as the IRS has done, violates the spirit of our program for economic recovery.

Restoration of the IDB program to its status as of last August 23, which passage of this bill would accomplish, is necessary if we are to retain a viable small business community. This is because the IDB program is truly a small business program. An April 1980 Congressional Budget Office report made this quite clear by reporting that 93 percent of all IDB's were issued for use by small- and medium-sized businesses. These firms received 84 percent of the capital raised under the IDB program. A New York State survey found that three-quarters of the issues benefited firms with yearly sales of less than $20 million and that one-half went to very small companies with yearly sales of between $1 and $5 million.

On December 11, 1981, 4 days before this Chamber unanimously adopted my amendment prohibiting enforcement of 81-216, Frank S. Swain, the Small Business Administration's Chief Counsel for Advocacy, submitted formal comment on the merits of the IRS ruling. He stated that the rule would "substantially impair an important mechanism which enables small business to raise badly needed capital." He made it clear that 81-216 must be overturned, just as Congress has made clear its discontent with this regulation. The ruling has not been withdrawn. Thus this legislative action to restore the status quo as of August 23, 1981, is necessary.

I could speak at great length on the merits of IDB's and, indeed, I have done so many times in the past. At this point, however, I would just like to say that we need this program. We must permit pooling. I would urge my colleagues to support this bill so that we can pass it in the very near future.●

Mr. STEVENS. Mr. President, I wish to echo the sentiments of my distinguished colleagues from Connecticut and New York. I too believe that we must restore the IDB program to its status quo as of last August 23. I too believe that we must reestablish State umbrella bond programs. Thus, I too urge adoption of this bill.

All of us know that the country is currently in a recession. In the first quarter of 1982 the gross national product may have declined by as much as 4.7 percent. Capital spending by business may have declined by as much as 4.5 percent. Interest rates are still much too high and may soon begin to rise again. The Labor Department recently reported that 19 States had unemployment rates in excess of 10 percent in January. Treasury Secretary Regan and Commerce Secretary Baldrige have predicted that the current recession may drive the national unemployment rate as high as 10 percent before the end of the year.

In the face of this hostile economy, we should not be eliminating pooled IDB's which make necessary capital both available and affordable to small businesses. IDB's are the best and most cost effective tool local governments have for financing economic development in distressed or economically underdeveloped communities.

Without restrictive regulations such as Revenue Ruling 81-216, IDB's can take the place of the direct expenditure Federal economic development programs now being cut back. IDB's allow the decisions to be made where they should be made, at the State or local level.

Pooling of IDB's is necessary. It allows economies of scale in marketing. It permits the guarantee to entire issues so that even unrated small businesses can receive needed financial assistance. It allows purchasers to obtain risk diversification in their portfolios, thus making IDB's a more attractive investment. Pooling, which was abruptly halted by ruling 81-216, must be restored.

The bill we are introducing today removes any doubt as to the ability of State or local governments to issue IDB's in pooled form. The bill we are introducing today restores the IDB program to the way it was last August 23. The bill we are introducing today will once again make the benefits of the IDB program available to small businesses across the Nation, and again in my home State of Alaska where the program has been highly successful.

I have spoken on the need for a viable and vibrant umbrella IDB program before three different Senate committees. My views are a matter of public record. At this point, therefore, I will simply urge my colleagues to lend their support to this vital piece of legislation.

Mr. WARNER. Mr. President, I am pleased to be a cosponsor of this legislation. It will enable States to continue to issue pooled lots of tax-exempt industrial and agricultural bonds.

Last August 24, the IRS in Revenue Ruling 81-216 effectively prohibited States from issuing this type of bond.

The Congress prohibited the use of funds to enforce that ruling in the continuing appropriation resolution Public Law 97-92; however, the IRS has been unwilling to amend their previous ruling.

I have discussed this problem with Virginia State and local officials. They all agree that they need relief from the IRS ruling.

In their opinion, small issue industrial revenue bonds are one of the best ways the Federal Government can assist State and local governments fashion their own economic development. We have been asking local governments to take greater responsibility for solving local problems. To do this, cities and counties will need to broaden their tax base through economic development. Small issue revenue bonds can make that economic development possible.

Our Nation's small businesses, our local communities, and our economy need this type of financing more today than at any time in recent years. Present interest rates and economic conditions make it imperative that we revise the IRS ruling affecting these revenue bonds.

I urge my colleagues to join this effort to restore this vitally needed capital lifeline to small- and medium-sized businesses.

By Mr. GORTON (for himself, Mr. PACKWOOD, Mr. STEVENS, and Mr. KASTEN):

S. 2336. A bill to authorize appropriations for fiscal year 1983 for certain maritime programs of the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MARITIME REAUTHORIZATION

● Mr. GORTON. Mr. President, the bill I am introducing today with Senators PACKWOOD, STEVENS, and KASTEN, authorizes funding of maritime programs executed by the Maritime Administration (MarAd) and the Federal Maritime Commission at levels requested by the President for fiscal year 1983.

Like most other Federal programs, those aimed at the maritime industry are under the pressures of budgetary trouble. The funding levels sought by the administration and authorized by this bill essentially represent a decision to place these programs on hold pending completion of the administration's maritime policy review.

Operating differential subsidy (ODS) funding is increased about 10 percent over last year's level. This is sufficient to cover escalating costs of meeting obligations of ODS contracts already in force, but does not permit MarAd to enter additional new contracts.

Research and development funding exceeds last year's levels by about $6 million, most of which result from an accounting shift of an icebreaking program from the Coast Guard budget to the MarAd budget. Operations and training programs will be held at the same overall level as last year, resulting in slight reductions in money available to the U.S. Merchant Marine

Academy and six State maritime academies.

Like last year, no funds are authorized for construction differential subsidies (CDS). Shipyards should benefit substantially, however, from the enormous amounts proposed in the President's budget for Navy construction. The Navy budget also may provide the best source of funds for tradeins of older merchant vessels to the Ready Reserve Fleet.

In the absence of CDS funds, this bill extends and makes permanent the authority of U.S.-flag subsidized vessel operators to engage foreign shipyards to construct, reconstruct, or repair their vessels. Even with CDS covering 50 percent of construction in past years, vessel operators have not achieved parity with foreign operators who pay 35 to 45 percent of the construction cost in a U.S.-built requirement becomes even more compelling. This bill, however, specifically precludes the use of tax-deferred capital construction funds for foreign construction. While it is clear that foreign construction should be permitted, it is not clear that it should be encouraged at a loss to the Treasury.

The administration has asked Congress to set annual limits on new commitments of title XI vessel construction loan guarantees. This bill includes such a limit set at the same level as set by the administration in 1982—$675 million. This is about 10 percent higher than the administration's recommendation. Though I believe that it is necessary to reign in credit programs, bring them on budget, and control their growth, I believe this is properly the role of Congress. My bill makes it very clear that if annual limits are to be set at all they are to be set only in annual authorization acts of Congress.

This bill also makes certain technical improvements upon the operation of the title XI guarantee program that is administered by the Secretary of Transportation.

The title XI guarantee program is one of the more successful Government programs today. Pursuant to this program, provided by title XI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1271, et seq.), the Secretary of Transportation is authorized to guarantee the payment of principal and interest on loans made to finance the construction, reconstruction, and reconditioning of U.S.-flag vessels. This Government guarantee on a major portion of the purchase price gives vessel owners the ability to raise long-term money at reasonable rates. It also makes private financing available to operators who might not otherwise qualify in the capital markets. At no cost to the Federal Government, this program has effectively promoted the construction of over 2,500 vessels to date.

Since its inception in 1938, the title XI guarantee program has been amended on a number of occasions. It was completely rewritten in the 92d Congress, but since then most amendments have been to increase the statutory authority of this successful program.

My bill would amend title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271, et seq.), to provide the Secretary of Transportation with additional flexibility in the management of the program. Additionally, my bill would amend the Bankruptcy Reform Act of 1978 (11 U.S.C. 101 et seq.) to restore Secretarial discretion that was inadvertently omitted from such Act.

MERCHANT MARINE ACT, 1936

In order to understand my proposed amendments to title XI of the Merchant Marine Act, 1936, it might be helpful to give an example of how the title XI guarantee program currently operates. A shipowner borrows funds for the construction of a new vessel by means of the sale of bonds to the general public. The Secretary of Transportation issues a title XI guarantee that the bonds will be paid, and takes a mortgage of the new vessel. The security of the bondholder obligees is the title XI guarantee that if the shipowner obligor does not pay them, the U.S. Government will. The security of the Secretary of Transportation for the title XI guarantee is a mortgage on the new vessel.

Under existing law, in the event of an uncured default, the Secretary must pay off the bondholders in order to foreclose on the ship mortgage. Thereafter, it is usually necessary for the Secretary to bid for the vessel at the Admiralty foreclosure sale, take title to the vessel, and attempt to sell it to another U.S. operator. Any such vessel purchaser would have to arrange for new title XI financing.

Under my proposed amendments, in the event of an uncured default, the Secretary of Transportation would have two options.

The first option would be the course of action provided by existing law which would not be amended.

The second option, provided by my bill, would authorize the Secretary to assume the periodic payments of the shipowner obligor to the bondholder obligees, and foreclose on the ship mortgage. At the Admiralty foreclosure sale, another U.S. operator could bid for and take title to the vessel with title XI financing already in place. That vessel purchaser would assume the bond payments from the Secretary of Transportation.

These proposed amendments to the title XI guarantee program would offer the following advantages:

First. The procedure provided by existing law would be retained.

Second. The bondholders need not be disturbed by the sale of a vessel.

Third. The title XI fund need not be called upon to pay off the bondholders in the event of a shipowner's default.

Fourth. The Secretary need not go through the formality of purchasing the vessel prior to its sale to another U.S. operator.

Fifth. The vessel purchaser need not be required to arrange for new title XI financing, but could assume the responsibility for bond payments from the Secretary at the foreclosure sale.

BANKRUPTCY REFORM ACT OF 1978

Prior to the enactment of the Bankruptcy Reform Act of 1978, where there was an uncured title XI default by a shipowner in bankruptcy, the bankruptcy court was prohibited by a specific provision of law from enjoining the Secretary from foreclosing on the vessel mortgage of a debtor shipowner if he determined that such a foreclosure was in the best interest of the Government.

The Bankruptcy Reform Act of 1978 did not retain for the Secretary immunity from any injunction or automatic stay provision of the Bankruptcy Code. As a result, the Secretary of Transportation, as a title XI mortgagee, is subject to the automatic stay provisions of the Bankruptcy Code and prohibited from taking unilateral foreclosure action on a title XI mortgage.

The Bankruptcy Reform Act excepted the Secretary of Housing and Urban Development from being subject to the automatic stay provision of the Bankruptcy Code so that he may more effectively administer the benefits of the housing program. For the same reason, my bill would take similar action with respect to the Secretary of Transportation and the title XI guarantee program.

Mr. President, these provisions should give the Secretary of Transportation a little more flexibility in future transactions under the title XI guarantee program. The title XI program is a good program, and the Secretary of Transportation is doing a good job. The intent of my bill is to give the Secretary the authority to do an even better job.

Finally, the bill subjects the Federal Maritime Commission to annual authorization and authorizes funds for its operation at the level requested by the President.

Mr. President, I ask unanimous consent that a brief section-by-section analysis and the bill appear 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 authorizes funds for Maritime Administration programs at levels requested by the President. Construction differential subsidies are not funded.

Section 2 amends the Merchant Marine Act to permit U.S. carriers receiving ODS to construct their vessels overseas (temporary authority in the absence of CDS funding expires September 30, 1982). Capital construction funds may not be used for foreign construction.

Section 3 provides that annual limitations on new commitments of Title XI vessel construction loan guarantees may be set, if at all, only in annual authorization acts.

Section 4 sets an annual limit on new Title XI commitments for merchant vessel construction of $675 million for fiscal year 1983 (the fishing vessel account would be set in an NOAA authorization bill).

Section 5 makes technical amendments to the Title XI program to permit the Secretary of Transportation, in the event of a default by the obligor, to take the vessel and assume the financing at foreclosure, without paying off the guaranteed loan in full; this gives him more flexibility in marketing the vessel to a new purchaser with Title XI financing intact.

Section 6 amends the Bankruptcy Code to restore a provision, omitted inadvertently in the 1978 revision, to permit the Secretary of Transportation to foreclose on Title XI mortgages before the vessel operator's assets are frozen.

Section 7 subjects the Federal Maritime Commission to annual authorization.

Section 8 authorizes funding of the Federal Maritime Commission at the level requested by the President.

S. 2336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are authorized to be appropriated for certain maritime programs of the Department of Transportation for the fiscal year 1983, as follows:

(1) For payment of obligations incurred for operating-differential subsidy, not to exceed $454,010,000;

(2) For expenses necessary for research and development activities, not to exceed $16,800,000;

(3) For expenses necessary for operations and training activities, not to exceed $71,013,000, including not to exceed—

(a) $6,516,000 for reserve fleet expenses;

(b) $29,607,000 for maritime education and training expenses, including not to exceed $17,251,000 for maritime training at the Merchant Marine Academy maintained under section 1303 of the Merchant Marine Act, 1936, as amended, $10,668,000 for financial assistance to State maritime academies assisted under section 1304 of the Act, and $1,688,000 for expenses necessary for additional training provided under section 1305 of the Act; and

(c) $34,890,000 for other operations and training expenses.

SEC. 2. Section 615 of the Merchant Marine Act, 1936 (46 U.S.C. 1185), is amended to read as follows:

"SEC. 615. Notwithstanding any other provision of this Act, an operator receiving or applying for operating differential subsidy under this title may construct, reconstruct, or acquire its vessels of over five thousand deadweight tons in a foreign shipyard. Vessels constructed, reconstructed, or modified pursuant to this section shall be deemed to have been United States built for the purposes of this title, section 901(b) of this Act and section 5(7) of the Port and Tanker Safety Act of 1978 (46 U.S.C. 391(a)(7)): *Provided,* That the provisions of section 607 of this Act shall not apply to vessels constructed, reconstructed, modified, or acquired pursuant to this section."

SEC. 3. Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)), is amended by adding at the end thereof the following new sentence: "No additional limitations may be imposed on new commitments to guarantee loans for any fiscal year, except in such amounts as established in advance in annual authorization acts."

SEC. 4. The Secretary of Transportation shall not enter into new commitments to guarantee loans under section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)) in an amount greater than $675,000,000 during fiscal year 1983.

SEC. 5. (a) Section 1104(a)(3) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1274(a)(3)), is amended by inserting after the word "Fund" the words ", or for which related obligations were accelerated and paid by the Secretary of Transportation,".

(b) Section 1104(h) of such Act (46 U.S.C. 1274(h)) is amended by inserting after the word "acceleration" the word ", assumption,".ge

(c) The first sentence of section 1105(a) of such Act (46 U.S.C. 1275(a)) is amended by inserting after the word "demand" the following: "(unless the Secretary of Transportation shall, in his sole discretion, have assumed and performed the obligor's rights and duties relating to such payment of principal and interest and any applicable fiduciary fees),".

(d) Section 1105(b) of such Act (46 U.S.C. 1275(b)) is amended to read as follows:

(b) In the event of a default under a mortgage, loan agreement, or other security agreement between the obligor and the Secretary of Transportation, the Secretary of Transportation may, at his option and sole discretion:

(1) notify the obligee or his agent of such default and the assumption by the Secretary of Transportation of the obligor's rights and duties relating to the payment of principal and interest under an obligation guaranteed under this title and any applicable fiduciary fees; or

(2) notify the obligee or his agent of such default and the obligee or his agent shall have the right to demand at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than sixty days of such notice, payment by the Secretary of Transportation of the unpaid principal amount of said obligation and the unpaid interest thereon. Within such period as may be specified in the guarantee or related agreements, but not later than thirty days from the date of such demand, the Secretary of Transportation shall promptly pay to the obligee or his agent the unpaid principal amount of said obligation and unpaid interest thereon to the date of payment."

(e) The first sentence of section 1105(c) of such Act (46 U.S.C. 1275(c)) is amended by inserting after the word "payment" the words "or assumption" and by inserting after "Secretary of Transportation", the first time it appears, the words, ", in his sole discretion,".

SEC. 6. Section 362(b) of Title XI, United States Code, is amended by inserting "(i)" before "Secretary of Housing and Urban Development" and by adding at the end thereof the following:

"(ii) the Secretary of Transportation to foreclose a mortgage on a vessel or vessels pursuant to the Ship Mortgage Act, 1920, as amended, held by said Secretary under the provisions of sections 1101-1110 or section 207 of the Merchant Marine Act, 1936, as amended; or".

SEC. 7. Commencing with fiscal year 1983, appropriation of funds to carry out the laws administered by the Federal Maritime Commission shall be subject to annual authorization.

SEC. 8. Funds are authorized to be appropriated in the amount of $10,378,000 for the use of the Federal Maritime Commission for the fiscal year 1983.●

By Mr. THURMOND:

S. 2337. A bill to amend title 10, United States Code, to establish a program to provide vocational training assistance to persons in technical programs leading to associate and community college degrees in return for a commitment for enlisted service in the Armed Forces; to the Committee on Armed Services.

SKILLED ENLISTED RESERVE MILITARY TRAINING ACT

Mr. THURMOND. Mr. President, I rise to introduce a bill entitled the "Skilled Enlisted Reserve Military Training Act." This measure is a companion to a bill introduced by a number of distinguished Members of the House of Representatives. It is designed to help resolve a critical need for skilled technicians in our Armed Forces at less cost compared to current training methods. It is an innovative concept for training enlisted personnel in technological skills at community and technical colleges.

Mr. President, the threat to our national security, which has been characterized as the "window of vulnerability," amounts to more than a need for advanced weapons systems. It encompasses the need for skilled personnel to operate and maintain these systems.

All of us are aware of the difficulty the Army and the Navy have encountered in both recruiting and retaining enlisted personnel capable of working in high technology areas, particularly in fields where the demand in industry also runs high. We have fallen into a pattern of paying exorbitant costs for short-term training to qualify enlistees in their specializations at the start of their tours of duty. Then we pay them equally exorbitant bonuses to persuade them to reenlist when their tours of duty end.

In countless instances, those education costs could be reduced if the armed services programed the same targeted training through established and accredited civilian institutions, particularly the community and technical colleges. These educational institutions have become our foremost delivery system of postsecondary occupational courses in the United States.

Mr. President, this legislative measure will provide the equivalent of a 2-year college scholarship, with each military service offering such scholarships in whatever fields of technology

fit its particular skill requirements. The trainee would complete the courses in the specialization for which he enlisted, then complete a regular tour of active duty, or a longer term of enlistment in a Reserve component unit. The maximum college training period would be for 2 years. The maximum stipend would be for 18 months. The trainee would be obligated for 2 to 4 years active duty and a Reserve obligation, or 6 years in the Reserve components.

This proposal is an "up-front" GI bill. It provides the military services with a vaild payback on their educational investment through an obligation after college training, rather than the military obligation preceding the education, as provided by a traditional GI educational incentive program.

At the present time, from a cost reimbursement standpoint, more than 75 percent of the military do not fully pay back their parent service until the third year of their enlistment; almost one-tenth have completed their 4-year enlistment and have left the military before the service has reached the break-even point on the investment in training.

Mr. President, under this proposal, the trainee will require very little additional military training investment—in either dollars or time—except for about 8 weeks of basic training, which should precede technical training. The military services will get a full, productive enlistment from the trainee after he has completed technical training, which is not counted as part of his enlistment obligation.

This bill will provide the military departments a flexible program for solving the military technical manpower shortage problem on a sustained basis. It does not mandate binding or constraining action on the military departments. Rather, it grants authority to the secretaries of the military services to develop educational programs to best meet their technical training needs.

The flexibility of vocational technical institutions makes the proposal of inestimable value to the services. For example, graduates of electronic technical training can fill any of 26 technical specialties in the Army, according to some studies.

The supply of graduates from this program can meet the military technical training requirements. There are over 1,000 technical community colleges and a like number of accredited National Association of Trade and Technical Schools. In addition, there are almost another 5,000 State and locally accredited vocational technical schools with quality output to meet military requirements.

Mr. President, this proposal is similar in concept to the approach the military has been using for years to fill its needs for physicians, surgeons, and dentists. Prospective doctors agree to a specified term of service beyond the years of their basic medical training and specialization, in return for the Government paying the cost of their medical education. The need today for technicians is just as critical as the longstanding need for doctors.

This bill is designed to give each military service the flexibility it needs to fit the program to its own requirements. Likewise, it gives the recruits the option of regular active duty with a Reserve obligation, or a Reserve obligation within the force structure of each military service's particular need.

For example, the Army has a pressing need for 250,000 technicians to bring Reserve units up to full strength. This critical need varies according to the mission, or weapons system, that each Reserve unit operates.

Mr. President, recruitment would be aimed at specific skills in Reserve units. Each recruit would likely start out with the regular 8 weeks of basic training and then move home to the assigned Reserve unit. The recruits would pursue full-time studies in the designated skills at the nearest community or technical college. The Reserve duty would enable them to adapt the technical training to the weapons systems in use in their assigned Reserve unit.

A careful review of the military manpower situation reveals that there are pressing needs for trained specialists in many areas in the regular forces. The parallel needs in Army Reserve Forces are at least tenfold greater.

There are serious shortages of electronic technicians, particularly in radar systems, computers, and fire control. There are critical manpower shortages in other technical areas, including: Instrumentation specialists expert in calibration and test gear, as well as maintenance and repair; machinists, heavy-equipment mechanics, and diesel mechanics; stenographers and word processors; and paraprofessionals in medicine, dentistry, and veterinarian medicine.

Our technical and community colleges have the capability to provide this type of technical training. In the comprehensive 2-year colleges across the country, there are accredited courses in all of these specializations. In most instances, for a specified course of study and skill program, the military services would have a variety of educational institutions in each region among which to choose.

Some of our Nation's experts in occupational studies who have specialized in Army and Navy training requirements are convinced the costs of current specialized training programs could be cut tenfold by this new concept.

Mr. President, it is estimated that the training cost alone per recruit is now running $100,000 and higher in at least three specializations. The same training could be programed in the comprehensive 2-year colleges for a small fraction of that cost.

The immediate manpower shortage is significant in both the Regular Army and the Regular Navy. It is estimated that 20,000 technicians are needed in each service. A majority of this number could be filled by graduates of the program being proposed by this legislation, with an estimated accumulated savings of $4 billion by 1986, according to some cost analysis reports. Our community colleges are a natural base for such training.

Mr. President, quality is equally as important as cost. It is clear that the military services cannot adequately staff the weapons systems already in place without professionally trained sources of skilled personnel. Our Armed Forces will be unable to introduce and operate more sophisticated weapons systems currently under development, unless they have a dependable flow of advanced technicians, which would be provided by this proposed measure.

This training concept would also benefit national productivity. The recruits going into Reserve units would, in most cases, be filling specializations for which the needs among private sector industries are just as acute as the needs of the military. Thus, the recruits would be building careers vital to the national economy, while at the same time filling a military obligation in an advanced system.

In summary, this training proposal will:

First, help solve a critical problem to train urgently needed technicians for our Armed Forces;

Second, cost less than comparable technical training programs currently conducted in the Armed Forces;

Third, improve readiness;

Fourth, provide a strong incentive for volunteers, and enhance retention, thereby reducing the need for the draft;

Fifth, provide a broader mobilization training base for technical skills for both the military services and industry; and

Sixth, help stimulate and revitalize the technical and vocational institutions in our country and quicken their response to the national challenge in productivity.

Mr. President, I am pleased to join with our colleagues in the House in pursuing this innovative and vitally needed program. I hope that both the House and Senate Committees on the Armed Services will schedule early hearings on this important measure and that other Senators will join me

in supporting this new approach to military specialization training.

Mr. President, I ask unanimous consent that this bill entitled, "Skilled Enlisted Reserve Military Training Act," be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

S. 2337

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Skilled Enlisted Reserve Military Training Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress makes the following findings:

(1) The national defense readiness of the United States is increasingly dependent upon the use of technically sophisticated weapons.

(2) The number of technically skilled enlisted members of each of the Armed Forces, both on active duty and in the reserve components, is inadequate to operate and maintain the technically sophisticated weapons systems being introduced to modernize the Armed Forces.

(3) The community and technical colleges and institutes of the United States have the resources and capabilities to provide training in the technical specialities required by the Armed Forces.

(4) A program of vocational training assistance provided by the Department of Defense would give young men and women the opportunity to pursue a program of technical education and training leading to an associate degree simultaneously with the opportunity to pursue a training program preparing them for military service.

(5) Such a program would contribute to the recruitment into the Armed Forces of young men and women with aptitudes and interests in high technology fields and would contribute to the national defense readiness of the United States.

(6) The economic vitality of the United States would be strengthened through the establishment of such a program by increasing the number of persons having technical skills required to broaden the industrial base of the United States in critical skilled technical fields in which shortages have developed.

(b) The purposes of this Act are—

(1) to establish a program under which young men and women participate in a program of voluntary national defense preparedness, technical training, military training, and education developed and administered by the Armed Forces in cooperation with community and technical colleges and institutes; and

(2) to provide the United States with men and women trained in technical specialties critical to meeting national defense and military personnel needs in times of national emergency.

ESTABLISHMENT OF PROGRAM

SEC. 3. (a) Part III of subtitle A of title 10, United States Code, is amended—

(1) by redesignating chapter 108 as chapter 109; and

(2) by inserting after chapter 107 the following new chapter 108:

"CHAPTER 108—SKILLED ENLISTED RESERVE TRAINING PROGRAM

"§ 2151. Definitions

"In this chapter:

"(1) 'Program' means a Skilled Enlisted Reserve Training Program established by the Secretary concerned under this chapter for an armed force under his jurisdiction.

"(2) 'Member of the program' means a person entering into an agreement with the Secretary concerned under this chapter for participation in the Skilled Enlisted Reserve Training Program of an armed force.

"§ 2152. Establishment of program; service agreements

"(a) For the purpose of obtaining adequate numbers of enlisted members with critical technical skills for service on active duty and in the reserve components, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy, may establish a Skilled Enlisted Reserve Training Program. Under such a program the Secretary concerned may enter into agreements described in subsection (b) under which the Secretary agrees to provide educational assistance in a technical field to a person in return for that person's agreement to perform a specified period of active and reserve enlisted service in the armed forces.

"(b) An agreement under subsection (a) shall provide (1) that the Secretary concerned shall provide educational assistance to the member of the program in accordance with subsection (c), and (2) that the member of the program, in consideration for that educational assistance, shall agree to serve on active duty and in a reserve component as provided in section 2153 of this title.

"(c)(1) An agreement under subsection (a) shall provide for payment by the Secretary concerned of 100 percent of the educational expenses incurred by a member of the program for instruction in a technical course of study approved by the Secretary at an accredited institution. Expenses for which payment may be made include tuition, fees, books, laboratory fees, and shop fees for consumable materials used as part of classroom or shop instruction. Payments for those expenses shall be limited to those educational expenses normally incurred by students at the institution involved. Such agreement may also provide for payment of a stipend in an amount to be determined by the Secretary concerned for each month the member is pursuing that course of study.

"(2) Educational assistance may be provided to a member of the program under the agreement until the member completes a course of insturction required for the award of an associate degree (or the equivalent evidence of completion of study of a technical course of study) by an accredited institution. However, a member of the program may not be provided assistance under this chapter for more than two academic years (or the equivalent) and may not be provided a stipend for more than 18 months. Secretary concerned may specify less than a two-year technical training period.

"(3) For purposes of this subsection, the term 'accredited institution' means a civilian college or university or a trade, technical, or vocational school in the United States (including the District of Columbia, Puerto Rico, Guam, and the Virgin Islands) that provides education at the postsecondary level and that is accredited by a nationally recognized accrediting agency or association recognized by the Secretary of Education.

"(d) The authority of the Secretary concerned to enter into agreements under this section is subject to the availability of appropriations for that purpose.

"§ 2153. Eligibility for membership

"To be eligible for membership in the program a person must—

"(1) be selected for membership under procedures prescribed by the Secretary concerned;

"(2) enroll in a course of instruction at an educational institution in at least one high technology specialty that is designated by the Secretary concerned as a critical military occupational specialty essential to strengthening the defense capabilities of the United States;

"(3) enlist in a reserve component of an armed force under the jurisdiction of the Secretary concerned for the period of time specified in clause (4); and

"(4) agree in writing that, upon completion of the course of instruction and at the discretion of the Secretary concerned, the person will either—

"(A) serve on active duty for a period of not less than two years to be specified in the agreement; or

"(B) serve in the Selected Reserve of the Ready Reserve of a reserve component under such terms and conditions as prescribed by the Secretary concerned for a period of not less than six years, to be specified in the agreement (including any period of service in active duty, in active duty for training, and in any other active or inactive status).

"§ 2154. Status of person upon signing agreement

"Upon signing an agreement under this chapter and becoming a member of the program, a person becomes a member of the armed forces and shall be placed in an element of the Ready Reserve of a reserve component of the armed forces.

"§ 2155. Status of person upon completing training program

"Upon completing the program provided for in the agreement and completing basic training, the member shall begin service in the armed forces as provided in the agreement in pay grade , as determined by the Secretary concerned based upon the technical qualifications of the member and the needs of the service.

"§ 2156. Penalties; exception

"(a) An agreement under this chapter is subject to section 2005 of this title.

"(b) The Secretary concerned, if the Secretary determines that the interest of the service so requires, may release any person from the program and discharge that person from the armed force under the jurisdiction of the Secretary.

"§ 2157. Annual report

"The President shall submit to Congress not later than December 1 of each year a

report on the program. Each report shall include—

"(1) an evaluation of the program;

"(2) a determination of the feasibility of expanding the program; and

"(3) any recommendation for administrative or legislative actions with respect to the program that the President considers appropriate.".

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part III of subtitle A, of title 10, United States Code, are amended by striking out the item relating to chapter 108 and inserting in lieu thereof the following:

"108. Skilled Enlisted Reserve Training Program 2151
"109. Granting of Advanced Degrees at Department of Defense Schools. 2161".

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. Effective for fiscal years beginning after September 30, 1982, there are authorized to be appropriated such amounts as may be necessary to carry out chapter 108 of title 10, United States Code, as added by section 3.

By Mr. PERCY (for himself, Mr. ROTH, Mr. SASSER, Mr. JACKSON, Mr. LEVIN, Mr. ARMSTRONG, and Mr. NUNN):

S. 2338. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials; to the Committee on Governmental Affairs.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. PERCY. Mr. President, today I am introducing legislation to expand the membership of the Advisory Commission on Intergovernmental Relations to include three elected school board officials. This legislation has been introduced in the House of Representatives by Congressman RAYMOND MCGRATH and has 162 cosponsors to date.

Mr. President, the ACIR is a federally supported organization established in 1959 to bring together representatives of the Federal, State, and local governments to consider common problems. The ACIR is charged with discussion of administration and coordination of Federal grant and other programs, addressing emerging public problems that are likely to require intergovernmental cooperation and recommendation of the most desirable allocation of governmental functions, responsibilities, and revenues among the several levels of government.

It is a job the ACIR has done very well and as a result is a highly respected group. Over the years it has made recommendations in the area of tax reform, regulatory reform, and revenue allocation. The very popular general revenue sharing program was developed by the ACIR.

The membership of the ACIR today is the same as it was in 1959. It consists of 3 private citizens, 3 Federal executive officials, 4 Governors, 3 State legislators, 4 mayors, 3 elected county officials, 3 U.S. Senators, and 3 U.S. Representatives, for a total of 26 members. I was privileged to serve from 1972 to 1975.

Mr. President, over the years, the ACIR has been petitioned on several occasions by school board officials for equal representation as a local unit of government. Each time, the ACIR has recommended that its membership not be expanded to include school boards or any other group. So for more than 20 years, while the role of school boards across the country has changed dramatically, the composition of this important Commission has remained unchanged.

Just what do school boards do that they should be represented on the ACIR?

School boards have grown into a very important element in the American intergovernmental system. By 1980, their expenditures were almost 39.8 percent of the local government total and their employees were 47.6 percent of total local government employees, as illustrated by the chart below.

DIRECT GENERAL EXPENDITURE, 1979–80, AND FULL-TIME EQUIVALENT EMPLOYMENT, 1980, COMPARING SCHOOL DISTRICTS WITH COUNTIES AND MUNICIPALITIES

	1979–80 direct general expenditures		1980 full-time equivalent employment	
	Amount (millions)	Percent	Number	Percent
School districts	$80,681.2	39.8	3,467,718	47.6
Counties	51,383.4	25.4	1,651,048	22.7
Municipalities	70,426.4	34.8	2,166,284	29.7
Total	202,491.0	100.0	7,285,050	100.0

Source: U.S. Department of Commerce, Bureau of the Census, Government Finances in 1979–80, Table 23; Public Employment in 1980, Table 9.

School districts today are virtually universal. They exist in 49 States—Hawaii has a State system. Ninety-four percent of school boards in this country are elected and 90 percent of all school districts are fiscally independent.

School districts today are not responsible solely for education. School districts run food service systems which involve $10 to $12 billion annually in the food processing and agricultural sectors of our economy. School districts maintain a transit fleet valued at $3.3 billion. In 1979, school districts collected more than $100 billion in taxes, about 7 percent of the GNP. This compares to 12 percent of GNP for all State and local units of government combined.

School districts today are engaged in a variety of activities. They provide services to the elderly, pre-school child care, emergency services in time of national or natural catastrophe, employment training centers, health services, community services, community centers, and recreational services.

It is the school board in each of these many districts that must decide how these activities will be implemented. In doing so, they are responsible for establishing and carrying out policies that affect millions of Americans. Like mayors and county commissioners, they hire administrators to carry out their policies. And like city and county governments, they are independent and responsible to those who elect them.

Mr. President, it is clear then that school districts and the boards that govern them are vastly more complex and sophisticated than they were in the 1950's when ACIR was established. In addition, ties to the Federal Government have grown significantly as Federal assistance has increased and Federal mandates have multiplied.

Many issues considered by the ACIR—block grants, State and local taxation, labor-management policies for State and local government, State and Federal mandating of local expenditures—not only affect school districts, but are key to their delivery of services.

Presently, the ACIR is engaged in a review of the so-called New Federalism. Its members are considering what responsibilities each level of government should assume and what, if any, roles should be swapped. Key questions about ending Federal involvement in a host of areas—including education, transportation and nutrition—are just as important, if not more important, to school districts as they are to other local units of government. Yet, school boards are not represented on ACIR. Therefore, they have no voice on these questions or on the recommendations made by the Commission, recommendations which could very well result in a commitment of resources only they control.

Mr. President, it seems clear to me that it is time to recognize through representation on ACIR that school boards are a necessary, important, and equal component of the intergovernmental system.

● Mr. SASSER. Mr. President, I rise to speak in support of Senator PERCY's legislation, S. 2338, passage of this bill will add an important dimension to the very fine work now being done by the Advisory Commission on Intergovernmental Relations. It will add three seats to the Commission to be filled by school board members, This, I believe, long overdue and I commend Senator PERCY for introducing this bill.

A large portion of local government resources are committed to the education function. Spending for schools comprises 36 percent of the total expenditures for local governments, and 44 percent of the total expenditures for local governments. And 44 percent of the total local government workers are employed by school districts. At the State level, too, a large part of the

average budget is committed to education.

In fact, the largest single State-local government function is education.

That is why I believe that representatives of the school boards should be seated as voting members of the Advisory Commission that is responsible for the principal research on federalism.

The Commission studies and reports form the basis for bills at the Federal, as well as the State and local, levels of government that determine the direction of the Nation's domestic policy. School district governments should have a voice in these very influential recommendations.

Especially now, when the Advisory Commission of Intergovernmental Relations may be the focal point for policy discussions on the New Federalism alternatives before the Congress, the viewpoint of school district governments should be represented.

So, as a member—now serving my second term—of the Advisory Commission on Intergovernmental Relations, I heartily recommend to my Senate colleagues that they support this important legislation to seat members of school district governments on the Commission. And, as the ranking Democrat on the Intergovernmental Relations Subcommittee in the Senate, I endorse this bill.

I hope that it will have a speedy hearing so that it can be added to the law in time for us to have the invaluable perspective of the Nation's school boards on the New Federalism proposals soon to be presented to the Congress. I certainly depend on the advice of the Tennessee School Boards Association on matters pertaining to education. I would like to take this opportunity to compliment the work of the School Boards Association there.

Thank you very much for this opportunity to speak on behalf of the legislation.●

● Mr. JACKSON. Mr. President, I join Senator PERCY today as a cosponsor of this legislation to include elected school board representatives on the Advisory Commission on Intergovernmental Relations.

The act which established the Commission in 1959 declares its purpose to be to "bring together representatives of the Federal, State, and local governments for the consideration of common problems." I was in the Senate then and provided my support to such a concept because the complexity of modern life even then intensified the need for the fullest cooperation and coordination of activities among all levels of government. That complexity has multiplied, augmenting the need for this intergovernmental alliance.

Most all units and levels of government are represented on the Commission—the President's Cabinet, the Senate and House of Representatives, Governors, State legislatures, and city and county officials. The glaring omission is the local school districts.

More than 94 percent of all local boards are elected. We have close to 45 million students in public schools and nearly 2½ million teachers. More than $100 billion annually runs through school districts. The expenditures are over 35 percent of the total local government budget.

School districts deserve a voice in this intergovernmental system. If we truly mean to revitalize federalism and to locate power, authority, and revenue sources in State governments, we must recognize that school districts represent a very large segment of local government activity. The statistics above point to that.

It is time to add elected school board members to the Commission. I support Senator PERCY's effort to amend the law in this regard.●

● Mr. ROTH. Mr. President, I am pleased to join several of my colleagues today in sponsoring legislation to provide representation for elected school board officials on the Advisory Commission on Intergovernmental Relations (ACIR).

The provision of educational opportunity to all of our people is one of the most important responsibilities of government. Education is a means of improving the quality of life of our citizens today and it is an insurance policy for a healthy society in the future.

Of all of the levels of government in our federal system, it is local jurisdictions, and elected local school boards particularly, that bear the greatest burden of these educational responsibilities. Yet these governments frequently are not adequately represented in policy discussions that significantly affect their role as public educators. The legislation that I am cosponsoring today is an effort to rectify this situation.

The ACIR was established by an act of Congress in 1959 for the purpose of monitoring relationships in our intergovernmental system and recommending ways to improve governmental cooperation and effectiveness. Elected and appointed members of Federal, State, and local governments meet on a quarterly basis to review timely federalism issues, and to seek a more desirable intergovernmental fiscal and power balance. Throughout the course of its 23-year history the Commission has consistently provided excellent research on the nature of our complex intergovernmental system and the findings and recommendations that would do much to improve the effectiveness of the system. At no time in its history, however, has the work of the Commission been more important than at present as we discuss the important New Federalism changes in the roles and responsibilities of Government.

In order for the Commission to be fully effective in this effort, however, it is essential that all major governments be represented in the discussions. This is not the case, however, because of the absence of school board representation at the ACIR table. The proposal that we are introducing today will correct this problem.

Clearly school boards do play a major role in our intergovernmental system today, by virtue of the total size of their expenditures, the number of people they employ and the range of services they provide. Nationwide school boards expend nearly $100 billion on education related activities, representing nearly 30 percent of the State and local total. School boards employ nearly 3 million people across the Nation, almost 40 percent of the State and local total. Moreover, school board activities have a substantial impact on other industries including agriculture and food processing, transportation, construction, and building maintenance and repair.

The addition of school board members to the ACIR will guarantee that these broad education concerns are represented in the Commission's policy discussions, and will afford the other elected officials on the Commission a keener understanding of the concerns faced on a day to day basis of those in the education field.

By adding school board members to the ACIR we will improve the balance of the membership on the Commission and ultimately should improve the balance in the intergovernmental system. I urge my colleagues to support this proposal to expand the ACIR and improve the relationships among the major governments in our federal system.●

By Mr. BENSTEN (for himself, Mr. WALLOP, Mr. RIEGLE, Mr. JACKSON, Mr. CRANSTON, Mr. DODD, Mr. DIXON, Mr. STENNIS, Mr. SARBANES, Mr. ROBERT C. BYRD, Mr. TSONGAS, and Mr. LEVIN):

S. 2345. A bill to amend the Internal Revenue Code of 1954 to permit foreign pension plans to invest in the United States on a nontaxable basis for residential housing financing and investment purposes; to the Committee on Finance.

RESIDENTIAL HOUSING FINANCING AND INVESTMENT

● Mr. BENTSEN. Mr. President, I am introducing legislation today which would amend the Internal Revenue Code to attract new sources of capital for the U.S. housing market. This proposal would allow foreign pension plans to provide funds for residential U.S. real estate without the imposition

of U.S. taxes on the income and gains earned by the plans.

The purpose of this proposal is to further assist us in meeting our housing capital needs. Many of the housing and capital formation incentives that are currently being discussed must fit within budgetary restraints, and they may not really add to the overall supply of capital for housing but merely shift capital from one sector to another. This proposal has the advantage of providing new housing capital for this country with little, if any, revenue loss. It identifies and combines two important sources of capital—foreign investment and retirement savings. It would put the United States in a position to derive benefits from the savings of others by having that savings invested here. In this connection, it is estimated that the total funds of pension plans maintained by companies in three countries alone—the United Kingdom, the Netherlands, and Japan—exceeds $200 billion.

My proposal will provide a favorable tax climate for attracting a significant share of new money for the U.S. housing market and it will do so in a way that is consistent with sound tax policy. Specifically, the proposal would eliminate the U.S. tax burden on all types of residential real estate investment by these plans—initial or secondary mortgage financing, holdings of mortgage-backed securities issued by Fannie Mae or Ginnie Mae, and direct investment in new or existing apartment complexes and single or multifamily construction. Since pension plans traditionally invest on a long-term basis, it seems to me that the investments that would be made as a result of this proposal usually would be stable and long-term investments.

Mr. President, this proposal—which represents a new and promising approach to help provide more affordable housing to Americans—is supported by the Democratic Caucus and also has bipartisan interest and support. Significantly, the enactment of the proposal would involve little or no revenue loss. In this regard, it is estimated that, for every $1 billion in new housing investment that is made under the proposal, the cost would be less than $10 million. Surely, this is an insignificant cost for attracting a new source of capital for U.S. housing financing and expansion purposes.

The proposal would exempt eligible foreign pension plans from tax on their income and gains from qualified residential housing investments in the United States. Qualified investments would include all types of residential debt financing customarily made by banks, et cetera, and equity interests in existing or new residential properties. The bill limits the exemption to foreign pension plans that are comparable in structure to U.S. pension plans which, under present law, generally could make such investments on a tax-free basis. Thus, the foreign plans would have to qualify for favorable treatment under the tax laws of the country in which they are organized. They would have to be funded with assets that are segregated from the assets of the employer, and they would have to be maintained primarily to provide retirement benefits for nonresident employees. The bill also includes a technical amendment that is necessary if U.S. life insurance companies are to be able to make qualified housing investments for foreign pension plans on a competitive, tax-exempt basis with banks, et cetera.

In summary, Mr. President, this is a very sensible and attractive proposal to tapping a new source of capital for the U.S. housing market.

Mr. President, I ask unanimous consent to print the bill in the RECORD immediately following my remarks.

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

S. 2345

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

SECTION 1. RESIDENTIAL REAL ESTATE INCOME OF CERTAIN FOREIGN PENSION PLANS.

(a) IN GENERAL.—Subpart C of part II of subchapter N of chapter 3 of the Internal Revenue Code of 1954 (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by inserting after section 897 the following new section:

SECTION 898. RESIDENTIAL REAL ESTATE INCOME OF CERTAIN FOREIGN PENSION PLANS.

"(a) IN GENERAL.—For purposes of this title (and notwithstanding any other provision of such title), gross income does not include income, gains or other amounts derived by an eligible foreign pension plan from qualified investments in residential real property.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE FOREIGN PENSION PLAN.—The term "eligible foreign pension plan" means a trust, corporation or fund which is formed pursuant to, or as part of, a foreign pension plan which satisfies the following requirements—

"(A) the plan is maintained primarily to provide retirement or similar benefits to employees who are primarily nonresident alien individuals;

"(B) the assets of the plan are segregated from the assets of the employer or employers maintaining the plan pursuant to the laws of the foreign country in which such plan is maintained; and

"(C) under the laws of the foreign country in which the plan is maintained, the plan is exempt from income tax.

"If all of the assets of a trust, corporation or fund are held for the benefit of one or more foreign pension plans described in this paragraph, such trust, corporation or fund shall itself be considered to satisfy the requirements of this paragraph.

"(2) QUALIFIED INVESTMENTS IN RESIDENTIAL REAL PROPERTY.—The term "qualified investments in residential real property" means—

"(A) investments in qualified residential financing (within the meaning of section 128(d)(3), except for subparagraph (H) thereof, as in effect on January 1, 1982) within the United States, and

"(B) fee ownership or co-ownership of land or improvements thereon (including the ownership or co-ownership of assets through a partnership) and leaseholds of land or improvements thereon, if such land or improvements are designed for use as, or substantially consists of, dwelling units (within the meaning of section 167(k)(3)) within the United States.

"For purposes of this paragraph, stock, or a contract with reserves based on a segregated asset account (described in section 801(g)(1)(B)), shall be considered to be qualified investment in residential real property' if substantially all of the assets of the issuer of the stock, or of the account on which the contract is based, are invested in property described in subparagraphs (A) and (B)."

(b) CONFORMING AMENDMENT.—Section 805(d) (relating to pension plan reserves of life insurance companies) is amended by adding the following new paragraph:

"(7) issued to an eligible foreign pension plan (within the meaning of section 898(b)(1)) if substantially all of the assets of the account on which such contract is based consist of qualified investments in residential real property described in section 898(b)(2)."

(c) The amendments made by this section shall take effect on January 1, 1982.●

● Mr. WALLOP. Mr. President, a little over 1 year ago, I joined with Senator MOYNIHAN in the introduction of a bill which would exempt foreign pension trusts from tax on investment income. Today, I join with Senator BENTSEN in the introduction of this bill, which is essentially identical to that which was introduced 1 year ago with one exception. This legislation will allow foreign pension trusts tax-exempt status to the extent that they invest in residential housing in this country.

As was noted when last year's bill, S. 502, was introduced, there is literally hundreds of billions of dollars in foreign pension trusts, with little of that amount being invested in the United States. It is a huge new capital pool, which is left largely untapped. To enable the residential housing market, which is suffering from an unprecedented lull in construction, to take advantage of this resource should be of the highest priority for this Congress. I would ask, however, that the Congress not limit its consideration of this concept to strictly housing, but to explore broadening its provisions to cover a broader sphere of investment opportunities as envisioned when Senator MOYNIHAN and I introduced S. 502 last year.

Mr. President, I would submit that this change in the tax status of foreign pension trusts does not represent a radical departure in U.S. tax policy. Rather, it affords foreign pension trusts the same tax-exempt status that is presently experienced by U.S. pen-

sion trusts, provided the trust is a part of a "qualified plan."

In conclusion, I would urge my colleagues on the Senate Finance Committee to give this legislation and S. 502 the benefit of their full consideration. In my estimation, it is a very genuine opportunity to bring new capital into this country for not only residential housing, but a myriad of other investment opportunities. And while I do not feel that those investment opportunities should extend to U.S. farmlands, this invitation to bring new capital into our economy can only assist as we begin our economic recovery.●

By Mr. RIEGLE (for himself, Mr. JACKSON, Mr. BAUCUS, Mr. ROBERT C. BYRD, Mr. CRANSTON, Mr. DIXON, Mr. DODD, Mr. FORD, Mr. LEAHY, Mr. LEVIN, Mr. MELCHER, Mr. RANDOLPH, and Mr. TSONGAS):

S. 2346. A bill to amend the National Housing Act to provide additional authorization for the Government National Mortgage Association tandem program and to express congressional opposition to certain rescission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

● Mr. RIEGLE. Mr. President, I am introducing legislation that would implement a portion of the Democratic emergency housing program announced last week by the distinguished Senator from Washington (Mr. JACKSON). The major part of this package was incorporated in legislation I introduced yesterday (S. 2327), which would provide a broad economic stimulus to the housing industry.

The legislation I am introducing today would also accomplish stimulus for the housing industry by helping to assure rapid construction of 50,000 units of multifamily rental housing for low-income persons. Funds for these projects have already been appropriated but are the target of a proposed Presidential rescission. If that rescission is accepted, we will lose about 85,000 more jobs in the already depressed housing industry and aggrevate the worsening rental housing shortage in the country.

This legislation would express the sense of Congress that those projects that can go into construction within 12 months should not be rescinded. It also provides an additional $1.2 billion in GNMA tandem funds which will be used to reduce interest rates on these projects.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

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

S. 2346

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

SEC. 1. (a) The Congress declares that multifamily rental housing projects that have received reservations of funds pursuant to the section 8 new construction or substantial rehabilitation programs, or pursuant to the low-rent public housing programs, and which can begin construction within twelve months of the date of the enactment of this Act, can provide an important stimulus to the housing industry and at the same time relieve rental housing shortages and improve housing opportunities for low-income people;

(b) It is therefore the sense of the Congress that rescissions proposed for these funds should be rejected and that the Secretary should take all reasonable steps to expedite construction of these projects.

SEC. 2. Section 305(c) of the National Housing Act is amended by striking out "$1,100,000,000" and inserting in lieu thereof "$2,300,000,000".●

By Mr. HELMS:

S. 2348. A bill to amend the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act to authorize the Secretary of Agriculture to determine the degree of inspection to be conducted in meat, poultry, and egg processing plants, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

MEAT, POULTRY, AND EGG PRODUCTS INSPECTION AMENDMENTS OF 1981

● Mr. HELMS. Mr. President, Thomas Jefferson once remarked:

I am not an advocate for frequent changes in laws and constitutions. But laws and institutions must go hand in hand with the progress of the Human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors.

Mr. President, Jefferson was right. While we must remain true to essential principles, we should nevertheless allow Government regulations to change as private industry changes in today's dynamic marketplace.

An example may be found in the U.S. Department of Agriculture's system of inspecting food processing facilities. Over the years, many of these meat, poultry, and egg products processing plants have updated and changed through modern technology, and now our system of inspecting such plants should also be updated and changed while maintaining adequate protection for the consumer.

With this in mind, I am today introducing legislation to provide greater flexibility in the U.S. Department of Agriculture's system of inspecting meat, poultry, and egg products processing facilities.

This legislation will remain true to the essential principle of consumer safety, but will allow USDA's inspection system to change to fit the current circumstances of these processing industries.

It will provide the Secretary of Agriculture with discretion to determine the appropriate methods of food processing inspection on a plant-by-plant basis and to reduce the required number of shell egg surveillance visits from four to one per year. Only processing establishments with proven track records of compliance with processing standards and adequate quality control systems will be eligible. Also, this bill is limited to processing only and makes absolutely no change in the inspection requirements for meat and poultry slaughter or eggbreaking establishments.

I strongly endorse the concept of this legislation, but I am open to suggestions of ways to alter the specific language of this measure. For example, I understand that industry groups have expressed certain concerns which I hope will be explored in hearings and addressed in further committee consideration.

I am certainly pleased that this measure has received bipartisan support, with Senator COCHRAN, Senator PRYOR, and Senator ANDREWS joining me in introducing it. I invite other Members of the Senate to join us as cosponsors. A number of industry groups favor this legislation, and it is actively supported by the administration.

It is worthy of such broad support. This legislation will allow our inspection system to respond to the modern conditions of 1982, in a way which will provide savings for the taxpayer while maintaining adequate protection for the consumer.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD, along with a summary, a letter from the Secretary of Agriculture, and a joint letter from several industry groups.

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

S. 2348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Meat, Poultry and Egg Products Inspection Amendments of 1981".

TITLE I—TO AMEND THE FEDERAL MEAT INSPECTION ACT

SEC. 101. Section 1(t) of the Federal Meat Inspection Act (21 U.S.C. 601(t)) is amended by inserting after the phrase "inspected and passed" the phrase, "or prepared in a USDA inspected establishment".

SEC. 102. Section 6 of the Federal Meat Inspection Act (21 U.S.C. 606) is amended by deleting everything before the proviso and inserting in lieu thereof: "That for the pur-

poses hereinbefore set forth, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment. Such examination and inspection shall be conducted in such manner and with such frequency as the Secretary deems necessary and in accordance with regulations promulgated under this Act, based on consideration of factors which shall include, (1) the nature and frequency of the establishment's processing operations, (2) the adequacy and reliability of an establishment's product monitoring system, and (3) the establishment's history of compliance with inspection requirements, and such other factors as the Secretary may deem appropriate. All such products found to be not adulterated shall be marked, stamped, tagged, or labeled as "Prepared in a USDA inspected establishment"; and all such products found to be adulterated shall be marked, stamped, tagged, or labeled as "Condemned" and all such condemned products shall be destroyed for human food purposes, as hereinbefore provided. The Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products. For the purposes of any examination and inspection, said inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of the establishment."

SEC. 103. Section 7(a) of the Federal Meat Inspection Act (21 U.S.C. 607(a)) is amended by inserting after the phrase "Inspected and passed" wherever it appears the phrase, "or 'Prepared in a USDA inspected establishment'".

SEC. 104. Section 7(b) of the Federal Meat Inspection Act (21 U.S.C. 607(b)) is amended by deleting the phrase "inspected at any establishment under the authority of this title and found to be not adulterated," and inserting in lieu thereof "inspected and passed or prepared in a USDA inspected establishment".

SEC. 105. Section 8 of the Federal Meat Inspection Act (21 U.S.C. 608) is amended by inserting after the phrase "inspected and passed" the phrase, "or 'prepared in a USDA inspected establishment'".

SEC. 106. Section 21 of the Federal Meat Inspection Act (21 U.S.C. 621) is amended by deleting ", or meat food product therefrom,".

TITLE II—TO AMEND THE POULTRY PRODUCTS INSPECTION ACT

SEC. 201. Section 6 of the Poultry Products Inspection Act (21 U.S.C. 455) is amended by redesignating subsection (c) as subsection (d) and inserting a new subsection (c) to read as follows:

"(c) That for the purposes hereinbefore set forth, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of processed poultry products prepared for commerce in each official establishment processing such poultry products. Such examination and inspection shall be conducted in such manner and with such frequency as the Secretary deems necessary and in accordance with regulations promulgated under this Act, based on consideration of factors which shall include, (1) the nature and frequency of the establishment's processing operations, (2) the adequacy and reliability of an establishment's product monitoring system, and (3) the establishment's history of compliance with inspection requirements, and such other factors as the Secretary shall deem appropriate."

TITLE III—TO AMEND THE EGG PRODUCTS INSPECTION ACT

SEC. 301. Section 5(a) of the Egg Products Inspection Act (21 U.S.C. 1034(a)) is amended to read as follows: "For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any egg product which is capable of use as human food and is misbranded or adulterated, the Secretary, whenever processing operations are being conducted, shall cause to be made, by inspectors appointed for that purpose, an inspection of the processing of egg products, in each plant processing egg products for commerce, unless exempted under Section 15 of this Act. With the exception of egg breaking operations which shall be continuously inspected, such inspection shall be conducted in such manner and with such frequency as the Secretary deems necessary and in accordance with regulations promulgated under this Act, based on consideration of factors which shall include, (1) the nature and frequency of the establishment's processing operations, (2) the adequacy and reliability of an establishment's product monitoring system, and (3) the establishment's history of compliance with inspection requirements, and such other factors the Secretary may deem appropriate. Without restricting the application of the above to other kinds of establishments within its provisions, any food manufacturing establishment, institution, or restaurant which uses any eggs that do not meet the requirements of Section 15(a)(1) of this Act in the preparation of any articles for human food shall be deemed to be a plant processing egg products, with respect to such operations."

SEC. 302. Section 5(d) of the Egg Products Inspection Act (21 U.S.C. 1034(d)) is amended by deleting the words "at least once each calendar quarter" and inserting in lieu thereof "at least once each year".

TITLE IV—EFFECTIVE DATE

SEC. 401. This act shall become effective upon the date of enactment.

SUMMARY

The bill would amend the Federal meat, poultry, and egg products inspection Acts to provide flexibility to the Secretary of Agriculture in determining the degree of inspection to be conducted in processing plants. More specifically, it would make the following changes.

Title I would amend the Federal Meat Inspection Act in the following respects—

(1) the definition of the official inspection legend would be changed to include reference to products "prepared in a USDA inspected establishment". Under current law the official inspection legend refers only to products "inspected and passed".

(2) The current law requirement for examination and inspection of all meat food products prepared for commerce in specified establishments would be changed to authorize the Secretary to adjust the manner and frequency of such examination and inspection at any establishment as the Secretary finds necessary and in accordance with certain requirements specified in regulations. In connection with establishing the level of inspection, the regulations must provide for the Secretary to consider the following factors:

(a) The nature and frequency of the establishment's processing operation;

(b) The adequacy and reliability of the establishment's product monitoring system; and

(c) the establishment's history of compliance with inspection requirements. The Secretary may consider other appropriate factors as well.

[Note: The effect of this amendment would be limited to the examination and inspection of the preparation of meat food products only. The amendment would make no change in the current law requirements for inspection of slaughtering operations.]

(3) The current law requirement that all processed meat products inspected and found to be not adulterated must be marked "Inspected and passed" would be changed to require that such products be marked as "Prepared in a USDA inspected establishment" instead. Certain other technical conforming changes would also be made to make other provisions of the FMIA consistent with the new labeling requirement for processed meat products.

Title II would amend the Poultry Products Inspection Act to authorize the Secretary to adjust the manner and frequency of the examination and inspection conducted at establishments processing poultry products for commerce as the Secretary finds necessary and in accordance with certain requirements to be specified in regulations. The regulations must provide for the Secretary to take into consideration the same three factors described above in connection with the proposed amendment to the FMIA.

[Note: The amendment to the PPIA is functionally the same as the amendment to the FMIA; it likewise would make no change in the inspection requirements for slaughtering operations. The amendment to the PPIA does not change the statutory definition of the inspection legend or include the other conforming changes described for the FMIA, above, because of structural differences between these two statutes. Under the PPIA, all necessary conforming changes in labeling can be made in the regulations without amending the statute.]

Title III would amend the Egg Products Inspection Act in the following respects—

(1) The continuous inspection requirement is changed to authorize the Secretary to adjust the manner and frequency of inspection to be made of the processing of egg products as the Secretary finds necessary except in the case of egg breaking operations, which shall receive continuous inspection. In determining the level of inspection the Secretary is required to give consideration to certain requirements to be specified in the regulations. The regulations must provide for the Secretary to take into consideration the same three factors described above in connection with the proposed amendment to the FMIA. Current law requires that the Secretary provide continuous inspection whenever any egg products processing is conducted for commerce in any plant.

(2) The requirement that the Secretary conduct periodic inspections of the business premises, facilities, inventory, operations, and records of egg handlers is changed to provide for annual inspections in lieu of the current requirement for inspections on a quarterly basis.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., February 18, 1982.

Hon. GEORGE BUSH,
President of the Senate,
U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: We enclose for the consideration of Congress a draft bill "to amend the Federal Meat Inspection Act, the Poultry Products Inspection Act and the Egg Products Inspection Act to authorize the Secretary of Agriculture to determine the degree of inspection to be conducted in meat, poultry and egg processing plants, and for other purposes."

Under these laws, USDA administers in-plant inspection programs which are designed to assure that consumers receive wholesome, unadulterated meat, poultry and egg products and that these products are properly marked, packaged and labeled. The Department also administers periodic inspection under the shell egg surveillance portion of the Egg Products Inspection Act. This Act requires that all shell egg handlers packing eggs for the ultimate consumer be visited at least once each calendar quarter to assure that eggs which are not fit for human consumption are being destroyed or diverted to nonhuman food use.

Federal involvement in meat inspection began with the Meat Inspection Act of 1890 as the result of concern over the wholesomeness of livestock and the sanitary conditions under which meat products were prepared in this country. Subsequent refinements of this law come with the enactment of the Federal Meat Inspection Act of 1906 and the Wholesome Meat Act of 1967. Combined with the passage of the Poultry Products Inspection Act of 1957, the Wholesome Poultry Products Act of 1968, and the Egg Products Inspection Act of 1970, these Acts, taken as a whole, represent a Federal commitment designed to assure the safety of meat, poultry and egg products distributed to consumers.

In view of the conditions which existed in the meat, poultry and egg industries at the time the major inspection laws were passed, it was determined that an intensive system of inspection was needed. This intensive inspection system involving the daily, on-site presence of inspectors has come to be known as "continuous" inspection. A less intensive, periodic review of other foods is conducted by the Food and Drug Administration under the provisions of the Federal Food, Drug and Cosmetic Act.

During the years in which USDA has conducted its inspection programs, processing methods have evolved from relatively simple procedures such as cutting and boning meat and hand-breaking eggs into highly sophisticated, technologically advanced operations. Food technology, as well as processing and information-gathering techniques, have changed greatly. There are now thousands of processed food products containing a wide range of ingredients. Mass production equipment has been introduced, and there is a greater variety of processes. Improved methods of monitoring processing operations also have been developed. With these innovations, continuous inspection is no longer necessary or practical in every instance.

USDA needs the flexibility to allocate its inspection resources in a way that will deal more efficiently and economically with the many different kinds of inspection situations faced today. Accordingly, the Department is recommending that the statutes authorizing meat, poultry and egg product inspection activities be changed to give the Secretary more discretion in determining appropriate methods of food processing inspection on a plant-by-plant basis and to reduce the required number of shell egg surveillance visits from four to one per year.

Factors to be considered by the Secretary in determining what inspection shall be necessary include: (1) the nature and frequency of the establishment's processing operations, (2) the adequacy and reliability of an establishment's product monitoring system, (3) the establishment's history of compliance with inspection requirements, and such other factors as the Secretary deems appropriate.

Making such changes in the law would continue to assure that all meat, poultry and egg products are safe and wholesome and would contribute toward controlling the cost of Federal meat, poultry and egg product inspection programs. Enactment of this legislation is expected to effect a cumulative $42.5 million savings in inspection activities over the next five years. As contained in the President's fiscal year 1983 budget this measure would reduce outlays by some $3.5 million.

The Office of Management and Budget advises that enactment of this legislation would be in accord with the Administration's program.

An identical letter has been sent to the Speaker of the House of Representatives.

Sincerely,

JOHN R. BLOCK,
Secretary.

NATIONAL BROILER COUNCIL,
Washington, D.C., March 17, 1982.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: We are pleased to have the opportunity to discuss with you legislation which has been developed by the U.S. Department of Agriculture authorizing the Secretary of Agriculture to determine the degree of inspection to be conducted in meat, poultry and egg products processing plants. The "Meat, Poultry and Egg Products Inspection Amendments of 1982" represents an initial but important step toward ending the requirement for continuous inspection in plants which process poultry, meat and eggs.

All U.S. meat and poultry sold in interstate commerce and for export is inspected by USDA prior to and at the point of slaughter. When such product is then processed in an establishment (i.e., made into frankfurters, bologna or the like), it must undergo further continuous reinspection by USDA. We believe that this continuous reinspection is no longer necessary and is an inefficient utilization of inspection resources. The further processing of poultry and meat products has been a highly sophisticated technology, utilizing improved methods of monitoring processing operations and product control. The reliance upon scientific product monitoring will provide more effective controls and safeguards.

The legislation developed by USDA will result in a savings of federal funds (USDA estimates as much as $42.5 million over the next five years), while still providing full consumer protection. The amendments to the poultry, meat and egg products inspection acts are also consistent with the cost-cutting and deregulatory efforts of the administration.

We would hope that you will view the legislation favorably, and take appropriate action toward enactment. During consideration of this legislation and during any hearings that may be held, we will likely be suggesting improvements and refinements to the bill.

In summary, we support USDA's effort to reduce the intensity of reinspection at processed meat, poultry and egg products establishments. We hope that you will be supportive of this effort and receptive to our suggestions for modifications to improve the legislation.

Thank you in advance for your consideration.

Sincerely,

C. MANLY MOLPUS,
President,
American Meat Institute.
DEWEY BOND,
Executive Secretary,
National Meat Canners Association.
LEE CAMPBELL,
President,
Poultry & Egg Institute of America.
GEORGE B. WATTS,
President,
National Broiler Council.
G. L. WALTS,
Executive Vice President,
National Turkey Federation.●

By Mr. DOLE (for himself and Mr. LONG):

S. 2350. A bill to revise subchapter S of the Internal Revenue Code of 1954 (relating to small business corporations); to the Committee on Finance.

THE SUBCHAPTER S REVISION ACT OF 1982

● Mr. DOLE. Mr. President, I am pleased to introduce the Subchapter S Revision Act of 1982. This bill already reflects nearly 5 years of careful study and represents a major step forward in the ongoing Finance Committee simplification project. This bill, which is cosponsored by Senator LONG in this Chamber and is being this day introduced by Chairman ROSTENKOWSKI and Ranking Minority Member CONABLE of the Ways and Means Committee in the House, would make a complete overhaul of subchapter S. This bill will for the first time since this subchapter was enacted in 1958 realize the full congressional intent to permit small businesses to elect to be taxed directly at the shareholder level.

SUBCHAPTER S IS IMPORTANT FOR SMALL BUSINESS

The rules of subchapter S permit election out of the second tier corporate income tax. In the past, however, these rules have been complex and unnecessarily burdensome on taxpayers. Even so, in 1976 over 16 percent of all corporations—a total of 393,000—were subchapter S corporations. This bill would greatly expand the opportunity for the use of subchapter S and remove many of the traps for the unwary that plague the present law.

THE PRINCIPAL IMPROVEMENTS OF THE BILL

I would like to identify three major areas in which the bill would make substantial improvement over present law.

ELIGIBILITY

First, the scope of subchapter S would be greatly expanded by permitting such corporations to receive passive income except in the case of corporations with accumulated earnings and profits. This latter change alone would remove a large volume of the litigation over the qualifying status of subchapter S corporations. Second, the number of shareholders a subchapter S corporation may have will be increased to 35. This will permit a wider contribution of capital to small business, and conform the number of shareholder rules to the numerical limits of federal securities laws for private offerings. Third, for the first time the potential blackmail power of an individual acquiring stock of a subchapter S corporation to terminate the subchapter S election will be terminated. Each of these rules will add substantially to the usefulness of subchapter S corporations.

THE OPERATING RULES

Even more important, however, are the improvements made in the operating rules for qualifying subchapter S corporations. Under present law, the character of income generally does not pass through to shareholders. Thus, for example, municipal bond income becomes taxable if received by a subchapter S corporation. Under the proposed bill, the character of income would be preserved, as in the case of partnerships. Second, income would be allocated to shareholders based upon the portion of a year that they held stock. Not only does this provide a far more accurate allocation of income, it effectively bars one of the most common income shifting abuses available under present law.

A third operating rule worth highlighting is that which permits carryforward of losses. The new rule prevents one of the worst traps for the unwary of present law. Currently, losses of subchapter S shareholders cannot be deducted in excess of a shareholder's basis in stock and debt of the corporation. Even if the corporation incurs a real, economic loss, it may not be deductible. Nor can it be carried forward. While the bill prohibits current deductibility to prevent use of subchapter S corporations as tax shelter vehicles, the bill will permit the carry forward of such deferred losses.

LIMITING ABUSES

Although subchapter S has proved full of pitfalls for the unwary small businessman, it has also offered an unintended bonanza for some sharp tax lawyers. The proposed bill would restore subchapter S to its intended role rather than an alternative vehicle for tax avoidance. Three changes that would be made help realize that goal. First, a simple deferral technique through the use of staggered tax years will be prohibited. Second, the daily income and loss allocation rule will prevent income shifting and the conversion of ordinary income into capital gain. Third, certain special benefits accorded corporations but not appropriate for a passthrough entity are limited.

FURTHER QUESTIONS

I want to emphasize that the bill as introduced clearly needs further technical consideration. A great virtue of the legislative process is that it provides extensive opportunity for public review of proposed laws, and in this case comments from the tax community would be especially valuable.

THE SECTION 385 REGULATIONS

While comments on all aspects of the bill are welcome, I would like to direct attention at two issues particularly. Both existing law and the present bill forbid subchapter S corporations to have more than one class of stock or to have certain types of stockholders. In order for a taxpayer to know whether he has met these requirements, he must know what definition of stock is to apply.

In the case of corporations not under subchapter S, what are sometimes referred to as subchapter C corporations, the courts treat some instruments that are titled debt as if they were stock. This has been known as the "thin capital" doctrine since it first arose in cases where the corporation had almost no regular stock and heavy debt.

The "thin capital" doctrine proved to be very uncertain in operation, and accordingly, Congress in 1969 authorized the Treasury to issue regulations to determine whether interests in a corporation were stock or debt. That proved to be as difficult an assignment for the Treasury as it had been for the courts, and it was over 10 years before proposed regulations were issued. The proposals aroused great controversy and to this date, 12 years after the legislation, have never gone into effect. They are currently being studied and revised by the Treasury.

The question which must be considered is whether a small businessman, in order to know whether his subchapter S election is valid, must test it against this enormously uncertain and unsatisfactory body of law defining "stock" in the context of subchapter C corporations.

The portion of the Internal Revenue Service under existing law was initially that the "thin capital" doctrine did indeed apply to subchapter S, and that position was taken to court in a series of cases. In every one of these cases, however, the "thin capital" doctrine was rejected, and finally the Service announced it would abandon the attempt to treat debt as if it were stock in cases like those it had litigated and lost. Since then the IRS has never taken to court a single case on the issue.

Certain points seem clear to me from this history and from staff review of this matter.

First. After a full-scale revision of subchapter S this matter should be resolved one way or another. Such a major point should not be left to a mere Service announcement as to current litigatory policy.

Second. The rule as finally adopted should in normal cases give the taxpayer the benefit of certainty as to whether he has or has not met the test.

Third. The "thin capital" doctrine as enunciated by the courts or the eventual Treasury regulations on the subject, if and when they are ever finalized, should not as such apply to subchapter S. The considerations which are probably the most important in a subchapter C context are simply not relevant to subchapter S. That is true, for example, of the very element of capital "thinness" itself.

The remaining question is whether the definition of stock in subchapter S can be simply left to the corporate charter or whether certain additional rules or limitations are necessary to prevent unintended tax results. There seems to be general agreement among the tax professionals that some such rules are necessary but there is not consensus as to whether these should or should not be part of the definition of stock, or exactly what the rules should be.

Our conclusion has been that the bill as introduced should simply not attempt to resolve this question, in the belief that introduction of the bill should not be further delayed. A final resolution of the issue will benefit from consideration by the full tax community, outside as well as inside the Government, and we would appreciate all comments on these complex questions.

PASSIVE INVESTMENTS

In general, the bill discards the limitation of present law that subchapter S corporations may not receive substantial passive investment income. An exception applies, however, to subchapter S corporations that have previously been subchapter C corporations and have a substantial earnings and profits account. For that limited class of corporations, the passive investment limitation is retained.

This, like the lack of resolution of the one class of stock issue, is more an admission we believe further consideration is necessary than a recommendation as to the final policy that should be enacted. So here, too, we look forward to receiving the comments of the tax community.●

● Mr. LONG. Mr. President, early in the 96th Congress, the Senator from Kansas (Mr. DOLE), and I announced a program for simplifying and improving the operation of the Internal Rev-

enue Code. Rather than undertake the monumental task of reviewing the entire code at one time, we called for a series of bills, each of which would deal with one area of the tax law.

The first such bill, enacted in 1979 as Public Law 96-167, was limited to several rather technical changes simplifying certain aspects of subtitle F, which contains the procedural provisions of the code.

The next bill was the Installment Sales Revision Act of 1980, which completely revised and improved the tax treatment of an entire area of commercial transactions.

In this Congress our attention in the tax field has been concentrated on legislation to improve the economy. Nevertheless, a valuable side product of the Economic Recovery Tax Act was the substantial simplification of the rules on capital cost recovery and some simplification of the estate and gift taxes.

Now we are introducing another simplification bill covering subchapter S, which deals with corporations taxed on a passthrough basis. The bill as introduced represents an enormous amount of work by the staffs of the tax-writing committees and the Joint Committee on Taxation, as well as by the Treasury and a number of professional organizations and individuals outside the Government.

Subchapter S is an especially appropriate subject for simplification, since until now it has presented many unnecessary traps for the unwary. We hope that the new legislation will remove these traps and make subchapter S a practical choice for businesses who cannot afford the cost of the constant professional tax monitoring required by the present provisions.

The bill is also appropriately timed. The Economic Recovery Tax Act, which reduces the top individual rate to a level not far from the corporate rate and facilitates the use of trusts for holding the corporate stock, will make subchapter S attractive to many more companies. Such businesses should find the rules proposed in the new bill far easier to learn and work with than existing law.

It is also my hope that the professional community will study this proposal in depth and let us have the benefit of their comments. It is not our position that the bill as introduced is a final product which should be enacted immediately in its present form. The legislation involves several difficult technical issues which might be resolved differently. The legislative process affords extensive opportunity for the public to make known its views both to Senators and Representatives individually and through formal testimony at public hearings. Such public participation in the process should be particularly helpful on a bill of this type.●

By Mr. HELMS (by request):

S. 2351. A bill to authorize the Secretary of Agriculture to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the special equipment to be used for such carriage (ATP), and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

INTERNATIONAL CARRIAGE OF PERISHABLE FOODSTUFFS ACT

● Mr. HELMS. Mr. President, at the request of the Secretary of Agriculture, John R. Block, I am introducing a bill to implement the provisions of the Agreement on the International Carriage of Perishable Foodstuffs and on the special equipment to be used for such carriage (ATP).

The agreement was developed at the end of World War II under the auspices of the Economic Commission for Europe (ECE), one of the United Nations regional commissions. The ATP came into force on November 21, 1976, and now has 16 signatories: France, West Germany, Spain, Yugoslavia, Denmark, Austria, Italy, Luxembourg, Sweden, Belgium, the Netherlands, Norway, Finland, the United Kingdom, Bulgaria, and the U.S.S.R. Its primary objective is to establish uniform inspection requirements for the transportation equipment that moves perishable foodstuffs across national borders.

On March 20, 1980, the Senate unanimously approved U.S. excision to the treaty. However, before the State Department can actually sign this treaty, legislation must be enacted that would assign responsibility for administration of the treaty to the Secretary of Agriculture. That is the purpose of this bill.

More specifically, the agreement requires that insulated, refrigerated, or heated transportation equipment used to move perishable foodstuffs into contracting states be tested, certified, and marked to insure that such equipment is properly insulated and capable of maintaining a prescribed temperature within the equipment.

Signatory nations to the agreement can and frequently do impose national law on containers belonging to citizens on nonsignatory countries. Although American-owned and operated equipment consistently exceeds the ATP standards and specifications, the failure of this country to become a signatory to the agreement has many times resulted in our equipment being subject to harrassment and transportation delays by signatory governments having slight variances with the United States in their specification requirements.

As a signatory, the United States can invoke article 5 which exempts containers engaged in foreign commerce with sea crossings greater than 150 kilometers. Since this exemption would apply to all U.S. containers, future harassment by other contracting parties under the agreement would be unlikely.

In addition, as soon as the United States becomes a signatory to the agreement and the Department sets up the testing and certification program, manufacturers, owners, and operators of U.S. transport equipment can have their equipment tested and certified in the United States with the assurance that the U.S.-issued certificates will be recognized by all of the contracting parties.

It is important to note that the ATP does not mandate that all temperature-controlled containers be ATP certified. This legislation will simply enable container manufacturers and containership operators to obtain ATP certification if it is needed for operation in Europe.

Finally, as a signatory to the agreement, the United States will also be able to veto any proposed changes to the agreement that would not be in the best interests of the United States.

I ask unanimous consent that the bill and the original transmittal letter from the Secretary of Agriculture be printed in the RECORD at the conclusion of my remarks.

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

S. 2351

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Carriage of Perishable Foodstuffs Act".

FINDINGS AND PURPOSE

SEC. 2. The Congress hereby finds and declares that—

(a) The United States, as a member of the Economic Commission for Europe of the United Nations, participated in development of the ECE Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be used for such Carriage (ATP), hereinafter referred to as "Agreement";

(b) The Agreement requires that equipment involved in international carriage be inspected, tested, and certified to specified standards and that perishable foodstuffs be maintained at specified temperatures during carriage;

(c) This Act will make it possible for equipment in the United States to be inspected, tested, and certified in accordance with the Agreement and the standards specified therein; and

(d) This Act will improve the conditions for preservation of the quality of perishable foodstuffs during transport, particularly in international trade, which will serve to protect existing trade and promote expansion of trade in perishable foodstuffs.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "Agreement" means the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be used for such Carriage (ATP), and the Annexes and Appendices thereto, done at Geneva, September 1, 1970,

under the auspices of the Economic Commission for Europe of the United Nations.

(b) The term "contracting party" means any country which is eligible under Article 9 of the Agreement and has complied with the terms of said article.

(c) The term "equipment" means the special transport equipment as defined in Annex 1 of the Agreement including but not limited to railway cars, trucks, trailers, semi-trailers, and intermodal freight containers which are insulated only, or insulated and equipped with a refrigerating, mechanically refrigerating, or heating appliance.

(d) The term "perishable foodstuffs" means quick (deep)-frozen and frozen food products listed in Annex 2 and food products listed in Annex 3 of the Agreement.

(e) The term "international carriage" means transportation of perishable foodstuffs loaded in equipment in the territory of any country and unloaded in the territory of another country which is a contracting party, where such transportation is by:

(1) rail,

(2) road,

(3) any combination of rail and road, or

(4) sea crossing of less than 150 km, if preceded or followed by one or more land journeys as referred to in (1), (2), and (3) above, and shipped in the same equipment used for such land journey(s) without transloading.

(f) The term "United States" means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, America Samoa, the Virgin Islands of the United States, the Northern Mariana Islands, and any other territory or possession of the United States.

DUTIES OF THE SECRETARY OF AGRICULTURE

SEC. 4. The Secretary of Agriculture shall be the competent authority to implement the Agreement in order to ensure compliance with the standards specified therein and is hereby authorized to—

(a) designate appropriate organizations to inspect and/or test equipment;

(b) issue certificates of compliance in accordance with Annex 1, Appendix 1, paragraph 4 of the Agreement;

(c) prescribe such regulations as may be deemed necessary to implement the Agreement and administer this Act;

(d) make periodic onsite inspections of facilities and procedures used by those seeking certification and by organizations designed to test and/or inspect equipment under this Act;

(e) require submission of reports by those seeking certification and by organizations designated to test and/or inspect equipment under this Act;

(f) require maintenance of records by those seeking certification and by organizations designated to test and/or inspect equipment under this Act, such records to be made available to the Secretary upon request;

(g) inform contracting parties, through the Secretary of State, of all general measures taken in connection with the implementation of the Agreement; and

(h) take such other action as may be considered appropriate to implement the Agreement or administer this Act.

DUTIES OF THE SECRETARY OF STATE

SEC. 5. The Secretary of State, with the concurrence of the Secretary of Agriculture, may take such action as may be considered appropriate to assert and protect the rights of the United States under the Agreement.

FEES FOR TESTING AND INSPECTION

SEC. 6. Any organization designated by the Secretary of Agriculture to inspect or test equipment may establish reasonable fees to cover the costs of inspection or testing, such fees to be payable directly to the organization by those seeking inspection or testing.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 7. There are hereby authorized to be appropriated to the Department of Agriculture for the fiscal year starting October 1, 1982, and for each fiscal year thereafter, such sums are as necessary but not to exceed $100,000 per fiscal year to carry out the provisions of this Act.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 16, 1981.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith for the consideration of the Congress is a draft bill to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used For Such Carriage (ATP). That Agreement was developed under the auspices of the Economic Commission for Europe, a subsidiary body of the United Nations. The Senate ratified the Agreement by unanimous vote on March 20, 1980.

The Department of Agriculture recommends the draft bill be enacted.

This bill would provide that the Secretary of Agriculture have prime responsibility within the U.S. Government for administration of the Act and implementation of the Agreement. In essence, the Secretary would set up a program whereby manufacturers and owners of refrigerated ocean-going containers could have their equipment inspected, tested, and certified to the standards in the Agreement, for operation in Europe. Such inspections will be performed by private firms licensed by the Secretary.

The Secretary of State would be authorized to take such actions as required to assert and protect the rights of the United States under the Agreement.

In addition to the draft bill, we have attached a section-by-section analysis which provides further detail and rationale for the bill.

Enactment of this bill would require minimal additional budget authority for the USDA to administer the Act, as indicated in section 6 of the analysis.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

An identical letter has been sent to the Speaker of the House of Representatives.

Sincerely,

JOHN R. BLOCK,
Secretary.

A bill to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used For Such Carriage (ATP), and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Carriage of Perishable Foodstuffs Act."

SEC. 2. DEFINITIONS

As used in this Act—

(a) "Agreement" means the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP), and the Annexes and Appendices thereto, done at Geneva, September 1, 1970, under the auspices of the Economic Commission for Europe of the United Nations.

(b) "Contracting Party" means any state which: (1) is a member of the Economic Commission for Europe, or is associated with it under paragraphs 8 or 11 of its terms of reference, and (2) has become a Contracting Party to the Agreement in accordance with Article 9 of the Agreement.

(c) "equipment" means the special transport equipment as defined in Annex 1 of the Agreement, to include railroad cars, trucks, trailers, semi-trailers, and intermodal freight containers which are insulated only, or insulated and equipped with a refrigerating, mechanically refrigerating, or heating appliance.

(d) "perishable foodstuffs" means fresh and frozen food products which must be maintained at specified temperatures for the purpose of preserving product quality and prolonging storage life, and includes all those specific foodstuffs listed in Annexes 2 and 3 of the Agreement.

(e) "international carriage" means transportation of perishable foodstuffs loaded in equipment in the territory of any state and unloaded in the territory of another state which is a contracting party, where such transportation is by:

(1) rail,

(2) road,

(3) any combination of rail and road, or

(4) sea crossing of less than 150 km, if preceded or followed by one or more land journeys as referred to in (1), (2), and (3) above, and shipped in the same equipment used for such land journey(s) without transloading.

(f) "United States" means the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 3. APPLICATION OF THE AGREEMENT

(a) The Agreement requires that equipment involved in international carriage be inspected and tested to specified standards, and that the perishable foodstuffs transported be maintained at specified temperatures.

(b) This Act provides for a program sponsored by the U.S. Government, whereby manufacturers and owners of equipment in the United States may have their equipment inspected and tested to the standards in the Agreement.

(c) The United States at the time of deposit of its instrument of accession will, in accordance with the option available under Article 10 of the Agreement, declare that the Agreement does not apply to carriage in the United States.

SEC. 4. DUTIES OF THE SECRETARY OF AGRICULTURE

The Secretary of Agriculture shall:

(a) have basic responsibility for administration of this Act and for implementation of the Agreement by the U.S. Government;

(b) as soon as practicable after the date of enactment of this Act, develop and issue regulations which shall include, but need not be limited to.

(1) procedures for inspecting and testing equipment in accordance with the Agreement,

(2) provisions for delegating to any public or private organization which the Secretary deems appropriate, the functions of inspection and testing of equipment; also the

name and address of each such organization, together with the functions delegated, the period of delegation, and the organization's schedule of fees, shall be published in the Federal Register and otherwise published as appropriate; such organizations may be required by regulation to maintain records which shall be made available to the Secretary upon request; and

(3) delineation of the responsibilities of manufacturers and owners of equipment which participate in the program;

(c) through the Secretary of State, inform the other Contracting Parties to the Agreement of all general measures taken in connection with implementation of the Agreement; and

(d) take such other action as he may consider necessary or appropriate to implement the Agreement.

SEC. 5. DUTIES OF THE SECRETARY OF STATE

The Secretary of State, with the concurrence of the Secretary of Agriculture, may take such action as he may consider necessary or appropriate to assert and protect the rights of the United States under the Agreement.

SEC. 6. AUTHORIZATION AND APPROPRIATION

There are hereby authorized to be appropriated to the Department of Agriculture for the fiscal year ending September 30, 1981, and for each fiscal year thereafter such sums as are necessary to carry out the provisions of this Act.

[Section-By-Section Analysis]

INTERNATIONAL CARRIAGE OF PERISHABLE FOODSTUFFS ACT

Section 2. This section provides definitions for "Agreement," "Contracting Party," "equipment," "perishable foodstuffs," "international carriage," and "United States," as those terms are used in the Act.

Section 3(a). This section sets forth the two basic requirements of the Agreement, (1) that equipment must be inspected and tested to certain standards, and (2) the foodstuffs transported must be kept at specified temperatures.

Section 3(b). This section points out that the inspection and testing program is under the sponsorship of the U.S. Government. Since the Agreement is one between governments, it is inherent that basic responsibility for such programs be vested in the government of each Contracting Party. Also, it should be noted that the Act does not make it mandatory that equipment of U.S. registry be inspected and tested. Rather, it is a matter of choice on the part of manufacturers and owners of equipment who may need such inspection and testing, and resulting certification, for operation in Europe.

Section 3(c). This section provides that, as regards the United States, the Act does not apply to domestic transport operations. The Article 10 referred to was placed in the Agreement at the behest of the United States, as we had no need or desire to apply the Agreement to transport operations in the U.S. The Agreement was developed by the Economic Commission for Europe, primarily to apply to transportation in Europe.

Section 4(a). This section designates the Secretary of Agriculture as the key official within the U.S. Government to have responsibility for administering the Act and implementing the Agreement.

Section 4(b). This section requires the Secretary of Agriculture to issue regulations covering procedures for inspection and testing of equipment. Further, this section authorizes the Secretary to delegate those functions to public or private organizations. In addition, the section requires the Secretary to specify the responsibilities of manufacturers and owners of equipment involved.

Section 4(c). This section requires, in accordance with Article 6, paragraph 1, of the Agreement, that the Secretary of Agriculture keep other Contracting Parties informed of the general measures taken by the United States in implementing the Agreement.

Section 4(d). This section provides authorization to the Secretary of Agriculture to take any other actions as necessary to accomplish the purposes of the Agreement.

Section 5. This section gives authority to the Secretary of State to take actions, with the concurrence of the Secretary of Agriculture, as required in connection with the rights of the United States as a Contracting Party to the Agreement. Mainly, this function would involve communicating to the Secretary-General of the United Nations the official views of the U.S. concerning application of the Agreement, recommended revisions, and related issues.

Section 6. This section provides for funding to the U.S. Department of Agriculture to administer the Act. The office within the USDA which would handle that function would be relatively small, consisting of three persons: One professional engineer, an assistant, and a secretary.

Actual costs for inspection and testing of equipment, including construction and operation of test facilities, will be borne by industry.

Manufacturers and operators of oceangoing refrigerated containers have expressed an urgent need to obtain the required certification to remain competitive with foreign manufacturers and carriers. Therefore, it is recommended that the program be put into effect as soon as possible with proportionate funding for the remainder of fiscal year 1981, and full funding for fiscal year 1982.●

By Mr. HELMS:

S. 2352. A bill to amend the Food Stamp Act of 1977, to improve the administration of the food stamp program and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD STAMP ACT AMENDMENTS OF 1982

● Mr. HELMS. Mr. President, I am today introducing legislation to provide States with the option of establishing their own nutritional assistance programs in place of the food stamp program.

As chairman of the Committee on Agriculture, Nutrition, and Forestry, I constantly hear of the need for greater flexibility in the administration of the food stamp program. This approach will grant significant latitude to the States to tailor their own nutritional assistance programs.

Mr. President, this is a bold, new approach to nutritional assistance which merits the careful consideration and support of my colleagues. It is similar in concept to the block grant approach considered in the Senate several years ago sponsored by Senator Bellmon.

We need not be confined to the debates of the past as to how to manage the food stamp program and control its spiraling cost. Providing the States with the discretion on how to operate their programs will enable those States which wish to strike out in a new direction the option to do so without any coercion to those States who do not want to take such initiatives. This optional block grant approach allows federalism to work at its best, with maximum State flexibility.

The total level of funding for States which continue under the Federal system and for those which adopt the block grant approach is predicated on an authorization level of $10.367 billion—as assumed in the administration's fiscal year 1983 budget request.

States which remain under the Federal food stamp program will also have additional flexibility under the provisions of my bill. At the same time, they will be subject to more accountability for Federal dollars. The rate of overissuances in the current program, 10.5 percent, must not continue unaddressed. States which continue under the federal system would be required to reimburse the Federal Government for all errors in overissuances. State workfare programs would be required for able-bodied recipients. Measures to reduce the program's vulnerability to fraud are also included.

For States continuing under the federal system, it should also be emphasized that very few recipients will experience reduction in benefits on October 1, when these measures are scheduled to take effect. Benefit levels are scheduled to increase each October 1, under current law. If reforms can be scheduled to take effect on October 1—as I am proposing—the net impact on households will be marginal, and rarely result in an actual decrease in benefits received. Rather, benefit increases would be lessened. The provisions of this bill have been carefully studied and I believe are a sensitive approach to the reality of our current budgetary situation.

OPTIONAL BLOCK GRANT

Last year, Congress enacted a block grant for Puerto Rico established at $825 million annually. Under my proposal, States would be permitted to receive the same percentage of funding during fiscal year 1983 which they received during the 12 months ending March 31, 1982, in the form of a block grant.

For instance, my home State of North Carolina currently issues approximately 3 percent of all food stamp benefits issued outside Puerto Rico. Under my proposal, North Carolina would have the option of receiving 3 percent of the fiscal year 1983 authorization level—excluding the portion already designated for Puerto Rico—to operate a food assistance program of its own design in lieu of the Federal food stamp program.

The administration's non-Puerto Rico funding for fiscal year 1983 is $9,541.7 million—the non-Puerto Rico funding during fiscal year 1982 is estimated to be approximately $10.3 billion—this reduction is approximately $800 million—less than 9 percent reduction from fiscal year 1982 levels.

Maximum flexibility would be granted to each State to establish nutritional assistance programs designed to meet the needs of that State. Regulatory involvement by the Department of Agriculture would be minimal. The Department would not be permitted to override State plans of operation which meet the guidelines of the legislation. The General Accounting Office would be authorized to conduct investigations of the use of funds received by the States to insure compliance with the legislation. Provisions incorporated in last year's block grants against discrimination, prohibiting use of funds for construction purposes, and requirements for legislative involvement within the States are incorporated in the legislation as well. Indeed, the formula for the grant and its basic structure are modeled after the block grant provisions of the Omnibus Budget Reconciliation Act of 1981. However, participation in the low-income nutritional assistance block grant would be optional at the discretion of each State.

In addition to this major reform, this legislation would establish increased flexibility for those States which do continue to operate under the Federal program.

I have received numerous comments from local and State administrators who have suggested many of the provisions which are included within this bill. Others have been recommended by the General Accounting Office and decided upon after consultation with the Library of Congress to make the food stamp program more compatible with the aid to families of dependent children program.

This legislation includes alternative means for accomplishing the $2.3 billion in savings which has been proposed by the administration for the fiscal year 1983 budget. While I support the administration's total budget level reductions in the food stamp program, I believe that specific recommendations can be tailored in such a way to save tax dollars with less adverse impact on recipients who are truly in need of assistance.

Among the major proposals for cost savings are:

Requiring States to reimburse the Federal Government for all errors which result in overissuances of food stamp coupons for households. The national overissuance error rate of 10.5 percent among States is unacceptably high, especially in comparison to the lower error rates in programs in which the States share a percentage of the benefit costs—such as aid to families with dependent children and medicaid, 7.3 percent and 5 percent respectively. This proposal results in no reduction in benefits to individuals, but rather requires greater State accountability and repayment for errors. With Federal program costs of $9.5 billion in the 50 States for fiscal year 1983, almost $1 billion will be lost to errors unless this proposal is adopted. I believe the administration's proposal to establish reimbursement for errors above 3 percent is unnecessarily lenient.

Changing the basis of the scheduled October indexing of the thrifty food plan. Current law requires indexing of the thrifty food plan on October 1, 1982, based on the 21 months ending June 30, 1982. I would propose to base that indexing on the 18 months ending March 31, 1982. It should be emphasized that this proposal will result in less of an increase, rather than an actual reduction, in benefits. Indeed, in order to cushion the impact of all reductions, I am proposing October 1, 1982, implementation so that the indexing of the thrifty food plan will substantially offset the practical impact on recipients. Benefits will thus be increased by less than they otherwise would be under current law, but very few recipients will receive any nominal reduction in benefits.

Lowering the gross income limit from 130 percent to 100 percent of the income proverty guidelines. While the action taken last year to restrict program participation to those below 130 percent of poverty was a step in the right direction, I firmly believe that the limitation should be lowered to the poverty level itself. It should be noted that the gross income test adopted last year did not apply to households with elderly or disabled members, and my proposal would not alter those separate income guidelines.

Requiring each State to implement a workfare program for able-bodied food stamp recipients, or, in lieu of implementing workfare, reimbursing the Federal Government for 5 percent of the benefits issued within that State. It is certainly clear that American taxpayers do not begrudge paying for food assistance for households who are truly unable to provide for themselves. However, the continued and prolonged presence of able-bodied persons on the food stamp rolls cannot be afforded.

Lowering the earned income deduction from 18 percent of earnings to 15 percent of earnings. While the Department's statistics indicate that households are overcompensated for work-related expenses, I believe that the bulk of savings resulting from the administration's recommended total elimination can more wisely be accomplished through other proposals outlined above.

Increasing the benefit reduction rate from present 30 percent to 33.3 percent. This is the amount by which benefits are reduced for each additional dollar of income received by the household. The benefit reduction rate is supposed to be that percentage of income which is spent on food. The 30-percent figure was arrived at many years ago as a rounding down from one-third of household income. The benefit reduction rate is a reasonable focus for reform, but I believe that 33.3 percent is both a more accurate and preferable figure than the 35 percent recommended by the administration.

Counting the value of energy assistance received by food stamp households as income. The financial situation of food stamp households is currently understated by excluding the value of energy assistance benefits paid to, or on behalf of, the household.

Eliminating the $10 minimum benefit currently available to one- and two-person households. Current law provides that one- and two-person same households may receive $10 in benefits if they are eligible to participate even if they are actually entitled to only $2, $5 or so per month. Indeed, 50 percent of all minimum benefit households were actually entitled to no benefits and yet received $10 anyway. This amendment is designed to eliminate the $10 minimum and provide no more than the exact amount to which the household is due.

Other proposals, specifically aimed at areas of fraud, are:

Establishing, at State option, systems for recovering overpayments in food stamps through offset procedures against both Federal income tax refunds and unemployment compensation benefits which might otherwise be due to recipients or former recipients. Present law provides for means of collecting overissuances from households who continue to participate in the program through offsetting future benefits to recover the overissuance. However, households who are no longer participating in the program are often not forced to repay such overissuances. This provision would permit States to recover such overissuances through the Federal tax system and unemployment compensation benefits and parallels a similar provision adopted in the Omnibus Budget Reconciliation Act of 1981 which required such offsets for delinquent child support payments in the AFDC program.

Prohibiting an increase in food stamp benefits as a result of income lost in other programs due to a penalty. Benefit levels in the food stamp program are primarily a function of income. At the present time when an AFDC household's income is reduced

in order to collect a prior overissuance due to fraud, food stamp benefits are actually increased. Several State investigators have noted that this anomaly serves to undermine the effectiveness of the AFDC sanction and to increase food stamp costs.

Establishing minimum disqualification periods for stores which violate the Food Stamp Act. Presently stores which sell ineligible merchandise for food stamps are suspended from participation in the program for as little as 30 to 90 days. Over half of the inspections made by the Office of Compliance of the Department of Agriculture notice that retail store fraud is just as serious as recipient fraud. Upon a first violation, a store would be suspended for 6 months to 5 years, 12 months to 10 years for a second violation, or permanently for a third violation, or any violation involving trafficking in food stamp coupons or authorization to purchase cards.

Establishing "expedited services" as a State option, for food stamp applicants, and eliminating current Federal requirement for expedited services provisions. Many States experience both significant fraud and administrative difficulties from having to process and issue benefits to some recipients within 3 days as required under expedited services provisions of current law. This legislation would remove this requirement and establish instead a State option with income and assets guidelines for eligibility.

Mr. President, I ask unanimous consent that a section-by-section summary of the bill be printed in the RECORD at the conclusion of my remarks.

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

FOOD STAMP ACT AMENDMENTS OF 1982

(SUMMARY OF PROVISIONS)

TITLE I—DEFINITIONS

Section 101. Dine-out establishments. Eliminate the eligibility of restaurants to redeem food stamps (currently permitted for some elderly and disabled participants).

Section 102. Households. Defines household as any individual or group of individuals who live together and purchase food and prepare meals for home consumption. Elderly and disabled parents would continue to be permitted to apply as separate households. States would be granted the option of establishing criteria for individuals who live together to demonstrate that they do not purchase food or prepare meals together.

Section 103. Street vendors and specialty shops. Restricts house-to-house trade routes—so-called "rolling stores"—to rural areas; would be eliminated in urban areas.

Eliminates specialty shops which sell predominantly one food product line, for instance, bakeries, seafood and meat markets.

Section 104. Sale of accessory, snack, or dessert food items. Adds snack and dessert food items to the list of items excluded from food sales when determining eligibility of retail stores to participate in the program.

Section 105. Thrifty food plans. Changes the base period for updating the thrifty food plan in October of each year to the 18 months ending March 31, 1982, the 12 months ending March 31, 1983, and the 15 months ending June 30, 1984.

TITLE II—ELIGIBLE HOUSEHOLDS

Section 201. Income standards of eligibility. Lowers from 130 percent to 100 percent of the income poverty guidelines the gross income limit for most food stamp households. Households containing an elderly or disabled member would continue under the current income limitation.

Section 202. Nonrecurring lump-sum payments. Counts nonrecurring lump-sum payments as income in the month received. Amounts above 100 percent of poverty would be applied toward future months to determine length of ineligibility.

Section 203. Energy Assistance Payments. Energy assistance (Federal, State, and local) would be counted as income by households receiving such assistance.

Section 204. Standard deductions. Indexing of the standard deduction—presently $85—would be eliminated rather than resuming on July 1, 1983, as permitted under current law.

Section 205. Earned income deductions. Lower from 18 percent to 15 percent the earned income deduction.

Section 206. Payment of excess shelter expenses. Requires the use of actual paid utility expenses, rather than a standard utility deduction, when determining eligibility and benefit levels.

Section 207. Adjustment of excess shelter expense deductions. Indexing of the dependent care/excess shelter expense deduction—presently $115—would be eliminated rather than resuming on July 1, 1983, as permitted under current law.

Section 208. Social Security Act resources test. States would have the option of using (1) the assets test from the SSI program for households containing elderly and disabled, and (2) the AFDC assets test for the remainder of the food stamp caseload.

Section 209. Resource regulations. Eliminates the requirement that the Secretary follow regulations in force on June 1, 1977 when setting assets limitations for food stamp households, and thus allow for updating regulations and coordinating with other programs, such as AFDC.

Section 210. Financial resources. Limits the property which a participating household may exclude from being counted as resources to one home and surrounding lot (not to exceed 10 acres in a rural area). Would also establish compatible treatment with AFDC program by counting the cash value of life insurance policies, any pension program, and individual retirement accounts owned by applicants and recipients as assets available to the household.

TITLE III—ELIGIBILITY DISQUALIFICATIONS

Section 301. Expanded job search. Authorizes job search at the time of application for benefits.

Section 302. Period of ineligibility. Increases from sixty days to six months the disqualification period from participating in the program for households voluntarily quitting a job.

Section 303. Public employee strikers. Establishes that public employee strikers who are terminated from their employment because of their participation in an illegal strike be deemed to have voluntarily quit their jobs, and would thus be ineligible to participate in the food stamp program for six months, as specified in section 302.

Section 304. Parents and caretakers of children. Requires that a second parent in a household register for work when the youngest child reaches age 6. Currently the second parent is not required to register until the child reaches age 18.

Section 305. College students. Eliminates from eligibility to participate all college students between 18 and 60 who are mentally and physically fit.

Section 306. Hours of employment. Increases from 30 hours per week to 150 hours per month the minimum number of hours of work which would exempt a head of household from registering for work.

Section 307. Aliens. Requires that all income and assets of an ineligible alien count in a household's eligibility process, not just a pro-rata share as under current law.

TITLE IV—ISSUANCE AND USE OF COUPONS

Section 401. Cash change. Eliminates the issuance of cash change for amounts less than $1.00 (already prohibited for amounts over $1.00).

TITLE V—VALUE OF ALLOTMENT

Section 501. Benefit reduction rate. Increases from 30 percent to 33.3 percent the benefit reduction rate, the amount by which food stamp benefits are reduced for each additional dollar of counted income.

Section 502. Minimum allotment. Eliminates the $10 minimum benefit for one and two person households provided under current law. Households would receive no more than the exact amount to which they are entitled—the same as households larger than one and two person households.

Section 503. Income for other purposes. Removes the current law prohibition on counting food stamps as income for purposes of determining eligibility or benefit levels in other programs. Also permits taxation of benefits wrongfully received.

Section 504. Value of allotment for initial month. Clarifies that pro-rating of benefits for households also applies in any month of recertification. Pro-rating is already provided for initial month of participation in the program.

Section 505. Noncompliance with other programs. Prohibits foods stamp households from receiving an increase in benefits as the result of reduction in income from another welfare or public assistance program caused by failure to comply with requirements of the other program.

TITLE VI—APPROVAL OF RETAIL FOOD STORES

Section 601. Renewal of certificates of approval. Establishes license fee for retail stores to participate in the food stamp program of 1% of food stamp redemptions on $100, whichever is greater. States operating workfare programs would be permitted to receive 50% of the amount collected to be used for expenses associated with operating a workfare program.

Section 602. Bonds. Establishes the requirement that retail stores be bonded to cover the value of coupons which they accept and redeem in violation of the law.

TITLE VII—ADMINISTRATION

Section 701. Approval of State plan of operation. Prohibits the Secretary from requiring States to submit all printed material for approval before use by a State.

Section 702. Points and hours of certification and issuance. Eliminates the Secretary's authority to establish regulations for locations and hours of operation for certification and issuance offices within each State.

Section 703. Eligibility determinations. Requires States to verify income and house-

hold size, and other factors which by regulation the Secretary may require. Also permits States to verify additional factors, at State discretion.

Section 704. Representation of individuals. Restricts recipients for whom "authorized representatives" are permitted to heads of household who are elderly, blind, disabled, or employed full time.

Section 705. Disclosure of information. Permits the disclosure of the name, address, and benefit amounts of household receiving food stamps.

Section 706. Expedited coupon issuance. Eliminates the Federal requirement for "expedited services" for certain households. States would have the option of establishing expedited service processing in cases where gross income is under $85 and assets are under $100.

Section 707. Prompt reduction or termination of benefits. Permits a State agency to take immediate action to reduce or terminate a household's benefits if the agency receives clear, written information from the household that indicates such a benefit reduction or termination is required. Currently, State agencies must provide 10 days notice before taking any action to reduce or terminate benefits even when a household reports the change itself or request termination.

Section 708. Bilingual personnel and printed material. Removes Federal requirement for bilingual personnel and material; the use of bilingual personnel and material would be made optional, at the discretion of the States, rather than mandatory as under current law.

Section 709. Duplication of coupons and alternative assistance. Requires States which operate programs in which portions of the caseload have been "cashed out" (meaning the food stamp portion has been added as a cash payment onto another benefit program) to match the benefit rolls from their cashed-out program with their food stamp program to determine any duplicate recipients on a quarterly basis.

Section 710. Liens on homes. Permits States to impose liens against houses or other property owned by household members (which exceeds the average value within the State) in order to recoup a portion of the benefits received by the household when the property is transferred and no member of the recipient household is living in the home. States would retain 50% of all recoveries.

Section 711. Optional certification systems. Permits, rather than requires, States to use joint application processing for various groups of households, such as public assistance, SSI, etc.

Section 712. Interest and dividend income. Permits the Secretary, after consultation with the Inspector General, to require States to match the food stamp rolls with names of individuals receiving interest and dividend income (available under the Internal Revenue Code) for purposes of detecting unreported income or assets.

TITLE VIII—CIVIL MONEY PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES

Section 801. Amount of penalty and length of disqualification. Increases penalties for retail stores which violate the Food Stamp Act. First violation, disqualification for 6 months to 5 years; second violation, disqualification for 12 months to 10 years; third violation, or any violation based on purchase of coupons or trafficking in coupons or authorization cards, permanent disqualification.

TITLE IX—COLLECTION AND DISPOSITION OF CLAIMS

Section 901. Food stamp intercept of unemployment benefits. Permits States to establish systems for intercepting unemployment compensation benefits from households who owe uncollected overpayments in the food stamp program. States could retain 50 percent of such recoveries.

Section 902. Food stamp intercept of Federal tax refunds. Permits States to submit names of individuals who have not repaid uncollected overissuances to the Internal Revenue Service. The IRS would subtract the amount owed before issuing any tax refund to such individuals. The States could retain 50 percent of such recoveries.

TITLE X—ADMINISTRATIVE COST-SHARING AND QUALITY CONTROLS

Section 1001. Alternative means of collecting overissuances. Specifies that State agencies may retain 50 percent of all overissuances which are recovered—either through procedures specifically designated in the Food Stamp Act or by State procedures.

Section 1002. State agency liability for errors. Requires that States reimburse the Federal Government for all errors in the food stamp program—as determined by the quality control data—which may be assessed on a monthly, quarterly, semiannually, or annual basis, at the discretion of the Secretary of Agriculture.

TITLE XI—AUTHORIZATION FOR APPROPRIATIONS

Section 1101. Authorization extension. Extends the authorization for the food stamp program for fiscal year 1983 at $10.337 billion, the level included in the President's 1983 budget, including the $825 million block grant for Puerto Rico.

TITLE XII—WORKFARE

Section 1201. Similar workfare programs. Specifies that States may use the administrative structure and operating procedures of another workfare program which meets the guidelines specified by the Secretary. Specifically allows States to use a workfare program set up in connection with the Aid to Families with Dependent Children program. The work obligation of the recipient would not be diminished, but rather the State could operate a consolidated workfare program instead of establishing a separate one specifically for food stamps.

Section 1202. Mandatory program. Requires States to establish workfare programs for able-bodied recipients, or to pay 5 percent of the monthly benefit costs of food stamps issued within that State.

Section 1203. College Students. Removes the current exemption from workfare participation for college students.

Section 1204. Hours of employments. Establishes 40 hours of workfare per week as maximum, or 40 hours in combination with any other form of work for compensation (in cash or in kind).

TITLE XIII—STATE BLOCK GRANT OPTION

Section 1301. State block grant option. Provides each State the option of receiving at the outset of the fiscal year the same percentage of the FY 1983 appropriations as that which the State received during the 12 months ending March 31, 1982 to operate a low income nutritional block grant within that State.

States would have the flexibility to design their own programs without interference from the Department of Agriculture. The General Accounting Office would be authorized to perform investigations to ensure that States comply with the Act. Funds could not be used for construction. Legislative involvement would be required.

TITLE XIV—MISCELLANEOUS

Section 1401. Institutional individuals. Prohibits participation by residents of drug addiction and alcoholic treatment and rehabilitation programs and removes their exemption from work registration and workfare obligations.

Section 1402. Rounding rules to round down to the nearest whole dollar the calculations of the thrifty food plan and individual household allotments.

Section 1403. Studies. Eliminates requirement for studies which have already been completed by the Department on the following subjects: improving the asset standards, the effect of eliminating the purchase requirement, recovering food stamp benefits from households whose calendar year income was more than twice the income standard, and the basis for indexing the food stamp program.

Section 1404. Wholesale food concerns. Eliminates wholesalers from eligibility to participate in the food stamp program.

TITLE XV—EFFECTIVE DATES

Section 1501. Effective dates. Provides that all changes made by 1981 legislation—Ominbus Budget Reconciliation Act and Agriculture and Food Act—and this bill will be effective by October 1, 1982.

S. 2352

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

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Food Stamp Act Amendments of 1982".

(b) The table of contents for this Act is as follows:

TABLE OF CONTENTS

REFERENCES TO THE FOOD STAMP ACT OF 1977

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

TITLE I—DEFINITIONS

DINE-OUT ESTABLISHMENTS

SEC. 101. Section 3(f)(3) (as redesignated by section 1401(a) of this Act) is amended by striking out "private establishments" and all that follows through "prices,".

HOUSEHOLDS

SEC. 102. Section 3(h) (as redesignated by section 1401(a) of this Act) is amended—

(1) by striking out "or who, while living with others," in clause (1) of the first sentence and inserting in lieu thereof "and";

(2) by striking out "separate and apart from the others, or" in clause (1) of the first sentence and inserting in lieu thereof a comma;

(3) by striking out "together" the second time it appears in clause (2) of the first sentence;

(4) by inserting before the period at the end of the first sentence the following: ", or (3) at the option of the State agency, one or more individuals who while living with others, customarily purchase food and prepare meals for home consumption separate and apart from the others"; and

(5) by inserting after the first sentence the following new sentence: "Subject to the limitation of clause (2) relating to parents and children who live together, a State agency may prescribe criteria to determine whether one or more individuals who while living with others, customarily purchase food and prepare meals for home consumption separate and apart from the others qualify as a household under clause (3) of the preceding sentence.".

STREET VENDORS AND SPECIALITY SHOPS

SEC. 103. Section 3(j)(1) (as redesignated by section 1401(a) of this Act) is amended—

(1) by inserting ", in a rural area, a" after "thereof or"; and

(2) by inserting "a variety of" after "consists of".

SALE OF ACCESSORY, SNACK, OR DESSERT FOOD ITEMS

SEC. 104. Section 3(j)(1) (as redesignated by section 1401(a) of this Act) is amended by inserting after "spices," the following: "snack food items, such as potato chips, pretzels, and popcorn, and dessert food items, such as cakes, pies, cookies, and pastries,".

THRIFTY FOOD PLANS

SEC. 105. Section 3(n) (as redesignated by section 1401(a) of this Act) is amended by striking out "(6)" and all that follows through "twelve months ending the preceding June 30" and inserting in lieu thereof: "(6) on October 1, 1982, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the eighteen months ending the preceding March 31, 1982, (7) on October 1, 1983, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding March 31, (8) on October 1, 1984, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the fifteen months ending the preceding June 30, and (9) on each October 1 thereafter, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30".

TITLE II—ELIGIBLE HOUSEHOLDS

INCOME STANDARDS OF ELIGIBILITY

SEC. 201. Section 5(c)(2) (7 U.S.C. 2014(c)(2)) is amended by striking out "130 per centum" and inserting in lieu thereof "100 per centum".

NONRECURRING LUMP-SUM PAYMENTS

SEC. 202. (a) Section 5(d) (7 U.S.C. 2014(d)) is amended by striking out clause (8) and redesignating clauses (9), (10), and (11) as clauses (8), (9), and (10), respectively.

(b) Section 5(f)(1) (7 U.S.C. 2014(f)(1)) is amended—

(1) by inserting ", other than income of the type described in subparagraph (C)," after "one year" in subparagraph (A); and

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

"(C) Household income for those households that receive income in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits, retroactive lump-sum social security or railroad retirement pension payments, and retroactive lump-sum insurance settlements, shall be income of the household in the month received. The household shall be ineligible for participation in the food stamp program for the whole number of months that equals (i) the sum of such amount and all other income received in such month, not excluded under subsection (d), divided by (ii) the nonfarm income poverty guidelines applicable to such household. Any income remaining (which amount is less than the applicable monthly standard) shall be treated as household income received in the first month following the period of ineligibility determined under the preceding sentence.".

ENERGY ASSISTANCE PAYMENTS

SEC. 203. (a) Section 5(d) (7 U.S.C. 2014(d)) (as amended by section 202(a) of this Act) is amended—

(1) by inserting "and" after the comma at the end of clause (8); and

(2) by striking out the comma after "program" in clause (9) and all that follows through "to do so" at the end of clause (10).

(b) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—

(1) by striking out "food stamps,"; and

(2) by inserting ", other than the Food Stamp Act of 1977" before the period at the end thereof.

STANDARD DEDUCTIONS

SEC. 204. Section 5(e) (7 U.S.C. 2014(e)) is amended by striking out the second sentence thereof.

EARNED INCOME DEDUCTIONS

SEC. 205. The third sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking out "18 per centum" and inserting in lieu thereof "15 per centum".

PAYMENT OF EXCESS SHELTER EXPENSES

SEC. 206. Clause (2) of the fourth sentence of section 5(e) (7 U.S.C. 2014(e)(2)) is amended by striking out "expended" and inserting in lieu thereof "actually paid".

ADJUSTMENT OF DEPENDENT CARE AND EXCESS SHELTER EXPENSE DEDUCTIONS

SEC. 207. The fourth sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking out "adjusted" and all that follows through "twelve months ending the preceding June 30," in the proviso.

SOCIAL SECURITY ACT RESOURCES TEST

SEC. 208. Section 5(g) (7 U.S.C. 2014(g)) is amended—

(1) by striking out "The" in the first sentence and inserting in lieu thereof: "(1) Subject to paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) In lieu of the resource limitations provided for in paragraph (1), a State may, if it so elects, establish resource limitations provided for in subparagraph (B).

"(B)(i) In the case of a household which includes an individual who is—

"(I) entitled to supplementary security income benefits under title XVI of the Social Security Act;

"(II) receiving aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act;

"(III) 60 years of age or older; or

"(IV) entitled to benefits under title II of the Social Security Act on account of blindness or disability,

the resource limitations applicable under the supplemental security income program shall apply. If such household consists of only one member, the limitation under section 1611(a)(1)(B)(ii) of the Social Security Act (relating to an individual having no spouse with whom he is living) shall apply. If such household consists of more than one member, the limitation under section 1611(a)(2)(B) of such Act (relating to an individual who has an eligible spouse) shall apply.

"(ii) In the case of any household not described in clause (i), the resource limitations applicable to households of the same size as such household under the State's plan approved under part A of title IV of the Social Security Act shall apply.

"(iii) A State may elect to use the resource limitation established under clause (i) only, clause (ii) only, or both such clauses. The choice by a State to use the resource limitation under this paragraph in lieu of the limitation under paragraph (1) shall be uniform throughout the State.".

RESOURCE REGULATIONS

SEC. 209. The second sentence of section 5(g)(1) (7 U.S.C. 2014(g)(1)) (as amended by section 208 of this Act) is further amended by striking out ", in prescribing" and all that follows through "addition,".

FINANCIAL RESOURCES

SEC. 210. The second sentence of section 5(g)(1) (7 U.S.C. 2014(g)(1)) (as amended by section 208 of this Act) is further amended—

(1) by striking out "and" after "vacation purposes,"; and

(2) by inserting after "$4,500," the following: "any real property (other than a dwelling owned by a member of the household, the lot upon which the dwelling is situated, and, in rural areas, any real property not in excess of ten acres), any savings or retirement accounts (including individual retirement accounts), and the cash value of any life insurance policies and pensions,".

TITLE III—ELIGIBILITY DISQUALIFICATIONS

EXPANDED JOB SEARCH

SEC. 301. Section 6(d)(1) (7 U.S.C. 2015(d)(1)) is amended by inserting ", which may include a requirement that such reporting and inquiry commence at the time of application for assistance" after "Secretary" in clause (ii).

PERIOD OF INELIGIBILITY

SEC. 302. Section 6(d)(1) (7 U.S.C. 2015(d)(1)) is amended by striking out "sixty days" in the proviso in clause (iii) and inserting in lieu thereof "six months".

PUBLIC EMPLOYEE STRIKERS

SEC. 303. Section 6(d)(1) (7 U.S.C. 2015(d)(1)) is amended by adding at the end thereof the following new sentence: "An employee of the Federal Government, or State or political subdivision, who engaged in a strike against the Federal Government, a State, or political subdivision, as the case may be, and is dismissed from his job because of his participation in the strike shall be considered to have voluntarily quit such job without good cause.".

PARENTS AND CARETAKERS OF CHILDREN

SEC. 304. Section 6(d)(2) (7 U.S.C. 2015(d)(2)) is amended by striking out clause (C) and redesignating clauses (D), (E), and (F) as clauses (C), (D), and (E), respectively.

COLLEGE STUDENTS

SEC. 305. (a) Section 6(d)(2) (7 U.S.C. 2015(d)(2)) (as redesignated by section 304 of this Act) is amended by striking out clause (C) and redesignating clauses (D) and (E) as clauses (C) and (D), respectively.

(b) Section 6(e) (7 U.S.C. 2015(e)) is amended—

(1) by inserting "and" at the end of clause (1);

(2) by striking out "at least half-time" in clause (2); and

(3) by striking out the comma at the end of clause (2) and all that follows through "amended".

HOURS OF EMPLOYMENT

SEC. 306. Clause (D) of section 6(d)(2) (as redesignated by section 305(a) of this Act) is amended to read as follows: "(D) employed a minimum of one hundred and fifty hours per month.".

ALIENS

SEC. 307. The last sentence of section 6(f) (7 U.S.C. 2015(f)) is amended by striking out "(less a pro rata share)".

TITLE IV—ISSUANCE AND USE OF COUPONS

CASH CHANGE

SEC. 401. Section 7(b) (7 U.S.C. 2016(b)) is amended by striking out the colon at the end of the first proviso and all that follows through "issued".

TITLE V—VALUE OF ALLOTMENT

BENEFIT REDUCTION RATE

SEC. 501. The first sentence of section 8(a) (7 U.S.C. 2017(a)) is amended by striking out "30 per centum" and inserting in lieu thereof "33.3 per centum".

MINIMUN ALLOTMENT

SEC. 502. The first sentence of section 8(a) (7 U.S.C. 2017(a)) is amended by striking out the colon after "dollar" and all that follows through "month".

INCOME FOR OTHER PURPOSES

SEC. 503. Subsection (b) of section 8 (7 U.S.C. 2017(b)) is amended to read as follows:

"(b) The value of the allotment to which an eligible household is entitled under this Act may not be considered income or resources for the purposes of any Federal, State, or local law relating to taxes.".

VALUE OF ALLOTMENT FOR INITIAL MONTH

SEC. 504. Section 8(c) (7 U.S.C. 2017(c)) is amended by striking out "of more than thirty days" in clause (2) of the last sentence.

NONCOMPLIANCE WITH OTHER PROGRAMS

SEC. 505. Section 8 (7 U.S.C. 2017) is amended by adding at the end thereof the following new subsection:

"(d) A household against which a penalty has been imposed for a failure to comply with a Federal, State, or local law relating to welfare or a public assistance program may not, for the duration of the penalty, receive an increased allotment as the result of a decrease in the household's income (as determined under section 5(d) and (e)) to the extent that the decrease is the result of such penalty.".

TITLE VI—APPROVAL OF RETAIL FOOD STORES

RENEWAL OF CERTIFICATES OF APPROVAL

SEC. 601. Section 9 (7 U.S.C. 2018) (as amended by section 1404(b)(4) of this Act) is amended by adding at the end thereof the following new subsection:

"(e)(1) In order to be eligible to continue to participate in the food stamp program, a retail food store must annually apply for and obtain renewal of the certificate of approval issued to it under subsection (a). In order to be eligible to obtain a renewal of its certificate of approval, a retail food store must apply for renewal thereof no later than one year after the date of the issuance of the certificate to such store under subsection (a) or ninety days after the date of enactment of the Food Stamp Act Amendments of 1982, whichever is later, and annually thereafter. Except as provided in paragraph (2), renewal of a certificate shall be based on the criteria and procedure established for issuance of a certificate of approval under subsections (a) through (d).

"(2) In order to obtain renewal of a certificate of approval under paragraph (1) for any year, a retail food store must pay a fee of $100 or an amount equal to 1 per centum of the value of coupons redeemed by the store in the previous year, whichever is greater. If a State is operating a workfare program pursuant to subsections (a) through (g) of section 20, the Secretary shall transmit 50 per centum of the fees received from retail food stores within such State under this paragraph to the State agency of such State. A State agency shall apply any fees received under this paragraph toward the payment of expenses it incurs in the administration of subsections (a) through (g) of section 20.".

BONDS

SEC. 602. (a) Section 9 (7 U.S.C. 2018) (as amended by section 601 of this Act) is amended by adding at the end thereof the following new subsection:

"(f) In order to be eligible to participate in the food stamp program, a retail food store must furnish a bond to cover the value of coupons which the store accepts and redeems in violation of this Act. The Secretary shall, by regulation, prescribe the amount, terms, and conditions of such bond. If the Secretary finds that a retail food store has accepted and redeemed coupons in violation of this Act, the retail food store shall forfeit to the Secretary an amount of such bond which is equal to the value of coupons accepted and redeemed by the store in violation of this Act. A retail food store which forfeits a bond under this subsection may obtain a hearing on such forfeiture pursuant to section 14.".

(b) The first sentence of section 14(a) (7 U.S.C. 2023(a)) is amended by inserting "or a retail food store forfeits a bond under section 9(f) of this Act," after "section 9 of this Act,".

TITLE VII—ADMINISTRATION

APPROVAL OF STATE PLAN OF OPERATION

SEC. 701. Section 11(d) (7 U.S.C. 2020(d)) is amended by inserting after the first sentence the following new sentence: "The Secretary may not, as a part of the approval

process for a plan of operation, require a State to submit for prior approval by the Secretary the State agency instructions to staff, interpretations of existing policy, State agency methods of administration, forms used by the State agency, or any materials, documents, memoranda, bulletins, or other matter, unless the State determines that the materials, documents, memoranda, bulletins, or other matter alter or amend the State plan of operation or conflict with the rights and levels of benefits to which a household is entitled.".

POINTS AND HOURS OF CERTIFICATION AND ISSUANCE

SEC. 702. (a) Section 11(e)(2) (7 U.S.C. 2020(e)(2)) is amended by striking out "points and hours of certification, and for" in the last sentence thereof.

(b)(1) Section 11(e) (7 U.S.C. 2020(e)) is amended by striking out paragraph (13) and redesignating paragraphs (14) through (21) as paragraphs (13) through (20), respectively.

(2) Section 7(f) (7 U.S.C. 2016(f)) is amended by striking out "section 11(e)(21)" and inserting in lieu thereof "section 11(e)(20)".

ELIGIBILITY DETERMINATIONS

SEC. 703. Section 11(e)(3) (7 U.S.C. 2020(e)(3)) is amended—

(1) by striking out "only" after "verification";

(2) by striking out "other than that determined to be excluded by section 5(d) of this Act";

(3) by striking out "and" after "Act)" and inserting in lieu thereof ", household size, and such other eligibility factors as the State agency determines to be necessary, including"; and

(4) by striking out ", whether questionable or not, the size of any applicant household and".

REPRESENTATION OF INDIVIDUALS

SEC. 704. Paragraph (7) of section 11(e) (7 U.S.C. 2020(e)(7)) is amended to read as follows:

"(7) that an applicant who is elderly, blind, or disabled or employed at least one hundred and fifty hours per month may be represented in the certification process and an eligible individual who is elderly, blind, or disabled or employed at least one hundred and fifty hours per month may be represented in coupon issuance or food purchase by another person so long as that person has been clearly designated to represent the applicant or eligible individual in coupon issuance or food purchase by the applicant or eligible individual and, in any case in which the certification process is concerned, so long as the designated individual is an adult who is sufficiently aware of relevant circumstances of the applicant or eligible individual;".

DISCLOSURE OF INFORMATION

SEC. 705. Section 11(e)(8) (7 U.S.C. 2020(e)(8)) is amended—

(1) by striking out "and" at the end of clause (A); and

(2) by inserting before the semicolon at the end thereof the following: ", and (C) such safeguards shall not prevent the use or disclosure of the name and address of a member of a household receiving a coupon allotment and the amount of the household's coupon allotment".

EXPEDITED COUPON ISSUANCE

SEC. 706. Paragraph (9) of section 11(e) (7 U.S.C. 2020(e)(9)) is amended to read as follows:

"(9) at the option of the State agency, for the provision of coupons on an expedited basis to categories of households designated by the State agency to be in immediate need because such households each have—

"(A) household income, as described in section 5(d), that is less than $85 per month; and

"(B) financial resources, as described in section 5(g), that do not exceed $100;".

PROMPT REDUCTION OR TERMINATION OF BENEFITS

SEC. 707. Section 11(e)(10) (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon the following: ", except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective".

BILINGUAL PERSONNEL AND PRINTED MATERIAL

SEC. 708. (a) Section 11(e)(1) (7 U.S.C. 2020(e)(1)) is amended—

(1) by striking out "(A)"; and

(2) by striking out "and (B)" and all that follows through "English;".

(b) Section 11(e) (7 U.S.C. 2020(e)) (as amended by section 702(b)(1) of this Act) is amended—

(1) by striking out "and" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof a semicolon; and

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

"(21) at the option of the State agency, for the use of appropriate bilingual personnel and printed material in the administration of the program;".

DUPLICATION OF COUPONS AND ALTERNATIVE ASSISTANCE

SEC. 709. Section 11(e) (7 U.S.C. 2020(e)) (as amended by section 708(b) of this Act) is amended by adding at the end thereof the following new paragraph:

"(22) that the State agency verify, on at least a quarterly basis, and otherwise assure that an individual does not receive both coupons and benefits or payments referred to in section 6(g) or both coupons and assistance provided in lieu of coupons under section 17(b)(1);".

LIENS ON HOMES

SEC. 710. (a) Section 11(e) (7 U.S.C. 2020(e)) (as amended by section 709 of this Act) is amended by adding at the end thereof the following new paragraph:

"(23) at the option of the State agency, for the imposition by the State of a lien against any dwelling and real property owned by one or more members of an eligible household receiving assistance under this Act in order to recover all assistance provided to members of the individual's household under this Act which lien (A) may relate only to that portion of the value of the dwelling and real property that exceeds the average value (computed at least once every twenty-four months) of all dwellings and real property within the State, and (B) may not be satisfied until ownership is transferred and there are no longer any members of the eligible household residing in the dwelling;".

(b) The amendments made by this section shall apply to all assistance provided to a household under this Act on or after October 1, 1982.

OPTIONAL CERTIFICATION SYSTEMS

SEC. 711. Section 11(h) (as redesignated by section 1002(b)(1) of this Act) is amended by adding at the end thereof the following new sentence: "A State agency may elect to implement clause (1), (2), (3), or (4), or any combination thereof.".

INTEREST AND DIVIDED INCOME

SEC. 712. (a) Section 11 (7 U.S.C. 2020) (as amended by section 1002(b)(1) of this Act) is amended by adding at the end thereof the following new subsection:

"(m) In those States or parts of a State in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds that it would be useful to protect the program's integrity, the Secretary may require the State agency, Inspector General, or both, to request and utilize information regarding the interest and dividend income of a household, available under section 6103(l)(8) of the Internal Revenue Code of 1954, to administer this Act.".

(b)(1) Section 6103(l) of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information for purposes other than tax administration) (as amended by paragraph (2)) is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL AGENCIES ADMINISTERING FEDERALLY FUNDED NEEDS-BASED PROGRAMS.—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request, disclose return information from returns to officers and employees of the appropriate Federal, State, or local agency administering a federally funded needs-based program.

"(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, determining an individual's eligibility for benefits, or the amount of benefits, under a federally funded needs-based program.".

(2)(A) Section 127(a)(1) of the Food Stamp Act Amendments of 1980 is amended by striking out "Subsection (i)" and inserting in lieu thereof "Subsection (l)".

(B) Paragraph (7) of section 6103(l) of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information for purposes other than tax administration) is redesignated as paragraph (8).

(C)(i) Subparagraph (A) of section 6103(p)(3) of such Code (relating to records of inspection and disclosure) is amended by striking out "(l)(1), (4)(B), (5), or (7)" and inserting in lieu thereof "(l)(1), (4)(B), (5), (7), (8), or (9)".

(ii) Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by striking out "(l)(3), (6), or (7)" in so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof "(l)(3), (6), (7), (8), or (9)".

(iii) Clause (i) of section 6103(p)(4)(F) of such Code is amended by striking out "(l)(6) or (7)" and inserting in lieu thereof "(l)(6), (7), (8), or (9)".

(iv) The first sentence of paragraph (2) of section 7213(a) of such Code is amended by striking out "(l)(6), (7), or (8)" and inserting in lieu thereof "(l)(6), (7), (8), or (9)".

TITLE VIII—CIVIL MONEY PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES

AMOUNT OF PENALTY AND LENGTH OF DISQUALIFICATION

SEC. 801. Section 12 (7 U.S.C. 2021) is amended—

(1) by inserting "(a)" after "SEC. 12.";

(2) by striking out "up to $5,000" and inserting in lieu thereof "no less than $5,000";

(3) by striking out the second sentence and inserting in lieu thereof the following new subsection:

"(b) Disqualification under subsection (a) shall be—

"(1) for a reasonable period of time, of no less than six months nor more than five years, upon the first occasion of disqualification;

"(2) for a reasonable period of time, of no less than twelve months nor more than ten years, upon the second occasion of disqualification; and

"(3) permanently upon the third occasion of disqualification or a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards."; and

(4) by designating the third sentence as subsection (c).

TITLE IX—COLLECTION AND DISPOSITION OF CLAIMS

FOOD STAMP INTERCEPT OF UNEMPLOYMENT BENEFITS

SEC. 901. (a) Section 13 (7 U.S.C. 2022) is amended by adding at the end thereof the following new subsection:

"(c)(1) A State agency may determine on a periodic basis, from information supplied pursuant to section 508 of the Unemployment Compensation Amendments of 1976 (29 U.S.C. 49b and 42 U.S.C. 603a), whether any individuals receiving compensation under the State's unemployment compensation law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law) has received an uncollected overissuance.

"(2) A State agency may recover an uncollected overissuance—

"(A) through an agreement with the individual described in paragraph (1), to have specified amounts withheld from compensation otherwise payable to the individual and by submitting a copy of the agreement to the State agency administering the unemployment compensation law, or

"(B) in the absence of an agreement, by obtaining a writ, order, summons, or other similar process in the nature of garnishment from a court of competent jurisdiction to require the withholding of amounts from the compensation.

"(3) As used in this subsection, the term 'uncollected overissuance' means the amount of an overissuance of coupons, as determined under subsection (b)(1), which has not been recovered pursuant to subsection (b).".

(b)(1) Section 11(e) (7 U.S.C. 2020(e)) (as amended by section 710 of this Act) is amended by adding at the end thereof the following new paragraph:

"(24) at the option of the State, for procedures necessary to obtain payment of uncollected overissuance of coupons from unemployment benefits pursuant to section 13(c); and".

(2)(A) Section 303(e) of the Social Security Act (42 U.S.C. 503(e)) is amended—

(i) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(ii) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The State agency charged with the administration of the State law—

"(i) may require each new applicant for unemployment compensation to disclose whether or not the applicant has received an uncollected overissuance (as defined in section 13(c)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2022(c)(3)) of food stamp coupons,

"(ii) may notify the State agency (as defined in section 3(m) of such Act (7 U.S.C. 2012(m)) to which the uncollected overissuance is owed that the applicant has been determined to be eligible for unemployment compensation if the applicant discloses under clause (i) that the applicant owes an uncollected overissuance and the applicant is determined to be so eligible,

"(iii) may deduct and withhold from any unemployment compensation otherwise payable to an individual—

"(I) the amount specified by the individual to the State agency to be deducted and withheld under this clause,

"(II) the amount (if any) determined pursuant to an agreement submitted to the State agency under section 13(c)(2)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2022(c)(2)(A)), or

"(III) any amount otherwise deducted and withheld from the unemployment compensation pursuant to section 13(c)(2)(B) of such Act (7 U.S.C. 2022(c)(2)(B)), and

"(iv) shall pay any amount deducted and withheld under clause (iii) to the appropriate food stamp State agency.

"(B) Any amount deducted and withheld under subparagraph (A)(iii) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the State agency to which the uncollected overissuance is owed as repayment of the individual's uncollected overissuance.

"(C) For purposes of this paragraph, the term 'unemployment compensation' means any compensation payable under the State law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law).

"(D) A State agency to which the uncollected overissuance is owed shall reimburse the State agency charged with the administration of the State unemployment compensation law for the administrative costs incurred by the State agency under this paragraph which are attributable to repayment of uncollected overissuance to the State agency to which the uncollected overissuance is owed.".

(B) Section 303(e)(4) of the Social Security Act (as redesignated by subparagraph (A)) is amended by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (1), (2), or (3)".

FOOD STAMP INTERCEPT OF FEDERAL TAX REFUNDS

SEC. 902. (a) Section 13 (7 U.S.C. 2022) (as amended by section 901 of this Act) is amended by adding at the end thereof the following new subsection:

"(d)(1) A State agency may inform the Secretary of the Treasury of the identity of an individual who has received an uncollected overissuance and the amount of the uncollected overissuance.

"(2) Upon receiving notice from a State agency pursuant to paragraph (1), the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to the named individual (regardless of whether the individual filed a tax return as a married or unmarried individual). If the Secretary of the Treasury finds that an amount is payable, the Secretary of the Treasury shall withhold from the refunds an amount equal to the amount of the uncollected overissuance, and pay the amount to the State agency (together with notice of the individual's home address).

"(3) The Secretary of the Treasury shall issue regulations, approved by the Secretary, which prescribe—

"(A) the time at which a State agency must submit notice of an uncollected overissuance;

"(B) the manner in which the notice must be submitted;

"(C) the necessary information which must be contained in or accompany the notice; and

"(D) the amount of the fee that a State must pay to reimburse the Secretary of the Treasury for the full cost of applying the offset procedure.

"(4) The Secretary of the Treasury shall advise the Secretary, at least annually, of—

"(A) the State agencies which have furnished notices of uncollected overissuances under this subsection;

"(B) the number of cases in each State with respect to which the notices have been furnished under this subsection;

"(C) the amount of uncollected overissuances sought to be collected under this subsection by each State; and

"(D) the amount of the collections actually made under this subsection in the case of each State agency.

"(5) As used in this subsection, the term 'uncollected overissuance' means the amount of an overissuance of coupons, as determined under subsection (b)(1), which has not been collected pursuant to subsection (b) or (c), within three months of the determination of the overissuance.

"(6) An uncollected overissuance shall be subject to the offset procedure described in this subsection if the amount of the uncollected overissuance in the current or previous taxable years and any other amounts owed to the State agency under similar provisions of Federal law equals $100 or more.".

(b) Section 11(e) (7 U.S.C. 2020(e)) (as amended by section 901(b) of this Act) is amended by adding at the end thereof the following new paragraph:

"(25) at the option of the State agency, for procedures necessary to obtain payment of uncollected overissuances of coupons from Federal tax refunds pursuant to section 13(d).".

(c) Section 6402(c) of the Internal Revenue Code of 1954 is amended—

(1) by striking out so much of such subsection as precedes "The amount of" and inserting in lieu thereof the following:

"(c) OFFSETS.—

"(1) OFFSET OF PAST DUE SUPPORT AGAINST OVERPAYMENTS.—";

(2) by striking out "subsection" in the third sentence of paragraph (1) and inserting in lieu thereof "paragraph"; and

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

"(2) OFFSET OF FOOD STAMP OVERISSUANCES AGAINST OVERPAYMENTS.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced by the amount of any uncollected overissuance of food stamp coupons (as defined in section 13(d)(5) of the Food Stamp Act of 1977 (7 U.S.C. 2022(d)(5)) owed by that person and with respect to which the Secretary has been notified by a State agency in accordance with section 13(d) of the Food Stamp Act of 1977. The Secretary shall remit the amount by which the overpay-

ment is so reduced to the State agency to which the uncollected overissuance is due and notify the person who made the overpayment that so much of the overpayment as was necessary to satisfy the person's obligation for an uncollected overissuance has been paid to the State agency. This paragraph shall have priority with respect to an overpayment over a person's future liability for an internal revenue tax.".

(d) The amendments made by this section shall apply to taxable years ending after December 31, 1981.

TITLE X—ADMINISTRATIVE COST-SHARING AND QUALITY CONTROLS

ALTERNATIVE MEANS OF COLLECTING OVERISSUANCES

SEC. 1001. Section 16(a) (7 U.S.C. 2025(a)) is amended by striking out "section 13(b)(1) of this Act" in the proviso in the first sentence and inserting in lieu thereof "section 11(e)(23), subsections (b)(1), (c), and (d) of section 13, and any other means used by the State to recover or collect the value of any overissuance of coupons, except pursuant to section 13(b)(2) of this Act,".

STATE AGENCY LIABILITY FOR ERRORS

SEC. 1002. (a)(1) Section 16 (7 U.S.C. 2025) is amended—

(A) by striking out subsections (c), (d), (e), and (g) and redesignating subsections (f), (h), and (i) as subsections (d), (e), and (f), respectively; and

(B) by inserting after subsection (b) the following new subsection:

"(c)(1) As used in this subsection—

"(A) The term 'dollar value equivalent' means the value of allotments determined by multiplying the payment error rate for a fiscal year by the dollar value of all allotments issued during that fiscal year by a State agency.

"(B) The term 'payment error rate' means the percentage of all allotments issued in a fiscal year by a State agency which are—

"(i) issued to households which fail to meet the eligibility requirements established under section 5 or 6; and

"(ii) overissued to households which meet such requirements.

"(2) The Secretary shall institute an error liability program under which each State agency shall, other than for good cause as determined by the Secretary, pay to the Secretary or have withheld by the Secretary as described in paragraph (4), the dollar value equivalent of the State agency's payment error rate, as determined by the Secretary.

"(3) If the Secretary makes a claim against a State for payment under paragraph (2), that State may seek administrative and judicial review of such claim under the procedures set forth in section 14.

"(4) If a claim made against a State for payment under paragraph (2) is ultimately determined to be valid or is not contested by the State, it shall be collected by the Secretary through State payment, withholding amounts otherwise payable to the State agency under this Act, or other mechanisms authorized by the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.). Such a claim may be collected on a monthly, quarterly, semiannual, or annual basis, as determined by the Secretary.".

(2)(A) Section 11 (7 U.S.C. 2020) is amended—

(i) by striking out "subsections (h) and (i) of section 16" in subsection (e)(3) and inserting in lieu thereof "subsections (e) and (f) of section 16"; and

(ii) by striking out "sections 16(a) and 16(c)" in the last sentence of subsection (g) and inserting in lieu thereof "section 16(a)".

(B) Section 18(e) (7 U.S.C. 2027(e)) is amended—

(i) by striking out "16(g)" in the first sentence and inserting in lieu thereof "16(c)"; and

(ii) by striking out the second sentence.

(b)(1) Section 11 (7 U.S.C. 2020) is amended by striking out subsection (h) and redesignating subsections (i) through (m) as subsections (h) through (l), respectively.

(2)(A) Section 11(e)(2) (7 U.S.C. 2020(e)(2)) is amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (h)".

(B) The first sentence of section 18(e) (7 U.S.C. 2027(e)) is amended by striking out "11(g) and (h)" and inserting in lieu thereof "11(g)".

TITLE XI—AUTHORIZATION FOR APPROPRIATIONS

AUTHORIZATION EXTENSION

SEC. 1101. The first sentence of section 18(a) (7 U.S.C. 2027(a)) is amended—

(1) by striking out "and" after "September 30, 1981;"; and

(2) by inserting "; and not in excess of $10,366,700,000 for the fiscal year ending September 30, 1983" after "September 30, 1982".

TITLE XII—WORKFARE

SIMILAR WORKFARE PROGRAMS

SEC. 1201. (a) Section 20(a) (7 U.S.C. 2029(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall promulgate guidelines pursuant to paragraph (1) which, to the maximum extent practicable, enable a political subdivision to design and operate a workfare program under this section which is compatible and consistent with similar workfare programs operated by such subdivision. A political subdivision may comply with this section by operating a workfare program pursuant to title IV of the Social Security Act or by operating any other workfare program which the Secretary determines is compatible and consistent with the program established under this section.".

(b) Section 20(b) (7 U.S.C. 2029(b)) is amended by striking out clause (4) and redesignating clauses (5) through (8) as clauses (4) through (7), respectively.

MANDATORY PROGRAM

SEC. 1202. Section 20 (7 U.S.C. 2029) is amended—

(1) by striking out "The" and all that follows through "Secretary to" in subsection (a)(1) (as redesignated by section 1201(a) of this Act) and inserting in lieu thereof the following: "A State in which the food stamp program is in operation shall submit a plan to the Secretary, in compliance with guidelines promulgated by the Secretary, and"; and

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

"(h) Notwithstanding subsections (a) through (g), a State in which the food stamp program is in operation may, in lieu of operating a workfare program pursuant to such subsections, pay to the Secretary 5 per centum of the value of coupons issued in the State during each month.".

COLLEGE STUDENTS

SEC. 1203. Section 20(b)(7) (as redesignated by section 1201(b) of this Act) is amended by striking out "(D) or".

HOURS OF EMPLOYMENT

SEC. 1204. Section 20(c) (7 U.S.C. 2029(c)) is amended by striking out "either" and all that follows through "thirty hours a week" and inserting in lieu thereof: ", when added to any other hours worked during such week by such member for compensation (in cash or in kind) in any other capacity, exceeds forty hours a week".

TITLE XIII—STATE BLOCK GRANT OPTION

STATE BLOCK GRANT OPTION

SEC. 1301. (a) The Act (7 U.S.C. 2011 et seq.) is amended by adding at the end thereof the following new section:

"STATE BLOCK GRANT OPTION

"SEC. 21. (a) As used in this section, unless the context otherwise requires, the term—

"(1) 'Attorney General' means the Attorney General of the United States.

"(2) 'Block grant State' means a State which is operating a low-income nutritional assistance program in accordance with this section.

"(3) 'Comptroller General' means the Comptroller General of the United States.

"(4) 'State' means the several States and the District of Columbia.

"(b)(1) A State may elect—

"(A) to operate a low-income nutritional assistance block grant program to finance expenditures for food assistance for needy persons within the State in accordance with this section, or

"(B) to have the Secretary operate the food stamp program within the State in accordance with sections 1 through 20.

"(2) If a State elects to operate a low-income nutritional assistance block grant program pursuant to paragraph (1)(A), the State shall give notice to the Secretary of such election at least thirty days before the beginning of the first fiscal year it elects to operate the program.

"(3) The Secretary shall make grants to block grant States in accordance with this section.

"(4) The Secretary shall retain each fiscal year, out of funds appropriated pursuant to the authorization contained in section 18 for such fiscal year, an amount which bears the same ratio to the total amount appropriated to carry out this Act (other than the amount apportioned pursuant to section 19(a) of this Act) as the amounts received by and benefits distributed in block grant States for the period beginning on April 1, 1981, and ending on March 31, 1982, under this Act and section 8 of the Act of December 31, 1973 (Public Law 93-233; 42 U.S.C. 1382e note) bears to the total amount received by all States for that period under such Acts.

"(c)(1)(A) The Secretary shall allot to each block grant State in each fiscal year, out of funds retained under subsection (b)(4) for such fiscal year, an amount which bears the same ratio to the total amount of funds retained under such subsection as the amount received by and benefits distributed in such block grant State for the period beginning on April 1, 1981, and ending on March 31, 1982, under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and section 8 of the Act of December 31, 1973 (Public Law 93-233; 42 U.S.C. 1382e note) bears to the total amount received by all such block

grant States for that period under such Acts.

"(B) Notwithstanding subparagraph (A), no block grant State may receive for any fiscal year an amount less than one-quarter of 1 per centum of the amount appropriated pursuant to the authorization contained in section 18 for such fiscal year which remains after the apportionment required by section 19(a). If one or more block grant States receive minimum allotments by virtue of this subparagraph, the total amount of funds available to other States shall be reduced by the total amount of allotments received by virtue of this subparagraph.

"(2)(A) If, with respect to any block grant State, the Secretary—

"(i) receives a request from the governing body of an Indian tribe or tribal organization within the block grant State that assistance under this section be made directly to the tribe or organization; and

"(ii) determines that the members of the tribe or tribal organization would be better served if grants to provide benefits under this section were made directly to such tribe or organization,

the Secretary shall reserve, from amounts which would otherwise be allotted to the block grant State under this section for the fiscal year, the amount determined under subparagraph (B).

"(B) The Secretary shall reserve for the purpose of subparagraph (A) from sums that would otherwise be allotted to the block grant State an amount which bears the same ratio to the block grant State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination has been made under this paragraph bears to the population of all individuals eligible for assistance under this section in the block grant State.

"(C) The sums reserved by the Secretary under this paragraph shall be granted to Indian tribes and tribal organizations on the basis of the relative number of individuals contained in the Indian tribes and tribal organizations for whom a determination has been made under this paragraph.

"(D) To be eligible for a grant under this paragraph in any fiscal year, an Indian tribe or tribal organization must submit to the Secretary a plan for the fiscal year which meets such criteria as the Secretary may prescribe by regulation.

"(d)(1) To be eligible for a grant under this section in any fiscal year, a block grant State must submit an application to the Secretary for the fiscal year. Each application shall be submitted at such time and in such form as the Secretary shall require.

"(2) No funds may be allotted to a block grant State for any fiscal year after the fiscal year in which such block grant State received funds under this section unless the legislature of the block grant State conducts public hearings, not less often than biennially, on the proposed use and distribution of funds to be provided under this section.

"(3) As part of the application required by paragraph (1), the chief executive officer of each block grant State shall certify in writing that the block grant State will—

"(A) assess on a regular basis the food and nutrition needs of needy persons residing in the block grant State;

"(B) use the funds made available to it under this section to raise the level of nutrition among low-income households residing in that block grant State;

"(C) designate a single agency which shall be responsible for the administration, or supervision of the administration, of the program for which funds made available under this section are used;

"(D) provide that fiscal control and fund accounting procedures will be established to assure the proper disbursal of and accounting for Federal funds paid to the block grant State under this section, including procedures for monitoring the program carried out by the block grant State with the assistance provided under this section;

"(E) provide for an audit (pursuant to paragraph (8)), not less often than biennially, of the block grant State's expenditures of amounts received under this section;

"(F) describe how the block grant State program will operate to carry out this paragraph, including a description of the assistance to be provided under the program, the recipients who will be eligible under the program, and the administering agency; and

"(G) comply with all the requirements of this paragraph and the public hearing requirement of paragraph (2).

"(4) The Secretary may not prescribe the manner in which the block grant States comply with paragraph (3). Each block grant State may prescribe, and the Secretary may not limit, standards of or requirements for eligibility for benefits under this section. Such standards or requirements may include a requirement for work or household contributions, or both, as a condition of eligibility for benefits under this section.

"(5) A grant made under this section may not be used by the block grant State, or by any person with whom the block grant State makes arrangements to carry out this section, for the purchase or improvement of land, or the purchase, construction, or permanent improvement of a building or other facility.

"(6)(A) The chief executive officer of each block grant State shall prepare and furnish to the Secretary a plan which describes how the block grant State will implement the assurances specified in paragraph (3). The chief executive officer of each block grant State may revise a plan prepared under this subparagraph and shall furnish a copy of the revised plan to the Secretary before its implementation.

"(B) A plan, including any revision of a plan, prepared under subparagraph (A) shall be made available for public inspection within the block grant State in a manner that will facilitate the review of, and comment on, the plan.

"(C) An Indian tribe or tribal organization which receives a grant under subsection (c)(2) shall not be a part of the plan submitted under this paragraph.

"(7) The Secretary may, upon a block grant State's request, provide technical assistance with respect to programs for the provision of assistance under this section, including technical assistance for the purpose of determining the feasibility of specific block grant plans under consideration by the block grant State.

"(8) Each block grant State shall provide for a biennial audit of the funds provided to such block grant State under this section and shall have such audit conducted by an entity independent of the agency administering activities or services under this section. The audit shall be conducted in accordance with generally accepted accounting principles. Within thirty days after the completion of the audit, the chief executive officer of the block grant State shall submit a copy of the audit to the legislature of the block grant State and the Secretary.

"(9) The Comptroller General shall from time to time evaluate expenditures by block grant States of grants made under this section in order to assure that expenditures are consistent with this section and to determine the effectiveness of the block grant State in accomplishing the purposes of this section.

"(e)(1) No person may on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, a program or activity funded with funds made available under this section. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to such a program or activity.

"(2) Whenever the Secretary determines that there has been a failure to comply with paragraph (1) or any applicable regulation pertaining to paragraph (1), the Secretary shall notify the chief executive officer of the block grant State and request the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(B) exercise the powers and functions provided under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as may be applicable; or

"(C) take such other action as may be provided by law.

"(3) When a matter is referred to the Attorney General pursuant to paragraph (2)(A), or whenever the Attorney General has reason to believe there has occurred a pattern or practice in violation of this subsection, the Attorney General may bring a civil action in an appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"(f)(1) The Secretary shall pay each block grant State the total allotment of funds for a fiscal year to which the block grant State is entitled under subsection (c) immediately after the Secretary has determined the amount of such allotment.

"(2) Payments made to a block grant State under this section for any fiscal year may be expended by the block grant State only in such fiscal year or in the succeeding fiscal year.

"(3) Any funds paid to a block grant State under subsection (c) which are not expended by the block grant State in the fiscal year for which they are paid or in the succeeding fiscal year may be expended by the block grant State on other social services provided pursuant to Federal law. The block grant State shall inform the Secretary of all such funds expended on other social services. If the block grant State elects not to expend all or part of the funds on other social services, the unexpended funds shall be returned to the Secretary and added to the amount made available for allotment to all the block grant States under subsection (b)(4) for the following fiscal year.

"(g)(1)(A) The Secretary shall respond in an expeditious and speedy manner to complaints of a substantial or serious nature

that a block grant State has failed to use funds in accordance with this section or an assurance made under subsection (d)(3).

"(B) The Secretary, after adequate notice and an opportunity for a hearing conducted within the affected block grant State, shall withhold funds from a block grant State which fails to utilize its allotment substantially in accordance with this section or fails to meet an assurance made on behalf of the block grant State under subsection (d)(3).

"(2) A block grant State shall repay to the United States any amounts not expended other than in accordance with this section. Any amounts repaid to the United States in any fiscal year shall be added to the amount made available for allotment to all the block grant States under subsection (b)(4) for the following fiscal year. The Secretary shall (in the absence of repayment by the block grant State) offset the amounts against any other amount to which the block grant State is or may become entitled under this section.

"(3) The Comptroller General may conduct investigations of the use of funds received under this section by a block grant State in order to ensure compliance with this section.

"(4) In connection with an investigation conducted under this subsection, a block grant State shall make appropriate books, documents, papers, and records available to the Secretary and the Comptroller General, upon a reasonable request, for examination, copying, or mechanical reproduction on or off the premises of the entity concerned. The Secretary and the Comptroller General may not request information not readily available to a block grant State or require that information be compiled, collected, or transmitted in a new form not already available.

"(h) Whoever knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any funds, assets, or property provided or financed under this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both. If the value of the funds, assets, or property involved is not over $200, the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both.

"(i)(1) The Secretary, in consultation with the Comptroller General, shall evaluate possible formulas for the allotment of funds to block grant States under subsection (c) which could be used as an alternative method of allotting funds described in subsection (c). The formulas shall provide for the equitable distribution of the funds to block grant States and take into account the population, number of low-income households, financial resources, levels of unemployment, and such other factors within the block grant States which the Secretary deems appropriate.

"(2) The Secretary shall report to the Congress on the evaluation conducted pursuant to paragraph (1) no later than June 30, 1983.".

(b) Section 3 (7 U.S.C. 2012) is amended by striking out "As" in the matter preceding subsection (a) and inserting in lieu thereof "Except as provided in section 21(a), as".

TITLE XIV—MISCELLANEOUS

INSTITUTIONAL INDIVIDUALS

SEC. 1401. (a) Section 3 (7 U.S.C. 2012) is amended by striking out subsection (f) and redesignating subsections (g) through (q) as subsections (f) through (p), respectively.

(b) Section 3(f) (as redesignated by subsection (a)) is amended—

(1) by striking out "(5), (7), and (8)" in clause (1) and inserting in lieu thereof "(6), and (7)"; and

(2) by striking out clause (5) and redesignating clauses (6), (7), and (8) as clauses (5), (6), and (7), respectively.

(c) The fourth sentence of section 3(h) (as amended by section 102 of this Act) is amended—

(1) by inserting "and" after "section 1616(e) of the Social Security Act,"; and

(2) by striking out ", and narcotics" and all that follows through "program".

(d) Section 3(i) (as redesignated by subsection (a)) is amended by striking out "section 3(p)" and inserting in lieu thereof "section 3(o)".

(e) Section 3(j) (as redesignated by subsection (a)) is amended—

(1) by striking out "(5), (7), and (8)" in clause (2) and inserting in lieu thereof "(6), and (7)"; and

(2) by striking out "subsection (g)(6)" in clause (3) and inserting in lieu thereof "subsection (f)(5)".

(f) Section 5(i)(2)(E) (7 U.S.C. 2014(i)(2)(E)) is amended by striking out "section 3(i)" and inserting in lieu thereof "section 3(h)".

(g)(1) Section 6(d)(2) (as redesignated by section 305(a) of this Act) is amended by striking out clause (C) and redesignating clause (D) as clause (C).

(2) Section 20(b)(7) (as redesignated by section 1201(b) of this Act) is amended by striking out "(F)" and inserting in lieu thereof "(C)".

(h) Section 10 (7 U.S.C. 2019) is amended—

(1) by striking out "section 3(k)(4)" and inserting in lieu thereof "section 3(j)(4)";

(2) by striking out "private nonprofit organizations" and all that follows through "programs,"; and

(3) by striking out the comma after "children".

(i) Section 11(d) (7 U.S.C. 2020(d)) is amended—

(1) by striking out "section 3(n)(1)" each place it appears and inserting in lieu thereof "section 3(m)(1)"; and

(2) by striking out "section 3(n)(2)" each place it appears and inserting in lieu thereof "section 3(m)(2)".

(j) Section 11(e)(19) (as redesignated by section 702(b)(1) of this Act) is amended by striking out "section 3(n)(1)" and inserting in lieu thereof "section 3(m)(1)".

(k) Section 20(b) (7 U.S.C. 2029(b)) (as amended by section 1201(b) of this Act) is amended by striking out clause (6) and redesignating clause (7) as clause (6).

(l)(1) Section 6103(l)(7)(C) of the Internal Revenue Code (relating to disclosure of certain return information by the Social Security Administration to the Department of Agriculture and State food stamp agencies) (as amended by section 712(b)(2) of this Act) is amended by striking out "section 3(n)(1)" and inserting in lieu thereof "section 3(m)(1)".

(2) Section 303(d)(3) of the Social Security Act (42 U.S.C. 503(d)(3)) is amended by striking out "section 3(n)(1)" and inserting in lieu thereof "section 3(m)(1)".

ROUNDING DOWN

SEC. 1402. (a) Section 3(n) (as redesignated by section 1401(a) of this Act) is amended by inserting "lower" after "nearest" each place it appears in clauses (6) through (9).

(b) The first sentence of section 8(a) (7 U.S.C. 2017(a)) is amended by inserting "lower" after "nearest".

STUDIES

SEC. 1403. (a) The second sentence of section 5(g)(1) (7 U.S.C. 2014(g)(1)) (as amended by section 210 of this Act) is further amended—

(1) by striking out "(1)" after "shall"; and

(2) by striking out ", and (2)" and all that follows through "1978".

(b) Section 8(a) (7 U.S.C. 2017(a)) is amended by striking out the second sentence.

(c) Section 17 (7 U.S.C. 2026) is amended by striking out subsections (d) and (e) and redesignating subsection (f) as subsection (d).

WHOLESALE FOOD CONCERNS

SEC. 1404. (a) Section 7(b) (7 U.S.C. 2016(b)) is amended by striking out "wholesale food concerns or" in the first proviso.

(b) Section 9 (7 U.S.C. 2018) is amended—

(1) by striking out "AND WHOLESALE FOOD CONCERNS" in the caption;

(2) by striking out "and wholesale food concerns" in the first sentence of subsection (a);

(3) by striking out "or wholesale food concern" in clause (2) of the second sentence of subsection (a);

(4) by striking out subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(5) as redesignated by paragraph (4), by striking out "or wholesale food concern" in the first sentence of subsection (b) and in subsection (c).

(c) Section 10 (7 U.S.C. 2019) is amended by striking out "approved wholesale food concerns or through".

(d) Section 12 (7 U.S.C. 2021) (as amended by section 801 of this Act) is amended—

(1) by striking out "AND WHOLESALE FOOD CONCERNS" in the caption;

(2) by striking out "or wholesale food concern" in subsection (a); and

(3) by striking out "or concern" in subsection (a).

(e) Section 14(a) (7 U.S.C. 2023(a)) is amended—

(1) by striking out "or wholesale food concern" each place it appears;

(2) by striking out ", wholesale food concern," in the first sentence; and

(3) by striking out ", concern," each place it appears.

TITLE XV—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 1501. (a) Except as provided in section 902(d) of this Act, the amendments made by this Act shall become effective on October 1, 1982.

(b)(1) Section 117 of the Omnibus Budget Reconciliation Act of 1981 is amended by inserting before the period at the end thereof the following: ", but in no event later than September 30, 1982".

(2) Section 1338 of the Food Stamp and Commodities Distribution Amendments of 1981 is amended by inserting before the period at the end thereof the following: ", but in no event later than September 30, 1982".●

By Mr. BENTSEN (for himself, Mr. CHAFEE, Mr. BOREN, Mr. DURENBERGER, Mr. BAUCUS, Mr. BRADLEY, Mr. MOYNIHAN, Mr. MITCHELL, Mr. SYMMS, Mr. WALLOP, and Mr. MATSUNAGA):

S. 2353. A bill entitled the Life Insurance Taxation Act of 1982; to the Committee on Finance.

LIFE INSURANCE TAXATION ACT OF 1982

● Mr. BENTSEN. Mr. President, today I am introducing with Senator CHAFEE the Life Insurance Taxation Act of 1982. Our bill provides special temporary rules for taxing the income of life insurance companies. It would temporarily mitigate the adverse effects of certain defects in the existing rules for taxing these companies, pending a more extensive study of those rules and the means of permanently resolving the problems they have produced.

The rules enacted in 1959 to tax the income of life insurance companies are not working properly or fairly in today's economic environment. Those rules have presented the life insurance industry with immediate and significant problems. Enactment of our proposal is urgently needed to alleviate these problems on an interim basis.

Why is the 1959 law not working properly, and what problems does it create for life insurer? To be sure, the answers to these questions are complicated ones, just as complicated as the rules enacted in 1959 to tax these companies. At the base of the industry's troubles, however, are familiar culprits—inflation and high interest rates. The high inflation of recent years, coupled with high interest rates, have considerably increased the rates of return on the investments of life insurance companies just as for other institutional investors. But when life insurers have attempted to pass the benefits of these higher rates of return to their policyholders, they have encountered the phenomenon of an outmoded tax law which in some cases exacts, and in others threatens to exact, a level of tax that is well in excess of industry operating gains. This defect in the 1959 law is at the heart of the industry's problems.

The difficulties visited upon life insurers by the rules enacted in 1959 arise in several different settings. In one case we find most of the mutual companies, together with some of the older and larger stock companies which—like the mutuals—write dividend paying or "participating" policies. Under the 1959 law, the dividends that these companies pay to their policyholders are deductible in computing the companies' taxable income, but these deductions are in turn limited by a formula in the law keyed to the level of the companies' investment income. In 1959 this formula-based limitation presented little or no problem for these companies, for in the 1959 economy of relatively low interest rates the formula worked as it was expected to and effectively permitted the companies to deduct approximately 90 percent of the dividends they paid to policyholders. But then came inflation, and as a consequence the formula in the law began to malfunction and produce aberrant, unanticipated results. For these companies, which today attempt to pass along in their policyholder dividends most of the benefits of the current higher yields on investments, the net effect is that they can now deduct, as a practical matter, somewhat less than 60 percent of such dividends.

All of this translates into a mushrooming, ever-accelerating tax liability for these mutual and stock companies. The higher the rate of inflation, and the more inflated the investment yields, the greater is the increase in their tax burden. This, in turn, means that, as an ever-higher percentage of investment earnings is paid out in taxes, an ever-lower portion of these earnings can actually be paid to policyholders as dividends. The plight of these companies is amply illustrated in the industrywide statistics for the period from the enactment of the 1959 law through 1978. During this time, while Federal income taxes on all corporations grew 3 times and their after-tax income, like the gross national product and personal income, grew 4½ times, the taxes on all life insurance companies increased 6 times, and their gain from operations after taxes increased 4 times. The life insurance industry thus saw its share of the general corporate tax burden grow from 2.4 percent in the late 1950's to 4.2 percent in 1978, a 75-percent increase, even as it also witnessed a depression in the growth rate for permanent life insurance, leaving the industry with still less to invest in America's future.

In the face of this development, many of these companies employed various tax-planning methods in an effort to manage their steeply growing tax bills. In the late 1970's these methods included the use of modified coinsurance and similar arrangements, about which we have all heard a great deal lately. The Treasury Department has recently recommended that we act to prevent tax abuses by these companies through the use of ModCo and like arrangements, though the Treasury has not said what else should be done to correct the problems in the 1959 law that spurred the use of such arrangements in the first place. I do not think it advisable only to remedy a symptom; it is much preferable to cure the disease.

Quite apart from all this, there is a second, distinct setting in which inflation and high interest rates have not mixed well with the 1959 law. While much has been said about "ModCo" arrangements and the widely recognized troubles encountered by mutual life insurance companies under the 1959 law, little attention has been paid to this second problem area. This is the case of stock companies, mostly small and growing companies, which historically have written nondividend paying, or "nonparticipating," life insurance policies and annuities. These companies have sought, over a number of years, to provide values to their policyholders reflective of the higher investment yields that inflation has brought upon us. Since the maximum rate of interest that a company can permanently guarantee in setting a policy's benefits is limited by State law to a relatively low figure, these stock companies have enhanced their policies' values by guaranteeing to charge less than the maximum premium, or to credit interest in excess of the maximum permanent rate, on a temporary basis. Some of these companies have even guaranteed that these lower or indeterminate premium charges and excess interest credits will be determined in accordance with a specified formula or index.

In computing their tax liability under the 1959 law, these stock companies have reported as income only the premiums they actually received from their policyholders, and they have claimed deductions for the excess interest they credited to their policyholders. Recently, however, this treatment has been called into question. Some have asked whether, under the 1959 law, the maximum premiums the companies could have charged, but did not do so, might be reportable as income. They have also asked whether the excess interest the companies credited to their policyholders might be considered dividends to those policyholders, with only limited deductibility under the provisions of the 1959 law. If these questions are answered affirmatively, the net effect on these companies would be to increase their taxable income by first, the amount of the premiums they never actually received but could have charged, and second, the amount of the excess interest they credited to their policyholders. This would have the disastrous effect of placing these companies in the position of not being able to pass through to their customers most of the benefits of the current higher yields on investments.

Again, it should be evident from this that the 1959 law is seriously flawed and needs to be updated. The uncertainties in the law concerning indeterminate premiums and excess interest amply illustrate the deficiencies in applying to the economy of the 1980's statutory rules tailored to the economic conditions of the 1950's. They cast a pall over the business of the companies concerned.

I wish to emphasize that our bill is a stopgap measure only. It is intended to mitigate the effects of deficiencies in the 1959 law on an interim basis, pending a more extensive study of that law's complex provisions in order to develop permanent solutions to the

problems that it has created. The changes made by our stopgap would thus be effective only for taxable years beginning after December 31, 1981, and before January 1, 1984, allowing time for such a study to occur. I might also point out here that the use of such a legislative device—a stopgap—has a firm place in the history of fashioning income tax laws for life insurance companies. Stopgap measures were also utilized in the decade preceding the adoption of the 1959 law while Congress, the Treasury, and the industry worked together to shape its provisions.

The Life Insurance Taxation Act of 1982 would provide a fairly simple, temporary solution to the life insurance industry's problems under the 1959 law by means of seven rules. First, to stop the acceleration of life insurers' tax liability stemming from the declining deductibility of policyholder dividends, and to provide a measure of certainty as to the treatment of indeterminate premium and excess interest contracts, a safety net would be written into section 809(f) of the Internal Revenue Code (the code). This safety net would assure that a mutual life insurance company could in any event deduct a minimum of 80 percent of its policyholder dividends in computing its taxable income. Further, a stock life insurance company would be permitted to deduct a minimum of 87½ percent of the aggregate of its policyholder dividends and the special deduction already permitted it for certain nonparticipating contracts. The 7½-percent differential between mutual and stock companies is intended to reflect the differing ownership interests in these two types of companies, responding to the concern that some part of the dividends paid to policyholders by a mutual company amounts to a return on their equity in the company and, hence, should not be deductible.

Second, 100 percent of all policyholder dividends paid on contracts covering qualified employee and retirement plans would be deductible. This would assure treatment of qualified plan funds held by life insurers on an equal footing with the tax-exempt treatment of such funds held by trustees. Such a rule is consistent with what Congress intended when it enacted the 1959 law.

Third, the $250,000 amount presently found in section 809(f) of the code would be raised to $1 million. This amount was originally provided in the 1959 law as a relief measure for small companies. The bill would simply adjust this small business provision to take account of inflation in the intervening 23 years.

Fourth, a segment of the formula employed in the 1959 law to adjust nonqualified life insurance reserves, found in section 805(c) of the code, would be modified. The purpose here is to correct a mathematical formula for revaluing reserves, known as the "Menge formula" or 10-for-1 rule, which is malfunctioning at the present high level of earnings rates.

Fifth, rules would be provided to clarify the basis upon which the consolidated taxable income of two or more affiliated life insurance companies is to be computed.

Sixth, to provide certainty for past taxable years, the Internal Revenue Service would be required to respect the treatment of indeterminate premiums and excess interest on companies' returns for taxable years beginning before January 1, 1982.

Seventh and finally, in response to the concerns previously voiced by the Treasury Department, the present provisions dealing with modified coinsurance arrangements which have permitted tax savings would be suspended for the stopgap period, and rules would be provided to preclude the effects of certain other potential tax-planning methods employing reinsurance. The bill would make it clear, however, that the Service is to respect modified coinsurance arrangements entered into before January 1, 1982, that made use of the election under section 820 of the code.

When the Treasury Department earlier expressed its concern with ModCo arrangements, it cautioned that revenues were and would continue to be impaired by such arrangements if Congress failed to act. The projected tax receipts from the life insurance industry for 1982 amount to about $1.7 billion if the treatment presently allowed ModCo arrangements is continued. The Bentsen-Chafee bill, on the other hand, would generate approximately $2.7 billion in revenues from the industry, $1 billion more than if the present rules (including ModCo arrangements) are continued. While the appropriateness of this $2.7 billion figure will undoubtedly be the subject of future debate, one should consider whether it merely represents a return to a reasonable level of revenue from the life insurance industry, departing from the unfairly inflated tax collections of the late 1970's.

Mr. President, the economic well-being of our Nation's life insurance business is a matter of great importance. Life insurance companies not only perform a crucial service in assuring the financial security of millions of American households, but also act as a major source of long-term capital to a substantial segment of our business community. This industry is of particular importance to us in Texas, where our domestic life insurers play a leading role in the personal and business economies of our State. Since we have already learned the dangers of penalizing savings and capital formation through our tax system, we should be careful that our rules for taxing life insurers do not adversely affect the means of savings for millions of our citizens and the source of a significant portion of the capital utilized by our business community.

I wish to emphasize again that our bill is a stopgap measure. It is my hope that this bill will be promptly enacted to assure fairness in the tax treatment of life insurers, and additional revenue for the Treasury, pending the more detailed study that is needed to find permanent solutions to problems involved in taxing the life insurance industry.

In addition to Senator CHAFEE and myself our bill is being cosponsored by Senators BOREN, DURENBERGER, BAUCUS, MOYNIHAN, BRADLEY, SYMMS, MITCHELL, WALLOP, and MATSUNAGA.●

● Mr. CHAFEE. Mr. President, today, I am joining Senator BENTSEN and several other members of the Finance Committee in cosponsoring legislation to correct some abuses as well as inequities found in the current tax laws affecting life insurance companies.

Our bill repeals the modified coinsurance provision as requested by the administration in its 1983 budget, and it makes other changes in the antiquated Life Insurance Company Tax Act of 1959 that will bring some order to the Federal taxation of this important industry. The bill will increase life insurance company tax liabilities by about $1 billion a year, according to industry sources.

Many tax experts in Government and in the industry acknowledge that major revisions need to be made in this part of the Tax Code. Since there is no time to accomplish this during the 97th Congress, our bill is a 2-year stopgap measure: One that balances the need to increase tax revenues with the need to make some short-term corrections in the Tax Code. Life insurance leaders, as well as many Members of Congress, have pledged to push ahead next with a more complete overhaul to make sure the industry is paying its fair share of taxes.

Mr. President, the bill we are introducing today is a constructive step in the right direction on this highly complex issue. We shall be working further with the Treasury and insurance industry to make sure the final product strikes the proper balance.

We cannot be entirely certain at this point that this particular proposal is the only answer available, or even the best answer. I have decided to cosponsor it, however, because it represents a major first step toward resolving this important tax policy issue.●

Mr. BOREN. Mr. President, I am pleased to join in introducing today legislation that will provide special temporary rules for taxing the income of life insurance companies.

Life insurance companies historically have played a vital role in our Nation's economy. This role goes far beyond that of providing lifetime protection to an estimated 148 million insurance policyholders. The Nation's life insurance companies have been a major and continuing source of long-term investment capital for this Nation's business. Life insurance companies have invested assets of over $500 billion in the economy. They have been the lenders for 40 percent of all outstanding corporate bonds. Last year alone the life insurance companies provided $28 billion of new investment capital.

As with other financial institutions, however, the life insurance business has been severely damaged by the national economic dislocations of recent years, especially the record-high interest rates. As interest rates have risen in the past several years, the market value of long-term investments made in earlier years by life insurance companies has declined at some companies by as much as 40 percent below their book value.

Furthermore, the role of this important industry is now being seriously eroded by the operation of the current law taxing life insurance companies. This law, the Life Insurance Company Income Tax Act of 1959, has been unchanged in over 20 years. The economic stresses that have occurred during those years—most especially the soaring rate of inflation and unprecedented high interest rates—have exposed serious flaws in the 1959 act that were masked under more stable conditions.

The special tax formula adopted in 1959 was developed at a time of low inflation—less than 1 percent—and stable yields from life insurance company investment portfolios—averaging less than 4 percent. The taxes paid by the industry in 1959 were half a billion dollars, about one-fortieth of the taxes paid by all corporations.

The life insurance tax law seemed to work well over the next 15 years—it provided a steady source of revenue for the Treasury and the business' share of taxes paid by all corporations increased only modestly. While the level of inflation increased during this period, its full impact on a company's investment yield was not yet felt. Thus, the tax formula's weaknesses were not exposed during a 15-year period in which the average rate of return on insurance companies' invested assets was rising slowly from 4 percent in 1960 to just over 6 percent in 1975.

As the interest rates soared during the 1970's, the 1959 formula generated a higher and higher level of taxes—making it more and more difficult to pass along the current high investment returns to policyholders.

The tax load on life insurance companies reached $3 billion in 1978 which was more than one twenty-fifth of total corporate taxes, nearly double the proportion in 1959. This occurred because the deductible percentage of dividends actually paid to policyholders was decreasing due to operation of the section 809(f) limitation during an inflationary period. The amount of such deductions lost had increased from less than $200 million per year during the first years the 1959 act was in force to about $3 billion in 1978 and nearly $4 billion in 1979. These lost deductions so inflated the life insurance companies' tax bills that their taxes were growing at the rate of 16 percent per year—more than 50 percent faster than their earnings.

Beginning in 1980, some companies made much greater use of a special tax election in the Internal Revenue Code (ModCo), section 820. Companies able to use this election were able to take deductions that otherwise would have been lost. Lost deductions in 1980 were more than $2 billion lower in 1980 than they had been in 1979. Taxes dropped by more than $1 billion.

The life insurance industry has been working for the last several years to develop proposals to make needed changes in the 1959 act. Recognizing, however, that a complete review of the 1959 act will not be possible this year, the industry has developed the interim legislation that I am cosponsoring today. This legislation would correct some of the act's most obvious breakdowns while still providing levels of revenue substantially above the current levels. During the 2-year period that the legislation would be applicable (tax years 1982 and 1983), the industry will continue to work with Congress and Treasury to develop a more permanent solution to the tax problems of the life insurance business.

The bill would make three changes to section 809(f) of the code to insure that companies can deduct a reasonable amount of dividends and similar amounts paid or credited to policyholders.

First, all dividends and similar distributions relating to qualified insured pension plans would be deductible. This provision would effectuate the clear original intent to exempt investment income attributable to these plans from current tax. Present law, contrary to this intent, operates to disallow deductions for many of these dividends thus subjecting this pension plan investment income to substantial tax.

Second, with respect to nonqualified business, mutual and stock companies would be allowed to deduct, respectively, a minimum of 80 percent and 87½ percent of policyholder dividends and other special amounts. This provision would give life insurance companies a more adequate deduction for the current high level of dividends they must pay to compete in today's environment of high interest rates.

Third, all companies would receive a full deduction of at least $1 million of policyholder dividends and other special amounts. The current amount allowed, $250,000, has remained unchanged for 23 years. This amendment would restore the assistance to small companies that this deduction was originally intended to provide.

The bill also contains provisions to clarify the treatment of consolidated tax returns filed by two or more life insurance companies. These provisions are necessary so that all companies are able to benefit from the changes concerning the deduction of dividends and other special amounts that I have just described.

The bill also amends the complex formula that is used to compute a company's exclusion for investment income required to be set aside for policyholders. The current "arithmetic 10-for-1" (Menge) formula does not work appropriately in the context of current high interest rates. The bill would replace this formula with a "geometric" version of the 10-for-1 rule. This geometric formula more accurately carries out the stated intent of the rule provided in the 1959 act.

Finally, the bill contains grandfather provisions to clarify the tax treatment of two items for years before the stopgap period. One provision would remove doubt about the tax treatment of companies using the modified coinsurance tax election in years before 1982. Another grandfathering provision would clarify that excess interest credited to policyholders in these prior years is fully deductible.

The bill would increase revenues from the life insurance industry by about $1 billion in 1982, an increase of about 60 percent from current levels.

Mr. President, this bill is the product of many months of study within the life insurance industry and reflects extensive discussions with Treasury and congressional staffs. While no panacea, the legislation responds reasonably to both the need for an appropriate amount of revenue and the special problems faced by the life insurance companies because the provisions of current law do not operate appropriately in periods of inflation and high interest rates. But this proposal is only a "stopgap" provision. When passed, Congress must then begin the task of a comprehensive review of life insurance taxation. I would urge the Joint Committee on Taxation to begin such technical review immediately, so that the Finance Committee can take early action on a more comprehensive reform package.

By Mr. CANNON:

S. 2354. A bill to amend subtitle IV of title 49, United States Code, to pro-

vide for more effective regulation of motor carriers of passengers; to the Committee on Commerce, Science, and Transportation.

BUS DEREGULATION ACT OF 1982

Mr. CANNON. Mr. President, today I am introducing S. 2354, the Bus Deregulation Act of 1982. During recent years the Congress has enacted a series of sweeping measures to deregulate household goods carriers, trucking companies, railroads, and the airlines. As a result, all of these industries are healthier, more vigorous, and much more competitive then they were. Now Congress has the opportunity to consider legislation for the intercity bus industry.

The bus industry is neither a glamorous nor a healthy industry. But it is nevertheless essential. It carries more passengers than any other mode of public transportation and it remains even more fuel efficient than rail passenger travel. Last month, the Commerce Committee held hearings on the bus industry and the regulation of the industry by the Interstate Commerce Commission. I believe it is fair to say that every witness at those hearings—whether from the industry, or from labor, or from government—agreed that the regulation of the industry should be changed. They did not, of course, all agree on what ought to be done.

The House has passed H.R. 3663, the Bus Regulatory Reform Act, which, as the name implies, is a reform bill rather than a deregulation bill. Numerous suggestions for changes have been made for that bill. The bill I am introducing today incorporates many of those changes while taking a different approach to the issue.

This bill deals with the issue of bus regulation by making a clear distinction between regular route service and other services. With respect to regular route service by bus companies—upon which many small towns are dependent for their only public transportation—this bill takes an approach which is similar to the modest reform proposals contained in the House bill.

With respect to other services offered by the industry, this bill takes a bolder approach involving much more deregulation. Let me give you an example. Travel agents can arrange tours and book transportation by air, ship, or rail without any license whatsoever from the Federal Government. However, to organize a tour which moves by bus, a person must be licensed by the Interstate Commerce Commission as a "tour broker." I must say that it seems silly for the Federal Government to license travel agents who arrange bus tours when it does not regulate travel agents who use other modes of transportation.

This bill would simply deregulate tour brokers. Travel agents, who can now arrange tours by air, rail, and ship would be allowed to arrange bus tours as well. The bill takes a similar straightforward approach to the deregulation of charter travel and contract operations. In short, this is a real deregulation bill for charter and special services but a reform bill for regular route services.

Mr. President, I understand that the administration and the bus industry are now trying to work out a compromise for the Senate to consider. In dealing with this issue, I hope the Senate will also consider the approach outlined in the bill introduced today.

I should stress that I am not committed to any of the specific language in the bill and that I believe this bill, like all of the others we have seen, can be considerably improved. I want to thank the House and the House Committee on Public Works for their thoughtful completion of H.R. 3663, and again, I want to thank the industry, the employees of the industry, and all the others who have commented on bus legislation and provided many helpful suggestions.●

By Mr. CANNON (for himself, Mr. GOLDWATER, and Mr. RIEGLE):

S. 2355. A bill to amend the Communications Act of 1934 to provide that persons with impaired hearing are insured reasonable access to telephone service; to the Committee on Commerce, Science, and Transportation.

TELEPHONE SERVICE FOR THE HEARING IMPAIRED

Mr. CANNON. Mr. President, next month, on May 6, the Commerce Committee will hold hearings on S. 604, a bill which would require that all telephones be compatible with hearing aids, and on the general issue of how our telephone system can best serve all citizens—including persons with hearing impairments. S. 604 addresses a serious problem experienced by many citizens but has been criticized as being too specific. Because the bill is tied to a specific technology, some fear that enactment would impede new technological developments in the future.

The bill I am introducing today is designed to focus on the problems experienced by persons with hearing impairments in using the telephone while, at the same time, attempting to avoid the possibility that any legislation will impair the development of new technology. Basically, this bill will:

First, direct the FCC to insure reasonable access to telephone service by persons with hearing impairments;

Second, direct the FCC to require the use of magnetic field/induction coils on coin-operated pay phones;

Third, permit the FCC to require similar phones in hospital rooms or in other locations frequently used by members of the public;

Fourth, permit the FCC to impose technical standards for hearing aids and telephones;

Fifth, permit the FCC to require consumer information labeling on hearing aids and telephones at time of sale; and

Sixth, direct the FCC to consider the costs and benefits to both hearing impaired persons and nonhearing impaired persons in any rulemaking and to insure that their rules do not block the development of new technology.

Mr. President, I ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD so that it will have broad distribution and may be used as a vehicle for discussion at the Commerce Committee's hearings on May 6.

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

S. 2355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds that—

(1) all persons subscribing to or otherwise receiving telephone service in the Nation should receive the best service which is technologically possible;

(2) currently available technology is capable of providing telephone service to some of those individuals who, because of hearing impairments, require telephone reception by means of hearing aids with induction coils, or other inductive receptors;

(3) the lack of technical standards ensuring compatibility between hearing aids and telephones has prevented receipt of the best service which is technologically possible; and

(4) adoption of technical standards is required in order to ensure compatibility between telephones and hearing aids, thereby accommodating the needs of individuals with hearing impairments.

SEC. 2. Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"TELEPHONE SERVICE TO PERSONS WITH IMPAIRED HEARING

"SEC. 225. (a) The Commission shall establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing.

"(b) In ensuring such access, the Commission shall require that coin-operated public telephones be designed, manufactured, and operated so as to be capable of coupling with hearing aids through the use of an induction coil or other inductive receptor. The Commission may also require that other telephones frequently used by the public (such as telephones in hospital rooms), or provided for emergency access (such as telephones in elevators), be similarly designed, manufactured, and operated.

"(c) The Commission may establish such technical standards as are required in order to ensure compatibility between telephones and hearing aids.

"(d) The Commission shall establish such requirements for the labeling of equipment and packaging materials for equipment as

are needed to provided adequate information to consumers on the compatibility between telephones and hearing aids.

"(e) In any rulemaking to implement the provisions of this section, the Commission shall specifically consider the costs and benefits to all telephone users, including persons with and without hearing impairments. The Commission shall ensure that regulations adopted to implement this section do not discourage or impair the development of new technology.".●

By Mr. HART (for himself, Mr. HEINZ, and Mr. CRANSTON):

S. 2356. A bill to authorize negotiations directed toward opening foreign markets to U.S. exports of high technology products, and for other purposes; to the Committee on Finance.

HIGH TECHNOLOGY TRADE ACT OF 1982

● Mr. HART. Mr. President, I am today introducing the High Technology Trade Act of 1982. This legislation addresses an issue of paramount importance to America's economic future—the strength and international competitiveness of our high technology industries.

This bill focuses on high technology for a simple, yet profound, reason: High technology today, like steel before it, is seminal—it will provide the key technological infrastructure on which our economy will be built. The bill has three major provisions. First, it authorizes the President to negotiate, bilaterally or multilaterally, on high-technology trade and investment issues. Second, it affirms our commitment to national treatment in trade and investment. And third, it establishes a system to monitor and report on practices which distort trade and investment flows and to offer proposed remedies.

Before discussing the specific provisions of the bill in more detail, I would like to make two general points about it:

First, it is a pro-free-trade bill. Unlike sectoral reciprocity legislation which is narrowly focused on balancing trade bilaterally, this bill seeks across-the-board elimination of barriers for a broad range of high-technology products. This approach is positive; it tells the President to use the trade tools at his disposal to resolve disputes, rather than to close markets which exacerbate them. And it is farsighted; negotiating from today's leadership position will be much less costly than more intrusive government intervention should we fall behind.

Second, the bill, by itself, will not insure the future health and growth of our high-technology industries. Important as international issues are, our responses to these industries' domestic needs—for increased capital formation, adequate R. & D. channels and opportunities and adequate numbers of trained scientists and engineers—will be vitally important as well.

NEED FOR THE BILL

This bill is needed now: because high-technology industries are critical to our economy's future; because their growth is hindered by restrictive trade and investment barriers abroad; and because the Special Trade Representative must have negotiating authority to insure that GATT provisions keep pace with rapid developments in this area.

As I emphasized in a recent paper, "An Economic Strategy for the 1980's," high technology is transforming our economy—bringing a depth, scope, and magnitude of structural change comparable to the change brought by the industrial revolution.

The high-technology sector itself will grow tremendously in the next decade. Even more important, however, is the role high-technology products—semiconductors, robots, microchips, computer-aided manufacturing systems—will play in revitalizing our traditional manufacturing industries. By greatly boosting productivity, high-technology products can transform moribund manufacturing industries into modern, efficient, international competitors.

But our high-technology industries will not survive, let alone thrive, if they are unable to compete effectively in a free, open international trading environment. Today, restrictions on U.S. access to foreign markets and other forms of intervention by foreign governments reduce our ability to compete.

One industry that has experienced such practices is the semiconductor industry. Because economies of scale are particularly important in semiconductor manufacturing, American firms need to produce for the largest market. And of the total world market for semiconductors, fully 50 percent lies outside the United States. Access to international markets is vitally important.

Yet the Japanese Government, according to the Joint Economic Committee, has pursued a "clear and forceful" policy of restricting access to their domestic markets. "The Japanese market remains closed in significant respects to U.S. exports," the committee's annual report states.

The objective of U.S. policy, the committee recommends, "should be to maintain a climate in which an already highly successful industry can continue to flourish, and to guard against policies by other governments which might unfairly advantage their competing semiconductor sections to the detriment of ours."

I concur with the committee's recommendation. The bill I have introduced would meet this objective, not just for semiconductors, but for the entire high-technology sector. It would enable the United States to deal effectively with foreign government measures to protect and promote their high-technology industries by strengthening and expanding existing GATT provisions. And it would provide strong backing for administration efforts to make high technology a key priority at the November GATT ministerial.

On the question of focusing only on the high-technology sector, this bill is consistent with policy as described by William Brock, U.S. Trade Representative. In his testimony before the Subcommittee on Trade of the House Ways and Means Committee, Mr. Brock said:

> As opposed to taking a primarily reactive approach to sectoral problems, the U.S. Government would like to adopt a more forward-looking approach in the high-technology industries—a preventive perspective, both domestically and internationally.

This sectoral focus is not at odds with the GATT framework. The civil aircraft case provides a strong precedent of multilateral agreement on a sectoral issue achieved within GATT. That agreement was directed at eliminating the adverse effects of a myriad of trade-distorting measures, encouraging continual worldwide innovation, and insuring that producers of all signatory nations are provided fair and equal competitive opportunities. The high-technology sector is an even stronger candidate for international negotiation and agreement.

Thus, although I believe a sectoral approach to most international trade problems is neither necessary nor appropriate, a sectoral focus is the most effective approach to current high-technology trade issues.

PROVISIONS OF THE BILL

First, the bill authorizes a mandate for major new international negotiations to open markets for U.S. high-technology trade and investment, and provides the means for implementing any agreement. In short, new tariff negotiating authority is granted with respect to high-technology products. Existing trade laws provide a range of remedies to deal with unreasonable or unjustifiable foreign practices. However, the bill adds important flexibility to amicable and prompt international settlement of trade distortions that result from foreign governments' industrial policies. The bill also covers investment-related issues not covered by existing law, and should help avoid the need to take ill-advised trade actions in response to investment restrictions abroad.

Specifically, the bill authorizes the President to enter into bilateral or multilateral agreements to address specific problem areas: discriminatory public and private procurement; reduction and elimination of tariffs; national treatment of investment; access to joint research opportunities and results; the free flow of nonstrategic

technology; and the monitoring of trade and investment activities. To carry out these agreements, the President may modify tariff treatment or submit proposed changes in U.S. laws to Congress.

By expanding the scope of Presidential response and allowing the President to address a wider range of unfair market barriers, such agreements should help insure the maintenance of the consensus achieved through mutual concessions which forms the foundation of GATT. Such bilateral agreements should be the stepping stone to establishment of a comprehensive multilateral framework for dealing with high-technology issues.

The second major provision—"national treatment"—essentially provides for U.S. firms operating in a foreign country to receive treatment equivalent to domestic firms. This is a widely advocated objective. The report of the Japan-United States Economic Relations Group recommended that U.S. production affiliates in Japan should "* * * be allowed by the respective governments to participate in government research and development and procurements on the basis of equal national treatment." National treatment extends to all areas, including access to capital markets and ability to recruit engineering talent. The JEC semiconductor study stated forcefully: "In electronics, open trade will require open borders and national treatment for foreign companies. The alternative is, simply, a fruitless segmentation of world markets and endless international trade conflict."

Finally, the bill contains a number of monitoring and reporting requirements. The Secretary of Commerce is directed to report annually to Congress, describing any policies of developed or advanced developing countries that significantly distort trade and investment flows and harm U.S. high-technology industries. It would also describe steps the administration proposes to take to remedy the adverse effects of those measures and of dumping or subsidization. The act's implementation will be monitored by the Secretary of Commerce who will report to the President on trade and investment levels and conditions of competition and market conditions. Such monitoring is strongly recommended in this year's annual report of the Joint Economic Committee: "* * * It is vital that the U.S. Government * * * become fully equipped to monitor developments in world semiconductor markets, especially Japan."

The bill in no respect requires the U.S. Government to depart from strict adherence to international obligations of the United States. U.S. trade laws provide the domestic means for the President to take action pursuant to U.S. rights under international agreements. While these rights do not always provide the means to solve international disputes, the measures authorized under the bill are discretionary and can be used solely in conformity with international agreements.

It is clear that the strength and vitality of the U.S. economy will depend significantly on the health of our high-technology industries. We must move toward an international trade and investment system that provides them the maximum opportunity for continued innovation and growth. This bill will help provide such a system, thereby meeting the dual objectives of helping to insure the continued health of high-technology industries and helping to strengthen and protect the multilateral GATT trading system.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2356

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 "High Technology Trade Act of 1982".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the growth and maintenance of an open world economy for trade and investment is in the national interest and in the interest of the United States high technology industries;

(2) international competition in high technology products is increasingly characterized by a high degree of government intervention through central planning, joint establishment of industrial objectives, subsidization, anticompetitive practices tolerated or fostered by government policy, denial of national treatment, nontariff and tariff barriers, investment performance requirements, access to preferential financing, and sponsorship of limited-access joint research projects;

(3) the strength, vitality, and innovativeness of United States high technology industries are essential to the national security and the national defense, the future development of the United States economy, and the competitiveness of United States industry in international trade; and

(4) domestic policies play a critical role in determining the international competitiveness of United States high technology companies, and therefore the United States should take into account the importance of providing a favorable domestic economic environment for United States high technology industries in order to preserve United States international competitiveness.

(b) PURPOSES.—The purposes of this Act are—

(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology, and

(2) to strengthen the international trading system as embodied in the General Agreement on Tariffs and Trade and related agreements.

SEC. 3. NEGOTIATING MANDATE.

(a) PRESIDENTIAL AUTHORITY.—The President is authorized to enter into such bilateral or multilateral agreements as may be necessary or appropriate to achieve the purposes of this Act.

(b) AGREEMENTS.—Agreements under this Act may include, but need not be limited to—

(1) a commitment that official policy of signatory countries will not discourage government or private procurement of foreign high technology products or services;

(2) the reduction and elimination of all tariffs on, and other barriers to, imports of high technology products, including, but not limited to—

(A) the acceleration of the full concession tariff rates on high technology products agreed to during the Tokyo Round of trade negotiations; and

(B) the elimination of any tariff which on the date of enactment of this Act is 5 percent ad valorem (or ad valorem equivalent) or less;

(3) a commitment to provide national treatment;

(4) a commitment to foster the pursuit of joint scientific cooperation by companies of signatory countries through such measures as financial participation, and technical and personnel exchanges, in areas of mutual interest; and

(5) a commitment—

(A) to guarantee participation by business entities of signatory countries in industry or industry and government-sponsored cooperative research and development projects and access to the results of such projects, and

(B) not to interfere with the outward flow of nonstrategic technology.

(c) ACTIONS BY PRESIDENT TO CARRY OUT AGREEMENTS.—In order to carry out any agreement concluded under this Act, the President is authorized with respect to products which he deems to be high technology products—

(1) to proclaim, pursuant to the procedures governing tariff agreements in title I of the Trade Act of 1974, such modification or continuance of any existing duty-free or excise treatment, or such additional duties, as he determines to be required or appropriate; and

(2) to utilize the procedures contained in sections 102 and 151 of the Trade Act of 1974 (and corresponding provisions of law) in the event that changes in United States laws are required or appropriate.

(d) CHANGES IN LAW.—The President is authorized to include in any agreement concluded under this Act commitments to make changes in United States laws, regulations, and policies that are considered necessary and appropriate to ensure the continued competitiveness in open international markets of the United States high technology industries. Such changes shall be considered by Congress as provided in subsection (c)(2) of this section.

SEC. 4. ADDITIONAL ACTIONS TO OBTAIN FOREIGN MARKET ACCESS.

(a) DETERMINATIONS BY PRESIDENT REGARDING NATIONAL TREATMENT.—

(1) IN GENERAL.—In order to ensure that national treatment is accorded by a key country to—

(A) United States high technology companies for sales in such country, and

(B) United States persons for investments in high technology industries in such country, the President shall, on a continuing

basis, determine whether such country is taking actions sufficient to provide national treatment in such country for United States exports of high technology products and United States investments in high technology industries.

(2) BASIS OF DETERMINATIONS.—The President shall base the determinations under paragraph (1) on such product categories as are deemed appropriate in accordance with the procedures established under such paragraph.

(b) ACTIONS INVOLVING NEGATIVE DETERMINATIONS.—If the President determines under subsection (a) that a key country is not providing national treatment, the President shall promptly enter into consultations with such country with a view to establishing national treatment in such country and achieving the purposes of this Act. If such consultations do not provide the means to obtain this objective, the President shall promptly consider taking such actions within his power as he deems necessary or appropriate under trade agreements to which the United States is a party and under provisions of United States law.

SEC. 5. EFFECTS OF FOREIGN INDUSTRIAL POLICY.

(a) REPORT BY SECRETARY OF COMMERCE.—The Secretary of Commerce, in consultation with the United States Trade Representative and the High Technology Industry Advisory Committee established under section 6(c), shall analyze and report annually to the Congress—

(1) the extent to which any key country utilizes industrial policies or measures which significantly distort international trade or investment flows and which have or may have substantial adverse effects on any United States high technology industry; and

(2) the steps which the President is taking or proposes to take domestically and internationally to remedy any adverse effects determined under paragraph (1), including any adverse effect arising out of any action which results in the subsidization of articles imported into the United States or the sale of such articles at less than fair value in the United States market.

(b) SCOPE OF ANALYSIS.—The analysis under subsection (a) shall include an analysis of—

(1) any foreign government industrial policies and measures—

(A) which are designed to enhance, or having the effect of enhancing, the international competitiveness of a foreign high technology industry, or

(B) which increase the rate of savings and investment, decrease consumption, channel private or public financial or other resources to favored industries, or otherwise have the effect of increasing high technology exports, and

(2) specific foreign government industrial policies and measures such as—

(A) subsidies,

(B) toleration of cooperation among firms, or

(C) other anticompetitive activities, including allocation of product or geographic markets, exclusive of nonstrategic joint research and development activities, and other export-enhancing or import-inhibiting practices.

(c) OTHER PRESIDENTIAL ACTIONS.—If the President determines under subsection (a) that a foreign country has foreign industrial policies or measures which—

(1) significantly distort international trade or investment to the detriment of any United States high technology industry; or

(2) may result in sales of articles at less than fair market value in the United States market or subsidization of articles imported into the United States and cause, or threaten to cause, material injury to any United States high technology industry,

the President shall take whatever steps within his power that he deems are necessary or appropriate (including entering into agreements) to obtain the elimination of such practices or offset their adverse effects.

(d) DEFINITIONS.—For purposes of this section, the terms "less than fair value" and "material injury" have the same meaning as in title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.).

SEC. 6. MONITORING OF KEY COUNTRIES; REPORTS.

(a) ANALYSIS OF COMPETITIVE OPPORTUNITIES.—The Secretary of Commerce shall establish a mechanism to analyze high technology trade and investment patterns in key countries to evaluate competitive opportunities offered in foreign markets, and to further the objectives of this Act. The Secretary of Commerce shall prepare and publish annually a report to the President containing the results of his analysis which shall include, but not be limited to, information with respect to—

(1) United States exports and imports of high technology products to and from such key countries;

(2) direct and indirect investment flows;

(3) the conditions of competition in such countries, including the nature and extent of intercompany cooperation and coordination in joint research and development, market allocation, and the development and implementation of industrial objectives; and

(4) the nature and extent of government intervention, including the development of industrial objectives, the financing of research and development, the providing of financial, tax, and other incentives, and the directing of procurement.

(b) REPORT TO THE PRESIDENT.—

(1) REPORT.—The United States Trade Representative and the Secretary of Commerce shall, after consultation with the Advisory Committee established under subsection (c), report annually to the President with respect to measures enumerated in the report submitted under subsection (a)—

(A) which they consider to be violation of United States international agreements, or

(B) which are unjustifiable, unreasonable, or discriminatory and a burden or restriction on United States high technology products, services, or investments.

(2) ACTION BY PRESIDENT.—The President shall consider what action may be taken under the laws of the United States and trade agreements to obtain the reduction or elimination of such measures.

(c) ADVISORY COMMITTEE.—The Secretary of Commerce and the United States Trade Representative shall—

(1) establish a High Technology Industry Advisory Committee comprised of representatives of interested high technology industries, and

(2) fully consult with the Committee with respect to actions under this Act relating to—

(A) the preparation of negotiating positions,

(B) the conclusion of any agreement,

(C) the imposition of any restriction, and

(D) the monitoring of the results of any such agreement or restriction.

The provisions of section 135(f) of the Trade Act of 1974 shall apply to the Committee.

SEC. 7. DEFINITIONS.

(a) OPENNESS OF FOREIGN MARKETS.—For the purpose of this Act, openness of international trade and investment shall be measured by reference to—

(1) the existence of structural barriers to United States trade and investment;

(2) structural advantages enjoyed by foreign companies by virtue of an absence of fully competitive market conditions in their home markets;

(3) the extent to which national treatment is afforded United States investments to produce and sell high technology products and services for sale in the local market of a major developed country;

(4) in the case of key commodity components (for example, random access memories (RAMs)), the extent to which sales in a major developed country of such products manufactured by United States companies in the United States or abroad, taking into account the relative size of markets, are less than sales of those products in other international markets where more open conditions of competition prevail; and

(5) such other factors as the United States Trade Representative and the Secretary of Commerce shall prescribe.

(b) NATIONAL TREATMENT.—The term "national treatment" shall include, but not be limited to, treatment not less favorable than that accorded to any national with respect to—

(1) the freedom of establishment of a market,

(2) taxation and financial incentives,

(3) nonstrategic government purchasing and public contracts,

(4) internal regulations and practices, and

(5) freedom to participate in joint research and development activities and in other national programs designed to foster the growth of high technology industries.

(c) KEY COUNTRY, ETC.—For the purpose of this Act—

(1) the term "key country" means Japan, the European Economic Community, any individual member country of the European Economic Community, Canada, and any foreign country (including any newly industrialized country) designated by the President as a key country for any purpose of this Act, and

(2) the term "newly industrialized country" means Korea, Taiwan, Malaysia, Brazil, Argentina, Hong Kong, Singapore, Spain, Mexico, and Israel.●

● Mr. HEINZ. Mr. President, today I am joining the Senator from Colorado (Mr. HART) in introducing the High Technology Trade Act of 1982. Its purpose is to provide a negotiating mandate in the area of international high technology trade and investment, in order to open foreign markets to imports and investment.

The problems of international high technology trade and investment—an area vital to the United States and to all other nations—have reached a critical level and are impairing relations among trading nations. These problems demand special attention. The administration has committed itself to an aggressive response, emphasizing that high technology will be one of the major trade issues of the decade. U.S. Trade Representative William Brock included the challenges facing

the U.S. high-technology industries on the list of U.S. high-priority items to be addressed at the GATT Ministerial. In his statement on U.S. trade policy, he assured us that future negotiating efforts within GATT would extend international discipline to this new sector.

In his testimony just last week before the International Trade Subcommittee, Ambassador Brock stressed the need for the legislation I am introducing today:

> Focus should be directed toward the need for multilateral consideration of high technology trade, a priority item in our work on the GATT Ministerial agenda, and one which many countries legitimately recognize as a critical area for economic development. I ask that Congress examine the reduction of barriers to trade in high technology goods, including the reduction of tariffs. Such a provision would give the President specific authority to reduce U.S. tariffs on high technology products in exchange for equivalent concessions.
>
> Other legislative proposals also deserve more careful examination. There are areas which have not been fully examined. I refer to the erosion or rejection by some nations of industrial and intellectual property rights, especially in more technologically advanced products, or the impact of foreign industrial planning and county targeting on an open market such as ours. A thorough examination of these issues will be of benefit.

Mr. President, we are threatened by a rising incidence of neomercantilism. Our trading partners today are increasingly intervening in the normal flows of international trade and investment, with the intent of expanding exports and restricting access to their markets. This neomercantilism is most striking in the high technology industries. Governments of developed and advanced developing countries alike are unfairly protecting and promoting their industries while restricting foreign access to their own markets through a range of tariff and nontariff barriers and other trade-distorting measures such as government and joint government-industry planning and establishment of objectives, toleration of anticompetitive practices, investment performance requirements, subsidization, sponsorship of limited-access joint research projects, and preferential financial and taxation measures. In contrast, the U.S. market is substantially free of Government intervention, and is open to foreign imports and investment.

I will describe only a few of the many examples. In an effort to establish a unified European market and expand its share of the world market, the European Community has outlined a sweeping program of coordinated research design and production with particular attention devoted to microelectronics.

Individual European countries are going full steam ahead with a series of programs and policies which support and protect their high-technology industries. The French Government officially encourages the development of technologically advanced industries and related research. As part of its effort to promote the French integrated circuit industry, the Government will provide $150 million of financing over a 5-year span, and is sponsoring R. & D. projects and specific measures to increase production, as well as encouraging the assimilation of U.S. technology through joint ventures with U.S. firms. French high-technology industries receive additional support from measures—such as tax benefits for R. & D. efforts, discriminatory public procurement policies, and performance requirements—which are representative of the types of barriers our bill seeks to eliminate.

The level of government funding for research and development in Germany is another striking example. In 1978, for instance, the German Government financed 47 percent of total German R. & D. The German Government influences the development of its high-technology sector through a well-developed government-industry communications network composed of research institutions which administer government R. & D. funds, and advisory committees.

Through its new technologies program, the German Government has targeted certain key industries such as microelectronics, telecommunications, bioengineering and optic and control engineering, in an effort to insure the international competitiveness of German industry in all high-technology-related industries. Targeted industries receive government R. & D. funding on the basis of cost sharing.

Japan, too, has adopted a national policy of promoting its high technology information-based industries. Initial Japanese Government attention has focused on the semiconductor industry, where the Government coordinates a joint government-industry effort to improve the Japanese capacity in the greatest volume, fastest growing part of the market. This effort is specifically geared to overtaking the U.S. lead in that sector. The programs are aided by tax incentives, low interest rates, accelerated depreciation and debt-leveraged financing. Moreover, the Government's targeting of the semiconductor industry has made this a low-risk area, greatly improving access to private capital. Direct Government support of the industry is reinforced by a wide range of nontariff barriers and distortions to trade and investment.

The newly industrializing countries are all too willing to apply the same model. Those nations are increasingly aware that acquisition of foreign technology and their own technology-generating capabilities are integrally related to their development processes and to their ability to maintain any level of international competitiveness. They assume that infant industry protection, which aided development of low-technology industries, will also work in high-technology industries. The result is a pervasive use of performance requirements and other policies restricting market access, government monopolization and funding, and tax and financial incentives.

Brazil is a prime example. The Brazilian national development plan is aimed in part at achieving competitive strength in numerous industrial sectors through increased acquisition and use of high technology. As part of that effort market access for foreign firms representing a substantial competitive threat to Brazilian enterprises is denied or is severly limited. Through its computer program, for example, the Brazilian Government conditions foreign investment on the introduction over time of increased levels of Brazilian content. The Mexican Government similarly relies heavily on trade and investment restrictions and export incentives to promote its electronics and telecommunications industries.

These policies are self-defeating. Limiting imports and investment in computers, semiconductors, and other high-technology industries stunts growth instead of promoting it. Here is an area where the cost of attempting to "pick the winners" outweighs any possible benefits. Curbing freedom of trade and investment prevents thousands of businesses and engineers from being a part of the worldwide exchange which is necessary for high-technology industries to flourish.

If this movement is allowed to continue unimpeded, the result will be disastrous for all countries which participate in the international trading system. Our own interest is unquestionable. There is probably no other category of products more uniquely important to the United States.

Semiconductors are one example. Because of their defense-related uses, semiconductors and semiconductor technology are crucial to the U.S. national security. In addition, this is a core industry, feeding into all other major U.S. industries. Not only are semiconductors vital to the future growth and competitiveness of the U.S. computer, telecommunications and electronics instrumentation industries and to pioneer industries like robotics and genetic engineering, they are absolutely critical to the future health of our steel, automobile, and textile industries.

The crisis currently facing the U.S. semiconductor industry illustrates dramatically the adverse consequences of the types of policies this bill is aimed at eliminating. Our semiconductor industry is seriously threatened by for-

eign industrial policies. Absent a U.S. response, that threat will only increase in severity and will spread to other U.S. industries.

Foreign semiconductor producers are challenging U.S. dominance in those memory chip products which will be most important in the future. Although the U.S. industry currently has 63 percent of the overall market share in the 16K RAM—16,000 bits random access memory—market, it has only 30 percent of the market for the 64K RAM; expected to be the largest selling chip by 1985. Foreign producers are well positioned in the race to manufacture the 256K RAM. Leadershp in this sector is most important, since these are the most advanced, state-of-the-art products and demand for them is expanding at three times the rate for semiconductors as a whole.

Improved access to world markets is critical to the U.S. industry for two interrelated reasons. First, due to the structure and nature of the industry, access to capital and economies of scale are increasingly crucial. Second, if foreign industries are allowed to remain within their insulated environments of protection and support, our industries will ultimately be unable to compete.

This excerpt from the International Microelectronic Challenge best sums up the threat to this industry, and the challenge before us:

Foreign governments have recognized the importance of semiconductor technology and have assisted the development of their indigenous industries through a variety of policies—restricting access to their domestic markets, granting state aids, and providing an officially supported customer base. These actions are having a serious effect on the international conditions of competition. The lead of U.S. firms in the world's commercial market is coming under increasing pressure. American companies are having difficulties both in gaining new access and maintaining existing access to important foreign markets. The industry can no longer rely on its technological lead as the principal means to gain access to foreign markets.

Governments around the world are supporting their national semiconductor industries as a national priority by adopting national policies and programs designed to provide a special economic environment beyond the benefits free market forces would generate. They are seeking to give their industries a competitive edge in the world market. What is disturbing about this challenge is not the competition itself. This industry has thrived on competition. What is disturbing is the fact that we may not ultimately be able to compete successfully unless the gap is narrowed between the deliberately supportive economic environment provided abroad and the environment existing in this country.

This challenge from Europe, Japan and other countries can be used as an opportunity for America to fashion public policy responses which are consistent to our economic philosophy.

The significance of the high-technology—and particularly the semiconductor—industries, and the consequent severity of the threat from foreign government policies was recognized in the 1982 Annual Joint Economic Report:

An American approach to industrial development should emphasize industries which can act as Catalysts to economic development and job creation. A catalytic industry may be defined in any of several ways:

As one with extensive backward and forward linkages in the economy, so that strong advantage in that industry leads to strong advantages in a wide array of final products. The steel industry played this role in past decades for a wide range of fabricated products. Today, the semiconductor industry is the catalytic center of industries as varied as computers, robots, telecommunications, and a host of electronic products.

The American semiconductor industry provides an example of a catalyst industry, because of its extensive linkages forward into mainframe computers and electronically controlled equipment of all types, and backward into high-quality technical education, and because the success of the industry depends on rapid market penetration and volume sales, which may be facilitated or impeded by government policy.

The objective of U.S. policy toward the semiconductor industry should be to maintain a climate in which an already highly successful industry can continue to flourish, and to guard against policies by other governments which might unfairly advantage their competing semiconductor sectors to the detriment of ours.

I would like to quote from a study of February 18, 1982, prepared for the Joint Economic Committee, entitled "International Competition in Advanced Industrial Sectors: Trade and Development in the Semiconductor Industry." I think it clarifies the challenge we face:

These events signify much more than a loss of profits for U.S. firms in particular product categories in a single industry. They indicate the potential for an irreversible loss of world leadership by U.S. firms in the innovation and diffusion of semiconductor technology. Because the products of this industry are the crucial intermediate inputs in all final electronics systems, competition in the semiconductor industry will be at the center of competition in all industries which incorporate electronics into their products and production processes. Indeed, trade in integrated circuits and electronics in general is typical of competition in industrial goods between the advanced countries.

Market access in the products which these countries exchange between themselves depends on the management of complex processes of product development and manufacturing rather than simply on national differences in factor costs such as wages or raw materials. The corporate capabilities that afford a national advantage in high technology can be promoted by government policies for industry and trade. National competition in this industry is typical of the trade conflicts we may anticipate in all of the growing high-technology industries on which all advanced countries are depending. Indeed, the case of this one industry suggests that government policies can shape a nation's comparative advantage in trade. General issues aside, however, we shall argue that the outcomes on industrial competition in electronics will have a unique national importance.

For the foreseeable future, the relative economic strength of all advanced industrial economics will rest in part on their capacity to develop and apply semi-conductor technology to product design and production processes. Thus the loss of leadership in this one industry would mean the loss of international competitiveness in many of the advanced technology sectors that have been the basis of a U.S. advantage since the Second World War.

Negotiations and agreements eliminating barriers to trade and investment for high-technology products and industries will benefit not only the United States, but every trading nation and the international system as a whole. There is no good substitute for open international trade—particularly for industries as dependent as these are on access to world markets and competition because of economies of scale and high levels of innovativeness. Shortsighted national policies focused on immediate benefits to individual national economies are counterproductive and divert us all from the most efficient course.

The United States has been the leader in liberalizing international trade. Now the progress we have achieved with our trading partners within the GATT forum is being undermined. Existing international mechanisms and present U.S. law are not adequate to deal with these issues. A specialized comprehensive approach to high-technology issues is needed.

High technology is not just another significant product sector. Defined by input rather than product, its parameters cut across other product sectors and will shift with time to encompass any product highly dependent on extensive research and development and constant innovation. These are the products generally in the forefront in determining any nation's industrial strength and future competitiveness. Singling out high technology trade problems for special focus is quite different from sectoral negotiations on a purely product-specific basis. No other category of products is as uniquely important to every nation.

Many of these problems involve issues which cannot be dealt with adequately under the existing GATT rules. High-technology products are by definition new and constantly changing. The adverse effects of current foreign government policies will be felt in the future and are not necessarily immediately apparent or quantifiable. A sectoral focus is mandated by the pervasiveness, diverse nature, and difficulty of quantifying the obstacles to free trade and investment in this sector. A comprehensive approach is the only truly effective alternative.

The United States has a clear strategic interest in retaining leadership in high-technology industries and in maintaining an industrial structure that facilitates the diffusion and innovation of these vital technologies. There is simply no reason to allow the

evolution of this sector to be dictated by the policies of foreign governments. What is needed are American policies aimed at opening international markets abroad to rigorous competition from U.S. firms, and easing domestic constraints on the U.S. industry's ability to grow and compete. Such policies would make domestic and international markets function more efficiently. Failure to adopt such policies could generate serious long-run costs to the U.S. economy.

Events in the semiconductor industry provided the United States with a timely opportunity to reconsider U.S. policy responses to the generic problem of foreign government promotion of specific industrial sectors. Foreign industrial policies aimed at accelerating the shift out of agriculture into capital-intensive industries—such as autos—may have been acceptable in an era of U.S. economic hegemony, but they pose new problems when they serve as strategies to forge leadership in the advanced technology sectors upon which the U.S. future rests.

As the Joint Economic Committee study, "International Competition in Advanced Industrial Sectors: Trade and Development in the Semiconductor Industry" concluded with respect to one high technology industry:

> The semiconductor industry is at the heart of the transformation of industrial life being produced by information-processing technology. Its application to data processing, automated production, robotics, communications, and military systems is changing the goods we use, the way we make those products, and the means by which we communicate with each other. In the trade among the advanced countries, competitive position is gained by product differentiation and the management of sophisticated production systems, both of which will be shaped by the possibilities offered by integrated circuits. Consequently, in our view, the relative strength of the several advanced industrial countries in the next few decades will be significantly affected by differing national capacities to develop and apply these electronic component technologies.
>
> The policy task is to reconcile the desire of the United States to maintain its position in the forefront of this industry with Japanese and European desires to situate their industries so they may also ride the wave of electronics into the future. The story told here of marketplace competition is also a tale of conflict between nations over the role of government in promoting and shaping growth sectors. In the 1980s trade debates about the government policies of procurement and promotion, rather than arguments about tariffs and quotas, will be central. The integrated circuit case, where government policies are so important, may prove to be a prototype for the trade conflicts of the next decade. The real danger is that each nation's pursuit of its own advantage will fragment this worldwide industry into a series of national markets insulated by policies of government procurement and subsidies.

Immediate expansion of foreign market access is the key in facing that challenge, and must be an American goal. The High Technology Trade Act of 1982 authorizes the President to negotiate and enter into agreements to achieve that goal, by eliminating barriers to high-technology trade and investment.

The bill is directed at ensuring that U.S. high-technology companies exporting to or investing in foreign countries receive national treatment—or treatment no less favorable than that accorded nationals of the foreign country. To that end, the President will consult with foreign governments that fail to provide national treatment, and should consultations fail, will take action as necessary and appropriate under trade agreements or existing law. Congress will receive annual reports on foreign industrial policies and trade and investment-distorting measures like those I have described, and on proposed administration responses. Finally, a mechanism to monitor high-technology trade and investment flows and competitive conditions in foreign markets will be established, as well as a High Technology Industry Advisory Committee.

SUMMARY OF THE BILL

The High Technology Trade Act of 1982 recognizes the importance of the U.S. high technology industries to the U.S. national security, defense, economy, and international competitiveness. It recognizes the importance of open international competition in high-technology industries and a favorable domestic environment for U.S. high technology industries. Foreign governments are increasingly restricting access to their markets and distorting trade and investment through government intervention. The purpose of the bill is to obtain maximum openness in international high technology trade and investment, and to strengthen the international trading system. (Sec. 2.)

The act authorizes the President to negotiate and enter into agreements directed at opening foreign markets. Openness is measured with reference to such nonexclusive factors as competition in more open markets, structural barriers facing U.S. companies, "national treatment," and structural advantages enjoyed by foreign industries. (Secs. 3 and 9.)

International agreements could include commitments to reduce or eliminate tariff and nontariff barriers—including an acceleration to 1982 of the tariff rates agreed to for 1987—a national treatment commitment, a commitment not to discourage procurement of U.S. high technology products, and other commitments insuring access for U.S. companies to projects involving financial and scientific cooperation. In order to carry out these agreements, the President may modify tariff treatment, make commitments to change U.S. laws, regulations, and policies as necessary, and submit to Congress proposed changes in U.S. laws. (Sec. 3.)

The President will determine on a continuing basis whether any major developed or newly industrialized country has failed to take actions to provide national treatment for U.S. exports and investments. National treatment is defined as treatment with respect to establishment, taxation and financial benefits, government-procurement, and participation in research and development and government sponsored programs, no less favorable than that accorded to nationals of the foreign country. The President will consult with any such nation, and should consultations fail to rectify the situation, will consider actions under existing trade agreements and U.S. law, as necessary and appropriate. (Secs. 4 and 7.)

The act contains a number of monitoring and reporting requirements. Any foreign government measures or industrial policies that distort trade and investment flows and adversely affect the U.S. high technology sector are to be reported to Congress annually by the Secretary of Commerce, working together with the Special Trade Representative and the High Technology Industry Advisory Committee; a committee of industry representatives established by this legislation. (Sec. 8). This report is also to outline the steps the administration is taking, or plans to take, to remedy the effects of sales at less than fair value, subsidization, or other unreasonable practices. (Sec. 5.)

The President is directed to promptly consider acting under existing trade agreements or legislation, in response to any foreign industrial policies or measures which significantly distort trade and investment flows, may result in subsidization of sales at less than fair value, and cause or threaten to cause material injury to any U.S. high technology industry, and is authorized to enter into agreements to eliminate those measures or offset their effects. (Sec. 5.)

Monitoring of the act's implementation will be conducted by the Secretary of Commerce, who will report annually to the President, describing trade and investment levels, competitive conditions and market conditions. (Sec. 6.) The U.S. Trade Representative and the Secretary of Commerce will report annually to the President on foreign practices which they consider to be violations of U.S. international agreements or which are unjustifiable or discriminatory and a burden or restriction on U.S. high technology products, services, or investments, and the President will consider taking action under the Trade Agreement Act of 1979, to reduce or eliminate those measures. (Sec. 7.)●

By Mr. SPECTER:

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 19 through October 25, 1982, as "Lupus Awareness Week"; to the Committee on the Judiciary.

LUPUS AWARENESS WEEK

Mr. SPECTER. Mr. President, I introduce a joint resolution to designate the week of October 19 through October 25, 1982, as "Lupus Awareness Week." Congressman CHARLES F. DOUGHERTY of Philadelphia has already introduced House Joints Resolution 417 for this same purpose.

Most people are not familiar with lupus, neither the seriousness nor incidence of this disease. Unfortunately, it is little known mainly because even now its diagnosis is difficult and sometimes uncertain.

It is estimated that more than 500,000 Americans suffer with lupus. This makes lupus more prevalent than more familiar diseases such as muscular dystrophy, cystic fibrosis, rheumatic fever, pernicious anemia, Hodgkin's disease, and leukemia. In spite of the progress made in the treatment of lupus, more than 5,000 patients die of it each year.

Lupus is a chronic inflammatory disease affecting connective tissue. It may affect only the skin in some people; in others it may affect virtually any organ in the body, including the skin, joints, kidneys, brain, lungs, heart, blood, and immune system. Lupus can be present in varying degrees of severity, from mild to severe; in some victims the systemic form may be fatal.

The lack of awareness on the part of the general public and, in some cases, even on the part of the medical profession, creates a major problem as the disease is often misdiagnosed or diagnosed too late, when the damage to the patient is irreversible.

This is why an increased level of awareness developed through "Lupus Awareness Week" is so important to help overcome this disease.

Mr. President, I ask that the joint resolution be printed in the RECORD.

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

S. J. RES. 183

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating October 19 through October 25, 1982, as "Lupus Awareness Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

By Mr. INOUYE (for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. BAUCUS, Mr. BOREN, Mr. BOSCHWITZ, Mr. BURDICK, Mr. CANNON, Mr. COHEN, Mr. DECONCINI, Mr. DOMENICI, Mr. DURENBERGER, Mr. GARN, Mr. GOLDWATER, Mr. GORTON, Mr. HATFIELD, Mr. HAYAKAWA, Mr. LAXALT, Mr. LEVIN, Mr. MATSUNAGA, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. PROXMIRE, Mr. RIEGLE, Mr. STEVENS, Mr. SYMMS, and Mr. WALLOP):

S.J. Res. 184. Joint resolution to designate January 28, 1983, as "Native American Day"; to the Committee on the Judiciary.

NATIVE AMERICAN DAY

Mr. INOUYE. Mr. President, together with 27 cosponsors, I am introducing today a joint resolution designating January 28, 1983, as "Native American Day". The resolution calls on all government agencies and people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Mr. President, our culture and our history have been greatly enriched by the contributions of native Americans to an extent which I think may not be understood by many of our citizens. Much of what we take for granted in everyday life originated with our country's first inhabitants.

It is highly appropriate, and indeed well overdue, that a national day be designated to recognize past and present contributions by native Americans. It is my hope that this day will be particularly observed in our schools so that American children may grow up with a broader understanding of their heritage. While we now seek the designation of "Native American Day" for only the coming year, it is also my hope that the significance of the occasion will lead to a perpetual designation which will not require annual renewal by Congress. There is no national day at present to honor native Americans. Several States have set aside one day or another to honor American Indians. The fourth Friday in September, for example, is recognized by several States because of its importance to many Indians. There have been efforts in recent years to obtain recognition for this even by Congress as a whole. We go a step further here in proposing a national day which will honor all native Americans throughout the United States. The date proposed is not occupied by other native American day celebrations but is chosen because it is free of competition for the attention of our schools.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 184

Whereas Native Americans have made important contributions to the cultural and social history of the Nation; and

Whereas Native Americans are now assuming a greater role in the economic life of the Nation; and

Whereas it is appropriate to extend recognition to Native Americans for their achievements as citizens of the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 28, 1983 is hereby designated as "Native American Day". The President is authorized and requested to issue a proclamation calling upon all government agencies and people of the United States to observe the day with appropriate programs, ceremonies, and activities.

By Mr. DOLE (for himself, Mr. HUDDLESTON, Mr. JEPSEN, and Mr. BOREN):

S.J. Res. 185. A joint resolution to establish a national policy on exports of U.S.-produced food and food products; to the Committee on Banking, Housing, and Urban Affairs.

U.S. AGRICULTURAL TRADE POLICY

● Mr. DOLE. Mr. President, I am today introducing a joint resolution for the consideration of the Senate which will affirm the opposition of Congress to any suspension of agricultural trade short of the most extreme circumstances. An identical resolution is being offered by Congressman FOLEY in the House of Representatives.

Mr. President, Agricultural trade policy is too vital to U.S. farmers and to our national interest to be perceived in any way as a partisan issue. Consequently, I am pleased that Senators HUDDLESTON and BOREN as well as the distinguished Senator from Iowa, Senator JEPSEN, have agreed to cosponsor this resolution. I understand that the companion resolution in the House is being cosponsored by Congressman FINDLEY.

A COMPLEMENT TO THE PRESIDENT'S SPEECH

Mr. President, I would hope that this joint resolution will be seen as a natural complement to the strong and positive statement which President Reagan made to the American Agricultural Editors' Association on March 22. In his remarks, the President ruled out the use of trade embargoes except in extreme situations and only when we have the cooperation of other trading nations. This resolution will put Congress on the record with the President in opposing self-defeating disruptions in farm exports.

Mr. President, I ask that the resolution be printed in the RECORD.

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

S.J. RES. 185

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas, the United States has historically been the world's greatest exporter of food and food products benefiting American farmers, the economy of the United States, and the people of the world;

Whereas, in the past 9 years, the stop and go export actions of the United States Government relating to U.S.-produced food and food products have threatened the reputation of the United States as a reliable supplier;

Whereas, these actions have not proved effective and have caused a climate of uncertainty with respect to the reliability of the United States as an exporter of food and food products;

Whereas, it is necessary to establish a clear policy with regard to exports of food and food products for the benefit of United States farmers, those who market our crops, and those who buy U.S.-produced food and food products at home and abroad; And,

Whereas, President Reagan on March 22, 1982, declared he will not use farm exports as an instrument of foreign policy except in extreme situations and as part of a broader embargo: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress declares that as a national policy the United States Government should not interrupt the commercial export of food and food products, except as a part of a general embargo and in the most extreme circumstances that justify the united support of the free world community, including the active cooperation of the major trading nations of the world needed to make any such embargo effective.●

By Mr. DOLE (for himself, Mr. ANDREWS, Mr. BAUCUS, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. COHEN, Mr. DIXON, Mr. GORTON, Mr. GRASSLEY, Mr. HATCH, Mr. JEPSEN, Mr. LAXALT, Mr. LUGAR, Mr. MATSUNAGA, Mr. MITCHELL, Mr. NICKLES, Mr. PERCY, Mr. QUAYLE, Mr. RANDOLPH, Mr. SARBANES, Mr. STAFFORD, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, and Mr. WEICKER):

S.J. Res. 186. Joint resolution to authorize and request the President to designate the week of September 19 through 25, 1982, as "National Cystic Fibrosis Week"; to the Committee on the Judiciary.

NATIONAL CYSTIC FIBROSIS WEEK

● Mr. DOLE. Mr. President, this year, along with 25 of my colleagues, I am introducing a resolution designating September 19-25, 1982, as "National Cystic Fibrosis Week." I take great pride in introducing this resolution, which, although simple in concept, will have a radiating effect that will touch the lives of thousands of infants, children, and young adults throughout this country who suffer the daily realities of living in the shadow of cystic fibrosis.

At this time in medical history, there is no known cure for the disease. However, medical progress has occurred in treatment techniques and research toward a cure. Advances in medications, therapy, and diagnostic procedures have extended the life expectancy of people with cystic fibrosis from 10 years to 21 years of age. Over the years, many of us have had the opportunity to vote for legislation supporting the research that brought about these advances. This research must continue, but progress in this area will be possible only if resources are made available through public and private support.

I feel a responsibility to the young people whose lives have been limited by cystic fibrosis to continue the good work initiated 2 years ago with passage of a similar resolution, and I have continued this annual tradition. By designating a special week in 1982 to generate public awareness of the special problems and needs of those afflicted with CF, as well as their families, we can greatly help to bring their message to the forefront of the public's attention. It is only through public education, which will lead to an improved understanding of the implications of CF, that we can realize the dream of eventually conquering this terrible disease, which cuts young lives short before they ever have a chance to reach full adult potential.

Mr. President, I think that it is important to be aware of the realities that CF victims have to cope with on a daily basis. The pain and trauma that they experience is serious in itself, but the impact on the families is equally devastating in financial as well as emotional terms.

Mr. President, I congratulate the Cystic Fibrosis Foundation on its tremendous efforts to generate awareness concerning the implications of CF. This organization has done much to promote support for research which will hopefully someday lead to a cure for cystic fibrosis.●

ADDITIONAL COSPONSORS

S. 178

At the request of Mr. DURENBERGER, the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of S. 178, a bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to further the objectives of national energy policy of conserving oil and natural gas through removing excessive burdens on the production of coal.

S. 266

At the request of Mr. MITCHELL, his name was added as a cosponsor of S. 266, a bill to establish a Federal Interagency Medical Resources Committee to insure the most efficient and effective use of Federal direct health care resources.

S. 1277

At the request of Mr. HATCH, the Senator from California (Mr. CRANSTON), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1277, a bill to restrict the authority of the Secretary of Health, Education, and Welfare with respect to the regulation of vitamin and mineral products for over-the-counter use.

S. 1450

At the request of Mr. CANNON, the Senator from Utah (Mr. HATCH), the Senator from Missouri (Mr. EAGLETON), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 1450, a bill to provide for the continued deregulation of the Nation's airlines, and for other purposes.

S. 1688

At the request of Mr. SPECTER, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 1688, a bill to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providng a mandatory sentence of life imprisonment.

S. 1698

At the request of Mr. DENTON, the Senator from Wisconsin (Mr. KASTEN), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces personnel.

S. 1810

At the request of Mr. D'AMATO, the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Wisconsin (Mr. PROXMIRE) were added as cosponsors of S. 1810, a bill to amend the Federal Deposit Insurance Act regarding insured mutual savings banks which convert into Federal mutual savings banks.

S. 1840

At the request of Mr. DURENBERGER, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1840, a bill to amend section 170 of the Internal Revenue Code of 1954 to increase the amounts that may be deducted for maintaining exchange students as members of the taxpayer's household.

S. 1861

At the request of Mr. CANNON, the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 1861, a bill to amend the Internal Revenue Code of 1954 to simplify certain requirements regarding withholding and reporting at the source and to correct inequities regarding carryover of losses.

S. 1931

At the request of Mr. SCHMITT, the Senator from Montana (Mr. MELCHER), the Senator from Iowa (Mr. GRASSLEY), the Senator from Alaska (Mr. STEVENS), the Senator from Arkansas (Mr. BUMPERS), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 1931, a bill to amend title 5, United States Code, to entitle Civil Air Patrol cadets 18 years of age and older to compensa-

tion available to Civil Air Patrol senior members in event of disability or death, and to increase the level of compensation available to both.

S. 1947

At the request of Mr. WEICKER, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1947, a bill to improve Small Business access to Federal Procurement Information.

S. 1958

At the request of Mr. DOLE, the Senator from Washington (Mr. JACKSON), and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of S. 1958, a bill to amend title XVIII of the Social Security Act to provide for coverage of hospice care under the medicare program.

S. 1968

At the request of Mr. DENTON, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1968, a bill to clarify the application of the Clayton Act and the Federal Trade Commission Act with respect to certain joint ventures which promote the international competitiveness of U.S. businesses.

S. 2151

At the request of Mr. ROBERT C. BYRD, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2151, a bill to amend the Internal Revenue Code of 1954 to include modifications to chlor-alkali electrolytic cells in credit for investment in certain depreciable property.

S. 2172

At the request of Mr. GOLDWATER, the Senator from Alaska (Mr. STEVENS), and the Senator from Kansas (Mrs. KASSEBAUM) were added as cosponsors of S. 2172, a bill to amend the Communications Act of 1934.

S. 2174

At the request of Mr. THURMOND, the Senator from Pennsylvania (Mr. HEINZ), the Senator from Iowa (Mr. GRASSLEY), and the Senator from Idaho (Mr. SYMMS) were added as cosponsors of S. 2174, a bill to recognize the organization known as American Ex-Prisoners of War.

S. 2183

At the request of Mr. MCCLURE, the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 2183, a bill to make certain amendments to Public Law 92-195 relating to the protection of wild free-roaming horses and burros.

S. 2226

At the request of Mr. LUGAR, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 2226, a bill to amend the National Housing Act to provide for emergency interest reduction payments and for other purposes.

S. 2240

At the request of Mr. STEVENS, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 2240, a bill to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

S. 2277

At the request of Mr. MITCHELL, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 2277, a bill to amend the Internal Revenue Code of 1954 to make certain changes to stimulate the housing industry.

S. 2298

At the request of Mr. BOSCHWITZ, the Senator from Pennsylvania (Mr. SPECTER), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 2298, a bill entitled "The Enterprise Zone Tax Act of 1982."

S. 2299

At the request of Mr. WEICKER, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2299, a bill to provide for the issuance of a commemorative postage stamp to honor Roberto Clemente.

SENATE JOINT RESOLUTION 58

At the request of Mr. HATCH, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of Senate Joint Resolution 58, a joint resolution proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

SENATE JOINT RESOLUTION 160

At the request of Mr. HAYAKAWA, the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of Senate Joint Resolution 160, a joint resolution to designate July 9, 1982, as "National P.O.W.-M.I.A. Recognition Day."

SENATE JOINT RESOLUTION 161

At the request of Mr. THURMOND, the Senator from Colorado (Mr. ARMSTRONG), the Senator from Texas (Mr. TOWER), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of Senate Joint Resolution 161, a joint resolution to designate the week commencing with the fourth Monday in June of 1982 as "National NCO/Petty Officer Week."

SENATE JOINT RESOLUTION 162

At the request of Mr. ROTH, the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of Senate Joint Resolution 162, a joint resolution to authorize and request the President to designate the week of June 20, 1982, through June 27, 1982, as "National Safety in the Workplace Week."

SENATE JOINT RESOLUTION 167

At the request of Mr. DURENBERGER, the Senator from Mississippi (Mr. STENNIS), the Senator from Maryland (Mr. SARBANES), the Senator from South Carolina (Mr. THURMOND), the Senator from Missouri (Mr. DANFORTH), the Senator from Florida (Mr. CHILES), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Florida (Mrs. HAWKINS), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. MELCHER), the Senator from Arkansas (Mr. PRYOR), the Senator from Maine (Mr. MITCHELL), the Senator from Maine (Mr. COHEN), the Senator from Georgia (Mr. NUNN), the Senator from Oklahoma (Mr. BOREN), the Senator from Montana (Mr. BAUCUS), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of Senate Joint Resolution 167, a joint resolution to commemorate the 100th anniversary of the Knights of Columbus.

SENATE JOINT RESOLUTION 169

At the request of Mr. HOLLINGS, the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from California (Mr. CRANSTON), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of Senate Joint Resolution 169, a joint resolution to designate the week of April 18, 1982, as "National Architecture Week."

SENATE JOINT RESOLUTION 171

At the request of Mr. PERCY, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of Senate Joint Resolution 171, a joint resolution with respect to nuclear arms reductions.

SENATE JOINT RESOLUTION 175

At the request of Mr. KASTEN, the Senator from Minnesota (Mr. DURENBERGER), the Senator from Indiana (Mr. LUGAR), and the Senator from Alabama (Mr. HEFLIN) were added as cosponsors of Senate Joint Resolution 175, a joint resolution authorizing and requesting the President to proclaim "National Junior Bowling Championship Week."

SENATE JOINT RESOLUTION 177

At the request of Mr. JACKSON, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of Senate Joint Resolution 177, a joint resolution to express the sense of the Congress that the United States and the Soviet Union should engage in substantial, equitable, and verifiable reductions of their nuclear weapons in a manner which would contribute to peace and stability.

SENATE JOINT RESOLUTION 180

At the request of Mr. WEICKER, the Senator from Michigan (Mr. RIEGLE), and the Senator from Louisiana (Mr. LONG) were added as cosponsors of Senate Joint Resolution 180, a joint resolution to authorize and request the President to issue a proclamation designating the week beginning May 9, 1982, as "National Small Business Week."

SENATE CONCURRENT RESOLUTION 52

At the request of Mr. GARN, the Senator from Florida (Mrs. HAWKINS), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Maine (Mr. MITCHELL) were added as cosponsors of Senate Concurrent Resolution 52, a concurrent resolution expressing the sense of the Congress that members of the National Guard of the United States and the Reserve forces of the Armed Forces of the United States deserve public recognition for their vital contribution to our national defense and that members of these Forces need the support and cooperation of their civilian employers in order to train and remain ready to respond to national emergencies.

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. TSONGAS, the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Illinois (Mr. PERCY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Arizona (Mr. DECONCINI), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Nebraska (Mr. ZORINSKY), the Senator from California (Mr. HAYAKAWA), the Senator from Ohio (Mr. METZENBAUM), the Senator from Rhode Island (Mr. PELL), the Senator from Iowa (Mr. GRASSLEY), the Senator from California (Mr. CRANSTON), the Senator from Minnesota (Mr. DURENBERGER), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Concurrent Resolution 69, a concurrent resolution urging the Soviet Union to allow Ida Nudel to emigrate to Israel and for other purposes.

SENATE CONCURRENT RESOLUTION 72

At the request of Mr. GARN, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of Senate Concurrent Resolution 72, a concurrent resolution reaffirming that deposits, up to the statutorily prescribed amount, in federally insured depository institutions are backed by the full faith and credit of the United States.

SENATE RESOLUTION 299

At the request of Mr. WEICKER, the Senator from New York (Mr. D'AMATO) was added as a cosponsor of Senate Resolution 299, a resolution to designate May 4, 1982, as "International Franchise Day."

SENATE RESOLUTION 325

At the request of Mr. DIXON, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of Senate Resolution 325, a resolution expressing the sense of the Senate that a supplemental appropriation should be enacted to restore full funding of the WIN program.

SENATE RESOLUTION 343

At the request of Mr. MATHIAS, the Senator from Pennsylvania (Mr. HEINZ), the Senator from Delaware (Mr. ROTH), the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of Senate Resolution 343, a resolution expressing the sense of the Senate with respect to beginning strategic arms negotiations with the Soviet Union.

SENATE CONCURRENT RESOLUTION 79—RECOGNIZING APRIL AS "FAIR HOUSING MONTH"

Mr. MATHIAS (for himself, Mr. KENNEDY, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. TSONGAS, Mr. DURENBERGER, Mr. MATSUNAGA, Mr. GLENN, Mr. LEVIN, Mr. BRADLEY, Mr. LEAHY, Mr. STAFFORD, Mr. RIEGLE, and Mr. PROXMIRE) submitted the following concurrent resolution, which was referred to the Committee on the Judiciary:

S. CON. RES. 79

Whereas it is the policy of the United States to guarantee to every citizen the right of fair housing; and

Whereas this right and the responsibilities attendant on it are set forth in the National Fair Housing Law, Title VIII of the 1968 Civil Rights Act; and

Whereas every year since 1968 the month of April has been set aside each year for commemoration of the Fair Housing Law: Now, therefore, be it

Resolved, by the Senate (the House of Representatives concurring) That the month of April be Fair Housing Month and that the Congress of the United States hereby rededicates itself to the promulgation and practice of the letter and spirit of the Fair Housing Law so that fair housing will become a right that can be realized by every American.

● Mr. MATHIAS. Mr. President, April marks the 12th anniversary of the enactment of the fair housing law, known as title VIII of the Civil Rights Act of 1968. April 4 also marks the 12th anniversary of the tragic death of the father of the civil rights movement, Martin Luther King, Jr.

The resolution I am submitting today on behalf of several of my colleagues designates the month of April as "Fair Housing Month" and affirms Congress' commitment to the goals of the Civil Rights Act of 1968. Representative HAMILTON FISH, JR., is introducing a companion resolution in the House.

We have made significant progress in the past two decades in assuring to all Americans their civil rights and their civil liberties. Yet, in the past year, disquieting signs have appeared which suggest that the mandate for change which the American people bestowed in the 1980 elections has been taken as a license to declare open season on our civil liberties.

Some of the forces which have surfaced in our society recently threaten our historic commitment to protecting minority rights and will not, I fear, be easily be laid to rest.

Reports of the revival of the Ku Klux Klan throughout this Nation, the fear and intimidation which that group breeds upon and spreads, are signs that racism still lurks just below the surface in our society and will rear its ugly head whenever our attention appears to be diverted. In my own State of Maryland there have been instances of the Klan recruiting members in the high schools. Elsewhere the situation is the same.

In this disturbing atmosphere, I ask my colleagues to rededicate themselves to the promise of a dream—that no American, regardless of race, color, religion, national origin, or sex, shall be denied equal opportunity in life's endeavors.

One of the most basic endeavors in anyone's life is choosing where to live. Freedom of choice in where one lives is fundamental to how one lives. This right must not be abridged.

Assuring equal access to housing was but one of the dreams which Martin Luther King shared with this Nation in the 1963 march on Washington. Dr. King's stirring words still inspire us today:

I have a dream that one day this nation will rise up and live out the true meaning of its creed: "We hold these truths to be self-evident, that all men are created equal" . . . I have a dream that one day my four children will live in a nation where they will not be judged by the color of their skin but by the content of their character.

Title VIII of the Civil Rights Act prohibits discrimination in the sale or rental of housing because of race, color, religion, national origin, or sex. Over 80 percent of the Nation's housing stock is subject to the fair housing law, while the remainder is covered by the Civil Rights Act of 1866 with respect to racial discrimination.

For the past 12 years, title VIII has served as the Federal big stick behind local and State efforts to assure equal access to housing. Title VIII, however, is not a perfect law because it does not provide effective enforcement powers in cases of alleged discriminatory housing practices. The Department of Housing and Urban Development, as well as State and local authorities, are only authorized to attempt conciliation between disputing parties—landlord and tenant, or seller and buyer.

This method of resolving fair housing complaints has proved to be inadequate. As former HUD Secretary Patricia Harris noted:

The lack of adequate enforcement power has been the most serious obstacle to the development of an effective fair housing program within HUD. Our present authority is limited to a purely voluntary process of "conference, conciliation, and persuasion." I will not dwell upon the ironies associated with a law that mandates HUD to investigate and to establish the existence of violations of law, and then limits the Secretary to asking the discovered lawbreaker whether he wants to discuss the matter. Simply put, "conciliation" all too often has proved an inadequate means of securing compliance with the substantive provisions of title VIII.

The only alternative to this ineffective conciliation process for an individual complainant is to file suit in Federal district court. This is an exceedingly burdensome, time-consuming and costly way of settling individual discrimination cases.

Most persons who feel they have been discriminated against in the sale or rental of housing do not have the money for lawyers, the time to spend in court, or the luxury of waiting up to 2 years for their case to be heard. What is needed is a procedure which will freeze the real estate transaction in question for a brief time until the facts of the case can be determined. After all, the aggrieved person is really only interested in renting the apartment or buying the house in question, and is not interested in getting involved in lengthy, complicated, costly court proceedings.

Senators METZENBAUM, KENNEDY, WEICKER, MOYNIHAN, TSONGAS, PROXMIRE, GLENN, LEAHY, and BIDEN and I have once again introduced legislation to provide for an expeditious, inexpensive means for resolving individual housing discrimination cases without further burdening the courts. A companion bill has also been introduced in the House by Senator Hubert Humphrey, always in the forefront on civil and human rights, was a cosponsor of my bill in the 95th Congress. His perspective on the costs of all forms of discrimination, not only housing, is important to bear in mind.

Even if discrimination cost this nation not one penny, we would have the moral obligation to eradicate it. But we must not close our eyes to the staggering costs we incur each year for our failure to open wide the doors of opportunity for every American.

We, in the Congress, must continue to be vigilant about fair housing and the guarantees of this Nation's civil rights laws so that the Federal Government leads the way in assuring fair housing and equal opportunity for all Americans.●

SENATE RESOLUTION 359—RESOLUTION RELATING TO ENVIRONMENTAL LAW ENFORCEMENT

Mr. LEAHY (for himself and Mr. HUDDLESTON) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 359

Whereas protection of the environment has always been a bipartisan concern; and

Whereas reductions in the resources of the Environmental Protection Agency have already hindered and threaten to cripple implementation of statutory requirements to control pollution, enforcement of existing standards, and the maintenance of critically important research on environmental health and safety standards; and

Whereas Congress, in a strong bipartisan manner, has mandated that the Environmental Protection Agency undertake increased responsibilities in protecting the environment, safety, and health of all the citizens of the United States under the following laws:

(1) the Clean Air Act,

(2) the Federal Water Pollution Control Act,

(3) the Federal Insecticide, Fungicide, and Rodenticide Act,

(4) the Marine Protection, Research, and Sanctuaries Act,

(5) the Resource Conservation and Recovery Act of 1976,

(6) the Safe Drinking Water Act,

(7) the Solid Waste Disposal Act,

(8) the Toxic Substances Control Act, and

(9) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) an effective Federal environmental program is necessary for the protection of the health and well-being of citizens of the United States,

(2) in order to protect our environment and to meet expanded responsibilities mandated by law, the Environmental Protection Agency should be appropriated increased funds, and

(3) the President should submit a new budget for the Environmental Protection Agency for fiscal year 1983 reflecting these principles.

Mr. LEAHY. Mr. President, just as drunk drivers threaten our lives, illegal dumping of toxic wastes and poisons in the air and water threaten our health and our land. Without effective Federal environmental law enforcement, in the next decade the average citizen's exposure to toxic chemicals will double. The amount of sulfur in the air, which causes acid rain, will increase by 50 percent.

In the face of this doubling of environmental health threats, the Reagan administration is proposing cutting the Federal Government's environmental law enforcement agency—the Environmental Protection Agency by nearly 40 percent in just 2 years.

If the number of cars on the Nation's roads were doubling in the next 10 years, no Governor would propose cutting the State police force in half. Yet, this is just what will happen to the Environmental Protection Agency's budget this year. If these budget cuts are approved, EPA will be an endangered species.

Cutting EPA's budget in half means more midnight dumpers illegally dumping dangerous cargoes of chemicals.

Under the new budget, only two and one-half full-time workers will oversee the system designed to keep track of millions of shipments of hazardous chemicals each year.

These massive budget cuts mean increases in air pollution—and acid rain—because air pollution enforcement will be cut in half.

EPA will begin to regulate only 3 of the 37 hazardous chemical pollutants, even though over 3 billion pounds of these chemicals are released into the atmosphere each year.

EPA will wind down its research on the health effects of pollution from diesel engines, even though the use of diesel cars has tripled since 1978.

As a former prosecutor, I know any law enforcement agency—especially an agency like the Environmental Protection Agency, which must enforce very complex laws—must have the resources to do the job.

As a member of the Senate Appropriations Committee, I began the efforts which were successful in partially restoring EPA's 1982 budget.

However, the President's veto of the continuing resolution last year makes clear that it is not Congress stand on environmental protection that is the issue. It is the President's position. That is why this resolution goes beyond stating that the Reagan administration's budget cuts will cripple the Environmental Protection Agency and asks the President to introduce a new EPA budget. Unless the President receives the message from the American people that they demand a strong, effective Environmental Protection Agency protecting their health, the threat of a Presidential veto will preclude all but token additions to the Environmental Protection Agency's budget.

Mr. President, during the last 5 years of the last decade, Congress passed a series of new laws and made major changes in old laws, because the American people demanded protection from the cancer and disease which are the dark side of the chemical revolution that in so many other ways has benefited our society.

I am committed to rebuilding EPA's budget because I believe we must keep the promise that we made to the American people when we passed these laws.

The health of ourselves, our children, and our environment depends on it.

AMENDMENTS SUBMITTED FOR PRINTING

RADIO AND TELEVISION COVERAGE OF THE SENATE

AMENDMENT NO. 1348

(Ordered to be printed.)

Mr. SYMMS (for himself, Mr. HEINZ, Mr. HELMS, Mr. DENTON, Mr. EAST, Mr. MATTINGLY, Mr. HAYAKAWA, Mr. GOLDWATER, Mr. WARNER, Mr. THURMOND, Mr. MCCLURE, Mr. BAKER, Mr. KASTEN, Mr. TOWER, Mr. GARN, Mr. HATCH, Mr. WALLOP, Mr. NICKLES, Mr. LAXALT, and Mr. GRASSLEY) proposed an amendment to the resolution (S. Res. 20) providing for television and radio coverage of proceedings of the Senate.

AMENDMENT NO. 1349

(Ordered to be printed.)

Mr. SYMMS (for himself, Mr. HEINZ, Mr. HELMS, Mr. DENTON, Mr. EAST, Mr. MATTINGLY, Mr. HAYAKAWA, Mr. GOLDWATER, Mr. WARNER, Mr. THURMOND, Mr. MCCLURE, Mr. BAKER, Mr. KASTEN, Mr. TOWER, Mr. GARN, Mr. HATCH, Mr. WALLOP, Mr. NICKLES, Mr. LAXALT, and Mr. GRASSLEY) proposed an amendment to amendment No. 1348 to the resolution (S. Res. 20) supra.

NATIONAL NUCLEAR WASTE POLICY ACT

AMENDMENT NO. 1350

(Ordered to be printed and lie on the table.)

Mr. MCCLURE (for himself, Mr. DOMENICI, Mr. STAFFORD, Mr. SIMPSON, Mr. TOWER, Mr. WARNER, Mr. JACKSON, Mr. HART, Mr. RANDOLPH, Mr. CANNON, and Mr. JOHNSTON) submitted an amendment intended to be proposed by them to the bill (S. 1662) to establish a limited program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy, initiate a program, and establish a national schedule for the disposal of nuclear waste from civilian activities, and for other purposes.

Mr. MCCLURE. Mr. President, I am introducing today for myself and Senators DOMENICI, STAFFORD, SIMPSON, TOWER, WARNER, JACKSON, HART, RANDOLPH, CANNON, and JOHNSTON, a printed amendment in the nature of a substitute for S. 1662, the National Nuclear Waste Policy Act.

This compromise text in the form of a substitute is intended to be offered at the time the Senate commences consideration of S. 1662 as original text for the purposes of further amendment. This compromise text has been developed over the past several months in extensive discussions between the respective leaderships of the Armed Services Committee, the Energy and Natural Resources Committee, and the Environment and Public Works Committee. The text represents the best rationalization of the differing versions of S. 1662 respectively reported by the three committees over the past 6 months. While this text may represent in the end the Senate's preferred approach to these issues, all of the cosponsors must reserve their right to offer perfecting amendments to this text as the Senate floor debate proceeds.

It would be the expectation of the respective committee leaderships to seek early scheduling of S. 1662 after the recess, at which time this printed amendment would be offered as original text for purposes of further amendment. At an appropriate time, the sponsors of the amendment also will request the Senate leadership to obtain a time agreement incorporating the amendment for that purpose to facilitate the Senate's consideration of the bill. To that end, the sponsors would request that any Senators with questions, comments, or proposed amendments to this amendment contact the respective committee staffs as early as feasible after the review of this text.

Mr. President, on behalf of all the sponsors of this amendment, and the three reporting committees, I cannot emphasize enough the urgent need for the Senate to proceed as soon as possible after the recess to consider S. 1662. The Senate passed similar legislation in July 1980, and the House passed companion legislation late that year. Because we were unable to complete negotiations with the House leadership in the short time available at the end of 1980, this Nation has been without a comprehensive nuclear waste policy for yet another 2 long years. The Reagan administration, both Houses of Congress, the States, environmental groups, and the electric and nuclear industries all would agree at least on the necessity of nuclear waste legislation to establish the legal, institutional, and programmatic directions for managing the increasingly serious challenge of mounting nuclear wastes. Seventy-two nuclear powerplants now provide approximately 15 percent of our total electric generation in the United States, and those numbers will be doubling in this decade. Consequently, we have no choice but to manage responsibly the nuclear spent fuel and high-level radioactive waste produced by those nuclear powerplants in generating this critical increment of our Nation's energy supply and economic lifeblood. We, therefore, must proceed to consider S. 1662 as early as possible to provide any predictable hope of enacting nuclear waste legislation in this Congress. On behalf of the sponsors, I urge all of our colleagues in the Senate to carefully review the text of this substitute amendment and be prepared as early as possible to proceed to fashion finally a Senate bill in the weeks ahead.

I ask unanimous consent that the amendment be printed in the RECORD.

Mr. WARNER. Mr. President, I am privileged to join with the distinguished Senator from Idaho in presenting this bill and urging our colleagues to consider it at the earliest possible time.

I commend the distinguished chairman of the Energy Committee for his ability to provide a reconciliation of a number of widely differing viewpoints on this vital piece of legislation.

May I ask of the Senator from Idaho, as we finally negotiated this amendment, How was the action of the Armed Services Committee which recommended the elimination from S. 1662 of those portions that would deal with defense nuclear waste, dealt with?

Mr. MCCLURE. Mr. President, I am pleased to respond to the question of the Senator from Virginia, but before responding to the question may I take the opportunity to express my gratitude for the assistance of the Senator and of his staff. The Senator, being both a member of the Energy and Natural Resources Committee and of the Armed Services Committee, is in a very important position to influence the shape and the scope of this legislation, and his contributions have been invaluable to the efforts up to this time.

In response to the question the essential element, the essential question deals with whether or not we will merge the civilian programs and military programs so far as waste disposal is concerned and the draft would leave them separated as was the action taken by the Senate by majority vote in 1980.

That, of course, will be one of the contentious issues that will be faced when we bring this legislation to the floor. I am sure it will be debated fully. It is my personal conviction as well that this is the appropriate position for us to move forward and I am hopeful that when the Senate has concluded the debate, it will vote in 1982 as it did in 1980 to leave those programs separated.

Mr. WARNER. As I understand it, the defense nuclear waste provisions have been eliminated from this amendment as recommended by the Armed Services Committee with the exception of one area, the question of State's rights. Perhaps the chairman would comment on that for purposes of the RECORD because that is a very key provision.

Mr. MCCLURE. I think the Senator from Virginia is referring to the question of how the State will be involved in the decisionmaking process.

Mr. WARNER. That is correct.

Mr. MCCLURE. It is my hope that the compromise, which was pretty largely the work earlier of the Senator from New Mexico (Mr. DOMENICI), for full consultation and ultimate concurrence will be that which is followed as is proposed in this amendment.

Mr. WARNER. I agree as long as we can protect the security of classified information and the compromise amendment does just that. I thank the distinguished chairman of the Energy Committee.

Mr. SIMPSON. Mr. President, I am pleased to join my distinguished colleague from Idaho, the chairman of the Energy and Natural Resources Committee, in introducing this printed amendment to S. 1662, the National Nuclear Waste Policy Act. As my colleague has indicated, this amendment represents a compromise position between the three committees that have acted on this measure, and each of us,

as individuals and on behalf of our committees, reserves the right to offer further amendments to this compromise text when the bill is considered by the Senate.

In that regard, Mr. President, there is one aspect of the compromise text in particular on which I would anticipate an amendment by the Environment and Public Works Committee. That is the application of this legislation to radioactive wastes produced by the atomic energy defense activities of the Department of Energy. The Environment and Public Works Committee version of the bill required that the President develop a plan for the permanent disposal of existing defense nuclear wastes. Our version of the bill further required that the President, in preparing this plan, affirmatively consider using the facilities to be developed under this bill for the disposal of defense wastes as well. Finally, our version required that the Department of Energy proceed with this commingled approach unless the President determines that national security needs require a separate defense-only disposal facility. These provisions are not included in the compromise text.

Mr. President, I believe that this bill should address the question of the disposal of our defense wastes, and I believe that the provisions in title VIII of the Environment and Public Works Committee version of the bill are an appropriate means for addressing this aspect of the nuclear waste problem. I therefore intend to offer, along with my distinguished colleague from Colorado, the ranking minority member of the Nuclear Regulation Subcommittee, an amendment to the bill to restore these provisions.

Mr. President, I believe that the introduction of this amendment today represents an important step forward, and I look forward to action by the Senate on this bill as soon as possible.

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

After the enacting clause strike out all that follows and insert in lieu thereof the following:

That this Act may be cited as the "National Nuclear Waste Policy Act of 1981".

TITLE I—FINDINGS AND PURPOSE

FINDINGS

SEC. 101. The Congress finds and declares that—

(a) a reliable system adequate to provide sufficient electrical energy to meet the Nation's current and anticipated needs is an essential part of a comprehensive national energy policy and is vital to national security and public welfare;

(b) an adequate electrical system requires a diversified base of primary energy sources in order to avoid excessive reliance upon any single alternative energy source;

(c) a diverse base of primary energy sources can be achieved only if each available source competes on an equal footing in decisions on the siting and construction of facilities for generating commercial electric power;

(d) nuclear energy can—

(1) make a significant contribution to national supplies of electricity;

(2) offer site-specific advantages in environmental impact, cost, and fuel availability over other primary sources of energy; and

(3) help reduce United States dependence on insecure sources of foreign oil;

(e) lack of an effective Federal policy for the interim storage of spent fuel and disposal of nuclear waste from civilian nuclear activities unreasonably burdens the choice of nuclear energy as an alternative primary source in decisions on siting and construction and operation of powerplants and unduly constrains efforts to establish a diverse base of primary energy sources;

(f) the persons owning and operating civilian nuclear powerplants have the primary responsibility for providing for the interim storage of spent fuel from civilian nuclear powerplants, but the Federal Government has the responsibility to provide sufficient capacity for interim storage of spent fuel for those civilian nuclear powerplants that cannot reasonably provide adequate onsite storage capacity when needed to assure the continued, orderly operation of the powerplant;

(g) the Federal Government has the responsibility for the disposal of high-level radioactive waste from civilian nuclear activities in order to protect the public health and the safety, the environment, and the common defense and security;

(h) the costs associated with the storage and disposal of nuclear waste from civilian activities should, to the greatest extent possible, be borne by the direct beneficiaries of such activities and should be considered in the selection or rejection of nuclear energy over alternative primary energy sources;

(i) the technology exists and is under development which would provide reasonable assurance that spent fuel and high-level radioactive waste can be safely disposed of and that disposal facilities for spent fuel and high-level wastes can be available when needed;

(j) nuclear wastes generated in the national defense program have been accumulating for more than thirty years, and spent nuclear fuel and nuclear wastes from the commercial industry are increasing rapidly;

(k) nuclear waste has become a major issue of public concern, and stringent precautions must be taken to ensure that nuclear wastes do not adversely affect the public health and safety of this or future generations;

(l) the siting, development, and loading of nuclear waste repositories are responsibilities of the Federal Government;

(m) public confidence in the ability of the Federal Government to manage a program providing for the safe and permanent disposal of nuclear wastes must be substantially increased if nuclear power is to contribute significantly to meeting the energy needs of the United States in the future;

(n) Federal nuclear waste disposal programs have been ineffective due to—

(A) inadequate coordination among the various Federal agencies and departments which have responsibilities relating to nuclear waste management; and

(B) the lack of a policymaking process which integrates the views of all Federal agencies and departments into a comprehensive Government-wide policy;

(o) the Secretary must increase his efforts to consult and cooperate with States and localities concerning Federal repository siting, development, and loading activities;

(p) a successful nuclear waste management strategy requires the full participation of State and local officials, Indian representatives and the public in a step-by-step, technologically sound program, to promote public confidence in the safe disposal of nuclear waste, consistent with the responsibility of the Federal Government to determine public health and safety matters related to such program; and

(q) the first step in a successful nuclear waste management strategy is the establishment of a national schedule for the development of programs and facilities for the storage and disposal of high-level radioactive waste and spent fuel in a timely manner.

PURPOSE

SEC. 102. The purpose of this Act is to—

(a) assume the Federal responsibility for the acquisition and interim storage of spent fuel from civilian nuclear powerplants where needed to assure the orderly operation of such plants, and for the disposal of high-level radioactive waste from civilian nuclear activities;

(b) establish a definite Federal policy for the disposal of high-level radioactive waste from civilian nuclear activities and a national schedule for developing the facilities and programs needed to carry out that policy in a timely manner;

(c) authorize the Secretary to—

(1) acquire or construct at least one facility for the interim storage of spent fuel from civilian nuclear powerplants not to exceed a specified total storage capacity; and

(2) establish systems for the long-term storage and disposal of high-level radioactive waste generated by civilian nuclear activities, and to develop, construct and put in operation the facilities comprising these systems;

(d) establish a system for financing the construction, operation, and maintenance of Federal storage and disposal facilities for high-level radioactive waste and spent fuel from civilian nuclear activities;

(e) improve coordination of Federal nuclear waste management programs; and

(f) provide for improved consultation and cooperation between the Department of Energy and States and localities concerning Federal storage and repository siting and development activities, consistent with the responsibility of the Federal Government to determine public health and safety matters related to such activities.

TITLE II—DEFINITIONS AND GENERAL PROVISIONS

SEC. 201. As used in this Act the term—

(1) "civilian nuclear powerplant" means a utilization or production facility required to be licensed under section 103 or 104b. of the Atomic Energy Act of 1954, as amended;

(2) "Commission" means the Nuclear Regulatory Commission;

(3) "disposal" means the long-term isolation of high-level radioactive waste or spent fuel in a repository;

(4) "environmental impact statement" means any document prepared pursuant to or in compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 852);

(5) "Secretary" means the Secretary of the Department of Energy;

(6) "spent fuel" means nuclear fuel that has been irradiated in and recovered from a civilian nuclear powerplant or from other civilian nuclear activities;

(7) "Department" means the Department of Energy;

(8) "Governor" means the Governor of a State, or successors to the Governor, during their respective terms of office, or their designees;

(9) "high-level radioactive waste" means the highly radioactive wastes resulting from the reprocessing of spent fuel, and includes both the liquid waste which is produced directly in reprocessing and any solid material into which such liquid waste is made;

(10) "repository" means a facility for the permanent, deep geologic disposal of high-level radioactive waste, transuranic contaminated waste, or spent fuel, whether or not such facility is designed to permit the subsequent recovery of such material, except for facilities to be used exclusively for research and development purposes containing an insignificant amount of such material;

(11) "storage" means retention of high-level radioactive waste, transuranic contaminated or spent fuel with the intent to recover such material for subsequent use, processing, or disposal;

(12) "affected State" means the State in which a monitored, retrievable storage facility or a repository is proposed to be located;

(13) "Indian tribe" means an Indian tribe, as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638);

(14) "affected Indian tribe" means any tribe within whose reservation boundaries a monitored retrievable storage facility or a repository for high-level radioactive waste or spent fuel is proposed to be located, or whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of Congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility: *Provided*, That the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe;

(15) "site characterization" means the program of exploration and research, both in the laboratory and in the field, undertaken to establish the geologic conditions and the ranges of those parameters of a particular site relevant to the procedures under this part. Site characterization includes borings, surface excavations, excavation of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to determine the suitability of the site for a geologic repository, but does not include preliminary borings and geophysical testing needed to decide whether site characterization should be undertaken; and

(16) "atomic energy defense activities of the Department" includes those activities and facilities of the Department of Energy carrying out the functions of—

(i) naval reactors' development and propulsion;

(ii) weapons activities, verification, and control technology;

(iii) materials production;

(iv) inertial confinement fusion;

(v) defense waste management; and

(vi) defense nuclear materials, security, and safeguards,

all as included in the Department of Energy appropriations account in any fiscal year for such functions; and

(17) "monitored retrievable storage facility" means a facility under Title V of this Act.

SEC. 202. (a) The provisions of Title I through VI of this Act shall not apply to the atomic energy defense activities of the Department, nor to any repository or monitored, retrievable storage facility used for the exclusive storage or disposal of spent fuel or solidified high-level radioactive waste produced only by the atomic energy defense activities of the Department.

(b)(1) The provisions of title VII shall apply to any repository or monitored, retrievable storage facility used for the storage or disposal of spent fuel or solidified high level radioactive waste produced by the atomic energy defense activities of the Department, if such repository or facility is required by existing law to be licensed by the Commission: *Provided*, That none of the provisions of Title VII shall require the release of classified national security information.

(2) For purposes of the application of Title VII to any repository or monitored, retrievable storage facility, the terms "spent fuel" and "high-level radioactive waste" include material generated in the atomic energy defense activities of the Department.

TITLE III—INTERIM STORAGE OF SPENT FUEL FROM CIVILIAN NUCLEAR POWERPLANTS

SEC. 301. (a) It is the policy of the Federal Government that—

(1) the persons owning and operating civilian nuclear powerplants have the primary responsibility for providing interim storage of spent fuel from such powerplants, by maximizing, to the extent practical, the effective use of existing storage facilities at the site of each civilian nuclear powerplant, by adding new onsite storage capacity in a timely manner where practical, and by the use of available privately owned and operated offsite storage facilities where practical;

(2) the Federal Government has the responsibility to encourage and expedite the effective use of existing storage facilities and the addition of needed new storage capacity at the site of each civilian nuclear powerplant; and

(3) the Federal Government has the responsibility to provide, as soon as possible, sufficient capacity for interim storage of spent fuel for those civilian nuclear powerplants that cannot reasonably provide adequate storage capacity at the site of the powerplant when needed to assure the continued, orderly operation of the powerplant.

(b) The policy under subsection (a) shall provide for—

(1) the utilization of available spent fuel pools at the site of each civilian nuclear powerplant to the extent practical and the addition of new spent fuel storage capacity where practical, either at the site of the powerplant or at an available privately owned and operated offsite storage facility; and

(2) the establishment of a federally owned and operated system for the interim storage of spent fuel at one or more away-from-reactor facilities with a limited capacity sufficient to prevent disruptions in the orderly operation of nuclear powerplants that cannot reasonably provide adequate spent fuel storage capacity at the powerplant site when needed.

SEC. 302. (a) The Secretary, consistent with such criteria as he prescribes under the policy set forth in section 301 and as are required under this section, shall offer to enter into, and may enter into, contracts with persons owning and operating civilian nuclear powerplants that the Secretary determines cannot reasonably provide by utilizing available spent fuel pools to the extent practical, by adding new spent fuel storage capacity at the site of the powerplant, by the transshipment of such fuel to another powerplant within the same utility system, or by utilization of available privately owned and operated offsite storage facilities, adequate spent fuel storage capacity at the powerplant site to ensure the continued orderly operation of the powerplant, through the maintenance of a full core reserve storage capability at the powerplant site: *Provided, however*, That the Secretary shall not enter into contracts for spent fuel in amounts in excess of the available storage capacity specified in section 305(a). Those contracts shall provide that the Federal Government will (1) take title at the powerplant site, to such amounts of spent fuel from the powerplants as the Secretary determines cannot be stored onsite, (2) transport the spent fuel to a federally owned and operated interim away-from-reactor storage facility, and (3) store such fuel in the facility pending further processing, storage, or disposal. The Secretary shall report to the Congress on an annual basis on the amount of spent fuel for which commitments have been made pursuant to this section.

(b) Not later than ninety days after the date of enactment of this Act, the Secretary shall propose, by rule, procedures, and criteria for making the determination required by subsection (a) that a nuclear powerplant cannot reasonably provide adequate spent fuel storage capacity at the powerplant site when needed to ensure the continued orderly operation of the powerplant through the maintenance of a full core reserve storage capability. The criteria shall identify the feasibility of reasonably providing such adequate spent fuel storage capacity, taking into account economic, technical, regulatory, and public health and safety factors, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent fuel to another powerplant within the same utility system, construction of additional spent fuel pool capacity, utilization of available privately owned and operated offsite storage facilities, or such other alternate technologies as the Commission may approve under section 311(b).

(c) Nothing in this Act authorizes the Secretary to take title to spent fuel, transport spent fuel, store or dispose of spent fuel or the waste products associated with spent fuel from a nuclear powerplant not located within the United States.

SEC. 303. A contract entered into under section 302 shall provide—

(a) for a one-time payment at the time the Federal Government acquires the spent fuel of a charge per unit of spent fuel, as such unit is defined by the Secretary, which charge is determined by the Secretary to be adequate to cover—

(1) the cost of transportation of such spent fuel; and

(2) the proportion of the costs of the construction and operation, maintenance and decommissioning of Federal interim away-from-reactor storage facilities, which proportion is associated with such spent fuel;

(b) for the retention by the owner of such spent fuel of a nontransferable right to the value of the remaining fuel resource less the costs of recovery, as determined at the time of recovery. The right ends when the Federal Government—

(1) takes action resulting in the recovery of the remaining fuel resource and gives to the owner of the right an amount of money equal to the value of the recovered fuel less the costs of recovery; or

(2) disposes of such fuel in a repository;

(c) that title to the spent fuel together with all rights to such fuel, except as otherwise provided in this Act, passes to the Secretary at the site of the powerplant at the time the Secretary takes possession of the spent fuel; and

(d) that the contract becomes effective when the interim away-from-reactor storage facility is available as determined by the Secretary by notice in the Federal Register.

SEC. 304. (a) The Secretary shall provide notice of intent to enter into such contracts by publishing notice in the Federal Register not later than one hundred and eighty days after the date of enactment of this Act. Such notice shall contain such information as the Secretary considers appropriate concerning proposed terms and conditions of such contracts.

(b) The Secretary shall establish the one-time payment charge per unit of spent fuel required by section 303(a) on an annual basis, based on calculation of the costs listed in section 303(a), and shall publish such annual one-time payment charge and the calculation thereof in the Federal Register. Each such annual one-time payment charge shall become effective thirty days after publication and shall remain effective for a period thereafter of twelve months as the charge for the costs listed in section 303(a) for any spent fuel, title to which is transferred to the Federal Government during that twelve-month period.

SEC. 305. (a) To the extent funds are available and in such amounts as are provided in appropriations Acts, the Secretary shall construct, acquire, or lease one or more away-from-reactor facilities for the interim storage of spent fuel from civilian nuclear powerplants with a total storage capacity at all such facilities of not more than two thousand eight hundred metric tons of uranium. The facilities shall—

(1) be made available in a timely manner to accommodate all spent fuel for which commitments have been made pursuant to section 302 of this Act; and

(2) be subject to a license under the provisions of section 202(3) of the Energy Reorganization Act of 1974 (88 Stat. 1233), as amended: *Provided*, That in determining whether to issue a license for such a facility, the Commission shall not consider the need for the facility. The Secretary shall submit to the Commission an application to construct, acquire or lease, and operate such facility not later than such date as necessary to accommodate in a timely manner all spent fuel requiring away-from-reactor storage pursuant to any determinations under section 302 of this Act. When the Secretary submits such an application to the Commission, the Secretary shall also submit a report to the Congress describing the amount of spent fuel for which commitments have been made pursuant to section 302 and the date by which the facility is needed to accommodate in a timely manner the storage of the spent fuel.

The Secretary shall not acquire any away-from-reactor facility under this section if the cost of acquiring the facility exceeds the cost of constructing a new away-from-reactor facility of equal capacity; *Provided*, That any new facility would be available when needed to satisfy the commitments made by the Secretary pursuant to Section 302(a).

(b) The Secretary, in providing for the transportation of spent fuel under this Act, shall utilize by contract private industry to the fullest extent possible in each aspect of such transportation. The Secretary shall use direct Federal services for such transportation only upon a determination of the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at reasonable cost. The authority of the Secretary to enter into contracts under this section shall be limited to the extent or in such amounts as are provided in appropriations Acts.

(c) The Secretary and the Commission, on a continuing basis, shall analyze and make projections of the availability when needed of spent fuel transportation casks required to support transportation requirements pursuant to subsection (b). The Secretary and the Commission are authorized and directed to take such actions as the Secretary and the Commission, respectively, deem necessary and appropriate to ensure the timely availability when needed of such spent fuel transportation casks.

SEC. 306. When an interim away-from-reactor storage facility is available, the Secretary shall take possession of and transport to a designated storage facility any spent fuel covered by a contract made under section 302 of this Act. The Secretary shall take this action within one year after the date on which the owner of such spent fuel provides notice in writing to the Secretary that such spent fuel is available.

SEC. 307. Funds made available to the Secretary for the purpose of—

(a) acquiring plant and capital equipment or land; or

(b) for planning, construction, or modification of facilities,

to make available facilities for the interim storage of spent fuel from civilian nuclear powerplants away from the reactor under any law making appropriations of funds or authorizations for appropriations of funds for the fiscal year ending September 30, 1979, or the fiscal year ending September 30, 1980, including funds authorized and appropriated for Project 79-1-p (away-from-reactor spent nuclear fuel storage capacity) in legislation authorizing appropriations for the Department of Energy for the fiscal year ending September 30, 1980, and as contained in the authorization for the Department of Energy pursuant to Title X, Subtitle A of the Omnibus Reconciliation Act of 1981, Public Law 97-35, for fiscal years ending on September 30, 1982, September 30, 1983, and September 30, 1984, shall be available to carry out the purposes of section 305.

SEC. 308. (a) In carrying out the provisions of sections 301 through 307 with regard to any facility for the interim storage of spent fuel from civilian nuclear powerplants which the Secretary is authorized by section 305(a) to construct, acquire or lease, the Secretary shall—

(1) as soon as practicable, but not later than ninety days after enactment of this section, notify in writing the Governor and the legislature of any State in which is located a potentially acceptable site for such a facility or an existing facility potentially suitable for interim storage of spent fuel of his intention to investigate that site or facility;

(2) during the course of investigation of such site or facility, keep the Governor and the legislature currently informed of the progress of work and results of the investigation;

(3) at the time of selection by the Secretary of any site or existing facility, but prior to undertaking any site-specific work or alterations, promptly notify the Governor and the legislature in writing of such selection;

(4) throughout the course of any subsequent work on that site or existing facility, furnish the Governor all relevant information on a current basis and provide him with the opportunity for review and comment from time to time.

(b) If within ninety days after the Governor has received notice of selection required by subsection (a)(3), the Governor notifies the Secretary in writing of his objections to the facility, the Secretary shall suspend further work on such facility and promptly transmit the Governor's objections together with the Secretary's comments and recommendations to the President.

(c) Unless within ninety days after receipt of the Secretary's notification under subsection (b) the President determines that such facility is essential to the national interest, the Secretary shall terminate activities specific to the facility. Such determination shall not be subject to judicial or administrative review.

(d) During the regulation and monitoring of the facility, the Governor or his designee shall have the right to be currently informed of all relevant information, and shall have the right to review and comment on such matters from time to time.

SEC. 309. Section 202(3) of the Energy Reorganization Act of 1974 is amended to read:

"(3) Facilities used primarily for the receipt and storage or disposal of high-level radioactive waste or spent fuel resulting from activities licensed under such Act or spent fuel from foreign reactors transferred under a subsequent arrangement authorized under such Act.".

SEC. 310. Transportation of spent fuel under section 306 shall be subject to licensing and regulation by the Commission and by the Secretary of Transportation as provided for transportation of commercial spent fuel under existing law.

SEC. 311. (a) The Secretary, the Commission, and other appropriate Federal officials shall take such actions as they consider necessary to encourage and expedite the effective use of existing storage facilities and the addition of needed new storage capacity at the site of each civilian nuclear powerplant consistent with—

(1) the protection of the public health, safety, and the environment;

(2) economic considerations;

(3) continued operation of the powerplant; and

(4) otherwise applicable law.

In taking such action, the Secretary, the Commission and other appropriate Federal officials shall consider the views of the population surrounding such powerplant.

(b) The Secretary, in consultation with the Commission, shall establish a cooperative program to assist and encourage the private development of alternate technologies for the storage of spent fuel at the sites of civilian nuclear powerplants, with the objective of developing one or more alternate technologies that the Commission can adopt by rule on a generic basis for use at the sites of all civilian nuclear powerplants without the need for additional site-specific approvals by the Commission to the maximum extent practicable. For the purposes of this subsection, "alternate technologies" shall include, but are not limited to, spent fuel storage casks.

SEC. 312. (a) Any person filing an application with the Commission after the date of

enactment of this Act for a license, or for an amendment to an existing license, to expand the spent fuel storage capacity at the site of a civilian nuclear powerplant, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent fuel to another powerplant within a utility system, the construction of additional spent fuel pool capacity, or by other means, may submit a petition to the Commission for issuance of the license or license amendment on an interim basis prior to the conduct or completion of any required hearing upon such application. Any petition submitted under this section shall include a statement of the reasons why the application for the license or amendment was not submitted sufficiently in advance to eliminate the need for issuance of the license or license amendment on an interim basis. Such statement shall not prejudice the Commission's consideration of such petition.

(b) The Commission shall grant the petition submitted under subsection (a) and issue the license or license amendment on an interim basis if the Commission determines that—

(1) in all respects other than the conduct or completion of any required hearing, the requirements of law are met;

(2) in accordance with such requirements, there is reasonable assurance that the activities authorized by the license or license amendment during the interim period, in accordance with the terms and conditions of such license or license amendment, will provide adequate protection to the public health and safety and the environment during the interim period; and

(3) there is a reasonable expectation that refusal to grant the petition will prevent the petitioner from providing in a timely manner adequate capacity for spent fuel storage at the site of the powerplant to maintain a full core reserve storage capability;

Provided, however, that the Commission may not issue a license or license amendment on an interim basis for the first application received by the Commission for the license or license amendment to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear powerplant by the Commission. For the purposes of this section, the term "new technology" means a general type or means of storage expansion and not a site-specific proposal.

SEC. 313. (a) In any Commission hearing pursuant to section 189 of the Atomic Energy Act of 1954, as amended, on an application for a license, or for an amendment to an existing license, filed after the date of enactment of this Act, to expand the spent fuel storage capacity at the site of a civilian nuclear powerplant, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent fuel to another such powerplant within the same utility system, the construction of additional spent fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, all the facts, data and arguments upon which that party proposes to rely that are known at such time to that party. Only facts and data in the form of sworn testimony or affidavit may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or affidavit.

(b)(1) At the conclusion of any oral argument under subsection (a) of this section, the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

(2) In making a determination under this subsection, the Commission shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute.

(c) No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by it to use a particular procedure pursuant to this section unless—

(A) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection, and

(B) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

SEC. 314. In any proceeding on an application for a license, or for an amendment to an existing license, filed after the date of enactment of this Act, to expand the spent fuel storage capacity at the site of a civilian nuclear powerplant, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent fuel to another such powerplant within the same utility system, the construction of additional spent fuel pool capacity or dry storage capacity or by other means, the Commission shall not consider as alternatives the storage of spent fuel in away-from-reactor storage facilities.

TITLE IV—DISPOSAL OF SOLIDIFIED HIGH-LEVEL RADIOACTIVE WASTE AND SPENT FUEL

SEC. 401. (a) It is the policy of the Federal Government that—

(1) the Federal Government has the responsibility to provide for the permanent disposal of solidified high-level radioactive waste and spent fuel;

(2) spent fuel, unless otherwise processed, and solidified high-level radioactive waste must be permanently disposed of in a federally owned and operated repository;

(3) such permanent disposal in a repository shall occur without regard to interim storage of spent fuel pursuant to Title III and long-term storage of solidified high-level radioactive waste or spent fuel pursuant to Title V;

(4) the Federal Government has the responsibility to assure that repositories capable of safely disposing of solidified high-level radioactive waste and spent fuel are available with sufficient capacity when needed; and

(5) the Federal Government has the responsibility to demonstrate as soon as possible that solidified high-level radioactive waste and spent fuel can be disposed of in a manner that provides adequate protection to the public health, safety, and the environment.

(b) The policy under subsection (a) shall provide for—

(1) the establishment of a federally owned and operated program for the siting, development, construction, and operation of repositories capable of safely disposing of solidified high-level radioactive waste and spent fuel, which repositories are to be licensed by the Commission;

(2) a national schedule for accomplishing the regulatory and programmatic actions needed to achieve the objective of obtaining by December 31, 1989, a Commission authorization to construct the first full-scale, operational repository capable of safely disposing of solidified high-level radioactive waste and spent fuel, and achievement of operational status for the repository as soon thereafter as possible; and

(3) the development, construction, and operation of at least one test and evaluation facility for the purpose of developing the packaging, handling, and emplacement technology for solidified high-level radioactive waste and spent fuel needed to further the demonstration of disposal of such waste and spent fuel, with the objective of achieving operational status of one such facility by January 1, 1988.

DEVELOPMENT OF EPA STANDARDS AND NRC TECHNICAL CRITERIA

SEC. 402. (a) EPA STANDARDS.—Not later than January 1, 1982, the Administrator of the Environmental Protection Agency, pursuant to authority under existing law, shall, by rule, propose generally applicable standards for offsite releases of radioactivity from repositories capable of disposing of solidified high-level radioactive waste and spent fuel. Promulgation of these standards shall occur within a period not greater than one year after proposal.

(b) NRC TECHNICAL CRITERIA.—Not later than January 1, 1984, the Commission, pursuant to authority under existing law, shall, by rule, promulgate technical criteria for review of an application—

(1) for authority to construct a repository capable of disposing of solidified high-level radioactive waste and spent fuel, or

(2) for a license to emplace such waste and spent fuel in the repository.

Such criteria shall provide for the use of a system of multiple barriers in the design of the repository and shall include such restrictions on the retrievability of the solidified high-level radioactive waste and spent fuel emplaced in the repository as the Commission deems appropriate.

IDENTIFICATION OF SITES FOR REPOSITORIES

SEC. 403. (a) GUIDELINES FOR REPOSITORY SITE RECOMMENDATION.—Not later than 120 days after the date of enactment of this Act, the Secretary, in consultation with the Environmental Protection Agency, and the United States Geological Survey, and with the concurrence of the Commission, shall issue general guidelines for the recommendation of sites for repositories capable of safely disposing of solidified high-level radioactive waste and spent fuel. The guidelines shall specify factors that would qualify or disqualify a site from development as a

repository, including factors pertaining to geologic criteria, the location of valuable natural resources, proximity to population, hydrology, geophysics, seismic activity, and nuclear defense activities. The guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable considering the schedule of actions contained in this title, to recommend sites in different geologic media. The guidelines also shall require the Secretary to consider the cost and impact of transporting to the respository site the solidified high level radioactive waste and spent fuel to be disposed of in the respository and the advantages of regional distribution in the siting of repositories. The Secretary shall use the guidelines established under this subsection in considering sites to be recommended under subsection (b).

(b) SITE RECOMMENDATIONS BY THE SECRETARY.—

(1) Not later than January 1, 1984, the Secretary shall identify and recommend to the President at least three sites that the Secretary determines are suitable for site characterization for the selection of the first repository. Not later than January 1, 1987, the Secretary shall identify and recommend to the President at least three additional sites, which the Secretary determines are suitable for site characterization for selection of subsequent repositories. The Secretary shall not recommend for characterization any area of a site used for the test and evaluation facility pursuant to section 407 that the Secretary determines would permit the physical integration of the test and evaluation facility and a proposed repository. Each recommendation of a site shall include a detailed statement of the basis for the recommendation. If the Secretary recommends a site to the President, the Secretary shall notify the Governor of the State in which the site is located and the Tribal Council of any affected Indian tribe of the Secretary's recommendation and the basis for such recommending.

(2) Before recommending to the President any site for characterization, the Secretary shall notify the Governor of the State in which the site is located and the Tribal Council of any affected Indian tribe of the proposed recommendation, and the Secretary shall hold public meetings in the vicinity of the site to inform the residents of the area in which the site is located of the proposed recommendation and to receive their comments.

(c) PRESIDENTIAL REVIEW OF RECOMMENDED SITES.—

(1) The President shall review each site recommendation of the Secretary under subsection (b). Within sixty days after the submission of each recommendation for a site, the President in his discretion shall either approve or disapprove the site, and transmit his decision to the Secretary, to the Governor of the State in which each site is located, and to the Tribal Council of any affected Indian tribe. If the President disapproves any site, the Secretary shall make another site recommendation within sixty days after the President's disapproval. If the President fails to approve or disapprove any site in accordance with this paragraph during such sixty-day period, or within such period fails to invoke his authority under paragraph (2) to delay the determination, the site shall be considered to be approved.

(2) The President may delay for not more than six months his decision under paragraph (1) to approve or disapprove a site upon determining that the information provided with the recommendation is not sufficient to permit a decision within the sixty-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such period, of his intent to utilize the authority provided under this paragraph. If the President invokes this authority under this paragraph but fails to approve or disapprove the site at the end of such six-month period, the site shall be considered to be approved.

(d) Any activity of the President or the Secretary under this section shall be considered a preliminary decisionmaking activity and shall not be subject to the National Environmental Policy Act of 1969 (83 Stat. 852).

SITE CHARACTERIZATION

SEC. 404. (a) The Secretary shall carry out in accordance with this section appropriate site characterization activities at each site approved under section 403. Site characterization activities shall be subject to the National Environmental Policy Act of 1969 (83 Stat. 852) only in the manner described in subsection (b)(1)(A) below.

(b)(1) Before proceeding to sink shafts at any site, the Secretary shall submit for such site to the Commission, to the Governor of the State in which the site is located, and to the Tribal Council of any affected Indian tribe, for their review and comment—

(A) an environmental assessment prepared pursuant to the Secretary's regulations implementing the National Environmental Policy Act of 1969 (83 Stat. 852) of the site characterization activities planned for such site, and a discussion of alternative activities for purposes of site characterization which may be undertaken to minimize such impacts;

(B) a general plan for site characterization activities to be conducted at such site, which plan shall include—

(i) a description of the site;

(ii) a description of the site characterization activities, including the extent of planned excavations, plans for any onsite testing of radioactive material or nonradioactive material, investigation activities that may affect the ability of the site to isolate any solidified high-level radioactive waste and spent fuel, and provisions to control likely adverse, safety-related impacts from site characterization activities;

(iii) plans for decontaminating and decommissioning the site if it is determined unsuitable for application for licensing as a repository and if any radioactive materials are used for site characterization; and

(iv) any other information required by the Commission; and

(C) proposals describing the possible form of packaging for the solidified high-level radioactive waste and spent fuel that would be emplaced in the repository.

(2) During the conduct of site characterization activities at a site, the Secretary shall report to the Commission, to the Governor of the State in which the site is located, and to the Tribal Council of any affected Indian tribe, on the nature and extent of such activities and the information developed from such activities.

(c) The Secretary, in consultation with the Commission, shall conduct such tests; and may conduct such research and development activities, as may be required to provide the necessary data for an application for a construction authorization by the Commission for a repository at the site and for the compliance with the National Environmental Policy Act of 1969 (83 Stat. 852). The Secretary shall report to the Commission, to the Governor of the State in which the site is located, and to the Tribal Council of any affected Indian tribe, on the tests conducted at a site pursuant to this subsection and on the information developed from such tests.

(d)(1) In conducting site characterization activities or tests pursuant to subsection (c)—

(A) the Secretary may use such radioactive materials at a site as the Secretary and the Commission deem necessary to provide data for the submission of an application for a construction authorization for a repository at the site;

(B) if radioactive materials are placed in a site, the Secretary shall limit the amount of radioactive materials to that quantity necessary to determine the suitability of the site for a repository and to provide data for the submission of an application for a construction authorization for a repository at the site; and

(C) any radioactive material used or placed on a site shall be fully retrievable.

(2) If characterization activities are terminated at a site for any reason, the Secretary shall remove any solidified high-level radioactive waste or spent fuel, or other radioactive materials at or in the site as promptly as practicable.

SITE APPROVAL AND CONSTRUCTION AUTHORIZATIONS

SEC. 405. (a) The Secretary shall recommend to the President not later than January 1, 1986, that the President approve one of the three initially characterized sites for the development of the first repository. The Secretary shall recommend to the President not later than January 1, 1989, that the President approve one or more additional sites from all of the characterized sites for the development of subsequent repositories. In making subsequent site recommendations and approvals, the Secretary and the President, respectively, shall consider the need for regional distribution of repositories and the need to minimize, to the extent practicable, the impacts and cost of transporting spent fuel and solidified high level radioactive waste. Prior to submitting each recommendation to the President for approval of a site, the Secretary shall hold public meetings in the vicinity of the site to inform the residents of the area in which the site is located of the determination of the Secretary and to receive their comments. Any recommendation made by the Secretary pursuant to this subsection shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (83 Stat. 852). A final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 (83 Stat. 852), prepared by the Secretary, shall accompany the recommendation to the President to approve the site for a repository. With respect to the requirements imposed by the National Environmental Policy Act of 1969 (83 Stat. 852), this Act shall be deemed adequate consideration of the need for a repository, the time of the initial availability of a repository, and all alternatives to a repository for the isolation of spent fuel and solidified high level radioactive waste, and no further consideration of such matters shall be required. The Secretary shall only consider as alternate sites for the first proposed facility those

sites recommended by January 1, 1984, by the Secretary pursuant to section 403(b) and approved by the President for site characterization pursuant to section 403(c). The Secretary shall only consider as alternate sites for subsequent proposed facilities those sites recommended by the Secretary by January 1, 1984, and by January 1, 1987, pursuant to section 403(b) and approved by the President for site characterization pursuant to section 403(c). Preparation of the final environmental impact statement by the Secretary in accordance with this subsection, with coordination and comments by the Commission and other interested agencies, shall satisfy the requirements of the National Environmental Policy Act of 1969 (83 Stat. 852) with regard to the selection of a site for, and the decision of the Secretary to construct and operate a repository: *Provided*, That this subsection shall not be construed in any way as amending the National Environmental Policy Act of 1969 (83 Stat. 852).

(b) The President shall approve or disapprove any recommendation of the Secretary pursuant to subsection (a) within sixty days after the recommendation is submitted. If the President disapproves any recommendation, the Secretary shall make another recommendation from among the characterized sites within sixty days after the President's disapproval.

(c) The Secretary shall submit to the Commission an application for authorization to construct a repository at each site approved by the President within ninety days after the date on which the President approves a site under subsection (b). The Secretary shall provide a copy of such license application to the Governor of the State in which the site is located and to the Tribal Council of any affected Indian tribe.

(d) Not later than eighteen months after the date on which an application is submitted under subsection (c), the Commission shall submit to the Congress a report describing the proceedings on the application undertaken through such date, including a description of—

(1) major unresolved safety issues, and the Secretary's explanation of design and operation plans for resolving such issues;

(2) matters of contention regarding the application; and

(3) any Commission actions regarding the granting or denial of the application.

(e) The Commission shall consider an application for authorization to construct a repository in accordance with the laws applicable to such applications, except that the Commission shall issue a final decision approving or disapproving the first such application not later than December 31, 1989, and the second such application not later than December 31, 1992. The Commission decision approving the first such application shall prohibit the emplacement in the first repository of more than seventy thousand metric tons of heavy metal from spent fuel and solidified high-level radioactive waste, until such time as a second repository is in operation.

(f) The Commission shall consider an application for authorization to construct a repository in accordance with the laws applicable to such applications, except that—

(1) the Commission shall only consider as alternate sites for the first proposed facility those sites recommended by January 1, 1984, by the Secretary pursuant to section 403(b) and approved by the President for site characterization pursuant to section 403(c),

(2) the Commission shall only consider as alternate sites for subsequent proposed facilities those sites recommended by the Secretary by January 1, 1984, and by January 1, 1987, pursuant to section 403(b) and approved by the President for site characterization pursuant to section 403(c), and

(3) the Commission shall rely on the environmental impact statement prepared by the Secretary pursuant to subsection 405(a) in issuing a final decision approving or disapproving the application to the extent possible, consistent with the independent responsibilities of the Commission as determined by the Commission, in order to minimize unnecessary duplication.

SEC. 406. The Secretary, the Commission, and other appropriate Federal officials shall take such actions as they consider necessary, consistent with the protection of the public health, safety, and the environment, to achieve operational status of a repository licensed under section 405(e) as soon thereafter as possible.

TEST AND EVALUATION FACILITY

SEC. 407. (a) Not later than January 1, 1983, the Secretary shall transmit to the Congress a proposal for at least one test and evaluation facility for the purpose of developing generically applicable packaging, handling, and emplacement technology for solidified high-level radioactive waste and spent fuel to further the demonstration of disposal of such waste and spent fuel. The proposal shall include site-specific designs, specifications, and cost estimates adequate to solicit bids for the construction of an initial facility, and a schedule for the construction of a facility, consistent with the objective of achieving facility operation not later than January 1, 1988. The proposal shall also include a detailed plan, schedule, and termination date for the generically applicable research and development activities proposed to be conducted at the test and evaluation facility.

(b) The Secretary may select an existing research and development site for the development of the test and evaluation facility. The Secretary shall not select any area of a site that the Secretary intends to recommend for characterization pursuant to section 403(b) that the Secretary determines would permit the physical integration of the test and evaluation facility and a proposed repository.

(c) The facility shall be designed to—

(1) accept a total of not more than three hundred packages of solidified high-level radioactive waste and spent fuel;

(2) permit continuous monitoring, management, and maintenance of the solidified high-level radioactive waste and spent fuel to be emplaced in the facility;

(3) accept waste and spent fuel packages incorporating multiple barrier design; and

(4) permit full retrievability of the waste and spent fuel to be emplaced in the facility.

(d) In formulating the proposal, the Secretary shall consult with the Commission and the Environmental Protection Agency, and shall transmit their comments on the final proposal to the Congress together with the proposal.

(e)(1) Preparation and transmittal of the proposal to the Congress is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 852), but an environmental assessment prepared pursuant to the Secretary's regulations implementing the National Environmental Policy Act of 1969 (83 Stat. 852) shall be prepared on the proposal to accompany such transmittal.

(2) When Congress authorizes construction of the facility, the requirements of the National Environmental Policy Act shall apply, except that any environmental impact statement in connection with such facility need not consider the need for such facility or any alternative to the design criteria set forth in subsection (b), as they may have been amended by such subsequent congressional authorization.

(f) Notwithstanding any other provision of law, the test and evaluation facility authorized under this section shall not be subject to a license by the Commission: *Provided, however*, That the Secretary shall obtain the concurrence of the Commission in the siting, design, construction, and operation of the facility.

NATIONAL SITE SURVEY PROGRAM

SEC. 408. (a) The Secretary and the United States Geological Survey shall conduct a national site survey program, to be completed not later than January 1, 1986, for the purpose of identifying sites that may be suitable for site characterization for a repository in addition to those recommended by the Secretary under section 403(b).

(b) The national site survey program established by subsection (a) shall include every State that may contain acceptable sites for a repository. No State shall have the authority to prohibit or restrict any activity that the Secretary and the Director of the United States Geological Survey deem necessary to carry out the purposes of this section.

(c) The Secretary shall use the results of the national site survey program established by subsection (a) in identifying and recommending sites for the characterization of subsequent sites pursuant to section 403(b).

SEC. 409. The Secretary shall continue and accelerate a program of research, development, and investigation of alternative means and technologies for the permanent disposal of high-level radioactive waste from civilian nuclear activities, atomic energy defense activities of the Department, and Federal research and development activities. Such program shall include examination of various waste disposal options.

SEC. 410. (a) The Secretary, consistent with the policy set forth in section 401, is authorized and directed to enter into contracts with persons owning and operating civilian nuclear powerplants, and with persons owning spent fuel or high-level radioactive waste generated by civilian nuclear activities prior to the date of enactment of this Act.

(b) The contracts entered into under subsection (a) shall provide that in return for the payment of the fees established by section 603 (a) and (c) of this Act, the Federal Government, beginning at the time when one or more federally owned and operated repositories or monitored, retrievable storage facilities are in operation, will—

(1) take title to the spent fuel and high-level radioactive waste owned or generated by such person,

(2) transport the spent fuel or high-level radioactive waste to a federally owned and operated repository or monitored, retrievable storage facility, and

(3) store or dispose of the spent fuel or high-level radioactive waste.

(c) The contracts entered into under subsection (a) shall also provide for the retention by the owner of spent fuel of a non-

transferrable right to the value of the remaining fuel resource less the costs of recovery, as determined at the time of recovery. The right ends when the Federal Government—

(1) takes action resulting in the recovery of the remaining fuel resource and gives to the owner of the right an amount of money equal to the value of the recovered fuel less the costs of recovery; or

(2) disposes of such fuel in a repository.

SEC. 411. Not later than January 1, 1983, the Secretary shall prepare and submit to the Senate and the House of Representatives a detailed management plan for the actions required by this title. The plan shall identify the major program objectives, milestones, decisions and critical path items that are required to achieve the objectives set forth in this title.

TITLE V—LONG-TERM STORAGE OF SOLIDIFIED HIGH-LEVEL RADIOACTIVE WASTE AND SPENT FUEL

SEC. 501. It is the policy of the Federal Government that—

(1) the Federal Government has the responsibility to provide for long-term storage of solidified high-level radioactive waste and spent fuel, consistent with the policies of Title III and Title IV;

(2) the Executive Branch and the Congress should proceed as expeditiously as possible to consider fully a proposal for the construction of one or more monitored, retrievable storage facilities to provide such long-term storage; and

(3) the Federal Government has the responsibility to assure that such facilities are available with sufficient capacity when needed.

SEC. 502. Within one year after the date of enactment of this Act, the Secretary shall transmit to the Congress a proposal for the construction of one or more monitored, retrievable storage facilities for spent fuel and solidified high-level radioactive waste. Such facilities shall be designed to—

(a) accommodate spent fuel without reprocessing, as well as solidified high-level radioactive waste, including solidified high-level radioactive waste from reprocessing of such spent fuel if such reprocessing is undertaken in the United States;

(b) permit continuous monitoring, management, and maintenance of the spent fuel and solidified high-level radioactive waste for the foreseeable future;

(c) provide for the ready retrieval of any spent fuel and solidified high-level radioactive waste for further processing or disposal by an alternative method; and

(d) safely contain such solidified high-level radioactive waste and spent fuel so long as may be necessary, by means of maintenance, including, but not limited to, replacement as necessary, of such facility.

SEC. 503. The proposal shall include—

(a) the establishment of a Federal program for the siting, development, construction, and operation of facilities capable of safely storing solidified high-level radioactive waste and spent fuel, which facilities are to be licensed by the Commission;

(b) site-specific designs, specifications, and cost estimates adequate to solicit bids for the construction of an initial facility which will support authorization to construct the first full-scale, operational facility capable of safely storing solidified high-level radioactive waste and spent fuel and achievement of operational status for the facility as soon thereafter as possible;

(c) a plan for integrating the facilities under this title with the interim spent fuel storage facilities authorized by title III and repositories authorized by title IV.

SEC. 504. In formulating the proposal, the Secretary shall consult with the Commission and the Environmental Protection Agency, and shall transmit their comments on the final proposal to the Congress together with the proposal.

SEC. 505. (a) Preparation and transmittal of the proposal to the Congress is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 852), but an environmental assessment prepared pursuant to the Secretary's regulations implementing the National Environmental Policy Act of 1969 (83 Stat. 852) shall be prepared on the proposal to accompany such transmittal based upon available information regarding alternative technologies for storage of spent fuel and solidified high-level radioactive waste storage.

(b) When Congress authorizes construction of the initial facility, the requirements of the National Environmental Policy Act shall apply, except that any environmental impact statement in connection with such facility shall not consider the need for the facility, alternate sites for the facility, or any alternative to the design criteria set forth in section 502 of this Act as may have been amended by such subsequent congressional authorization.

(c) Any facility authorized under this title shall be subject to a license under section 202(3) of the Energy Reorganization Act of 1974 (88 Stat. 1233), except that in its consideration of the application filed by the Secretary for the initial facility, the Commission may not consider the need for the facility, alternate sites for the facility, or any alternative to the design criteria set forth in section 502 of this Act but shall comply with the requirements of the licensing process as otherwise provided by law.

SEC. 506. (a) Beginning the first fiscal year after the date of the enactment of this Act, the Secretary shall make annual impact aid payments to appropriate units of local government in order to mitigate social or economic impacts occasioned by the construction and subsequent operation of any facility within the jurisdictional boundaries of such local governments and authorized under this title.

(b) Payments made available to units of local government under this section shall be—

(1) allocated in a fair and equitable manner with a priority to those units of local government suffering the most severe impacts; and

(2) utilized by units of local governments only for (A) planning, (B) construction and maintenance of public services, and (C) provision of public services related to the siting of a facility authorized under this title.

(c) Payments shall be subject to such terms and conditions as the Secretary determines necessary to ensure that the purposes of this section will be achieved. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

(d) Payments under this section shall be made available solely from the fund established under section 601 of this Act and shall be available only to the extent provided in advance in appropriations Acts.

(e) The Secretary may consult with appropriate units of local government in advance of commencement of construction of any facility authorized under this title in an effort to determine the level of the payments such government would be eligible to receive under this section.

(f) As used in this section, the term "unit of local government" means a county, parish, township, municipality, or borough, including a borough in the State of Alaska, existing on the date of the enactment of this subsection, or other unit of government below the State which is a unit of general government as determined by the Secretary.

TITLE VI—FINANCIAL ARRANGEMENTS

SEC. 601. (a) There is hereby established in the Treasury of the United States a separate account to provide for costs directly related to (1) the acquisition, lease or construction, and operation of Federal away-from-reactor interim storage facilities for spent fuel in accordance with title III of this Act; (2) the development, including site selection and characterization, construction and operation of repositories for the disposal of such spent fuel or solidified high-level radioactive waste in accordance with title IV of this Act; (3) the development, including site selection, construction and operation of one or more test and evaluation facilities in accordance with title IV of this Act; (4) the development, including site selection construction and operation of facilities for the long-term storage of spent fuel or solidified high-level radioactive waste in accordance with title V of this Act; and (5) the related handling and transportation of such spent fuel or waste; and (6) research, development and investigation activities of the Secretary pursuant to section 409 required to support the activities described in items (1) through (5). Amounts appropriated under section 307 or otherwise appropriated to the Secretary to carry out any of the purposes of titles III, IV, V, and VI of this Act, all charges under section 303, receipts derived from the sale of any reprocessed fuel, all fees collected under section 603, and the proceeds from any obligations issued pursuant to section 602 of this title shall be deposited into the account.

(b) To the extent funds are available and in such amounts as are provided in appropriations Acts, the Secretary may draw on such account to carry out the purposes of titles III, IV, V, and VI of this Act: *Provided,* That the Secretary shall not construct or acquire any facility authorized under this Act unless the specific expenditure of funds for the initiation of such construction or acquisition is explicitly approved in an appropriation Act.

SEC. 602. (a) To carry out the purposes of this Act the Secretary may borrow money from the Treasury of the United States in amounts provided in appropriation Acts. The Secretary and the Secretary of the Treasury shall agree on terms, maturities, and conditions of the obligations, but the maturities may not be more than thirty years. The Secretary may redeem the obligations before maturity. The Secretary of the Treasury shall decide the interest rate of the obligations considering the average market of outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued. The interest payments on such obligations may be deferred with the approval of the Secretary of the Treasury but any interest payment so deferred shall bear interest. Such obligations shall be issued in amounts and at prices approved by the Secretary of the

Treasury. The Secretary of the Treasury shall purchase any obligations of the Secretary issued under this section and for this purpose the Secretary of the Treasury is authorized to use as a public debt transaction of the United States the proceeds from the sale of any securities issued under the Second Liberty Loan Bond Act. Securities may be issued under that Act to purchase obligations from the Secretary under this section.

(b) Appropriations made available pursuant to section 307 of this Act and any other appropriations made to the Secretary to carry out the purposes of titles III, IV, V, and VI of this Act shall be repaid into the general fund of the Treasury out of the account, together with interest until the date of repayment at a rate determined by the Secretary of the Treasury taking into consideration the average market on long-term obligations of the United States during the fiscal year in which appropriations are made. The Secretary shall repay such appropriation together with interest within thirty years from the time at which such appropriations become available for expenditure after the date of enactment of this Act, and no appropriations to the Secretary are authorized to carry out the purposes of titles III, IV, V, and VI of this Act unless the amounts appropriated are deposited into the account established in section 601(a).

(c) The Secretary shall invest in United States Treasury instruments any surplus funds accruing in the account established by section 601 herein and the interest paid on such Treasury instruments shall accrue to the benefit of such account.

SEC. 603. (a) There is hereby imposed a mandatory fee in the amount of 1.0 mil per kilowatt-hour on electricity generated by civilian nuclear powerplants and sold on or after the date ninety days after the date of enactment of this Act. Such fee shall be for the purpose of paying the costs to be incurred by the Federal Government that are specified in section 601(a).

(b) The fee imposed by subsection (a) shall be collected by the person owning and operating each civilian nuclear powerplant and shall be paid to the Treasury of the United States and deposited in the separate account established by section 601. The person owning and operating a civilian nuclear powerplant who pays the fee to the Treasury of the United States pursuant to subsection (a) shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel, or the solidified high-level radioactive waste from spent fuel, which is removed from the nuclear reactor of such civilian nuclear powerplant after the date of enactment of this Act.

(c) Not later than ninety days after the date of enactment of this Act, the Secretary shall establish a one time fee per kilogram of heavy metal in spent fuel, or in solidified high-level radioactive waste, in an amount equivalent to an average charge of 1.0 mil per kilowatt-hour for electricity generated by such spent fuel, or such solidified high-level waste derived therefrom, to be collected from any person delivering to the Federal Government spent fuel, or solidified high-level radioactive waste derived from spent fuel, which was removed from a civilian nuclear powerplant prior to the enactment of this Act. Such fee shall be for the purpose of paying the costs to be incurred by the Federal Government for the long-term storage and permanent disposal of solidified high-level radioactive waste and spent fuel from civilian nuclear activities. Such fee shall be paid to the Treasury of the United States and shall be deposited in the separate account established by section 601. In paying such a fee, the person delivering spent fuel, or solidified high-level radioactive wastes derived therefrom, to the Federal Government shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of such spent fuel, or the solidified high-level radioactive waste derived therefrom.

(d) Not later than one hundred and eighty days after the date of enactment of this Act, the Secretary shall establish procedures for the collection and payment of the fees established by subsection (a) and subsection (c). The Secretary shall annually review the amount of the fees established by subsections (a) and (c) above to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (a) herein. In the event the Secretary determines that either insufficient or excess revenues are being collected, the Secretary shall make a recommendation to the Congress for an adjustment of the amount of such fee. Any change in the fee shall be approved by the Congress and shall only apply to fees collected after any such change.

(e) Funds paid to the Treasury of the United States from the collection of the fees imposed by subsections (a) and (c) above and deposited in the separate account established by section 601 shall be available to pay the direct costs of constructing and operating any away-from-reactor facility pursuant to section 305 that would not otherwise be paid by the one-time payments collected pursuant to section 303 and deposited in the separate account established by section 601.

TITLE VII—STATE PARTICIPATION IN THE DEVELOPMENT OF REPOSITORIES AND MONITORED, RETRIEVABLE STORAGE FACILITIES FOR SOLIDIFIED HIGH-LEVEL RADIOACTIVE WASTE AND SPENT FUEL

SEC. 701. (a) The Secretary shall identify the States with one or more potentially acceptable sites for a repository or for a monitored, retrievable storage facility for solidified high-level radioactive waste or spent fuel within ninety days after the date of enactment of this Act. Within ninety days of such identification, the Secretary shall notify the Governor, the State legislature, and the Tribal Council of any affected Indian tribe in any affected State of the potentially acceptable sites within such State. For the purposes of this Title, the term "potentially acceptable site" means any site at which, after geologic studies and field mapping but before detailed geologic data gathering, the Department undertakes preliminary drilling and geophysical testing for the definition of site location.

(b) Each affected State and affected Indian tribe notified under subsection (a) as having potentially acceptable sites shall have the right to participate in a process of consultation and concurrence, based on public health and safety and environmental concerns, in all stages of the planning, siting, development, construction, operation, and closure of a repository or a monitored, retrievable storage facility that is required to be licensed by the Commission. Upon (1) the approval of a site for site characterization for such a repository, (2) the designation of a site for such a monitored, retrievable storage facility, or (3) the written request of the State or Indian tribe in any affected State notified under subsection (a) to the Secretary, whichever, first occurs, the Secretary shall promptly enter into negotiations with each such State and Indian tribe to establish a cooperative agreement under which the State or Indian tribe may exercise such right. Public participation in the negotiation of such agreement shall be provided for and encouraged by the Secretary, the States and the Indian tribes. The Secretary, in cooperation with the States and Indian tribes, shall develop and publish minimum guidelines for public participation in such negotiations, but the adequacy of such guidelines or any failure to comply with these guidelines shall not be a basis for judicial review.

(c) The cooperative agreement shall include, but need not be limited to, the sharing in accordance with applicable law of all technical and licensing information, the utilization of available expertise, the facilitating of permitting procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws. The cooperative agreement also shall include a detailed plan or schedule of milestones, decision points and opportunities for State or tribal review and objection. Such cooperative agreement shall provide procedures for negotiating and resolving objections of the State or Indian tribe in any stage of the planning, siting, development, construction, operation, or closure of such a facility within the State. In the case of a proposed repository, the cooperative agreement shall also provide for compensation to the State or Indian tribe for (1) the cost of State or Indian tribe participation in the development of the facility, including the acquisition of any necessary independent technical and licensing information, and (2) impacts caused by the siting, development, construction, and operation of a repository. Further, the cooperative agreement in the case of a proposed repository shall provide a method for determining the appropriateness and amount of any royalty or assessment to the State or Indian tribe for the use of its property, location or other natural resource. Payments for any compensation, royalty or assessment to a State or Indian tribe pursuant to a cooperative agreement shall be made only to the extent provided in appropriations Acts and shall be made solely from the fund established under section 601. The terms of any cooperative agreement shall not affect the Nuclear Regulatory Commission's authority under existing law.

(d) For the purpose of this part of this title, "process of consultation and concurrence" means a methodology by which the Secretary (A) keeps the State or affected Indian tribe fully and currently informed about the aspects of the project related to any potential impact on the public health and safety, (B) solicits, receives, and evaluates concerns and objections of the State or affected Indian tribe with regard to such aspects of the project on an ongoing basis, and (C) works diligently and cooperatively to resolve, through arbitration or other appropriate mechanisms, such concerns and objections. The process of consultation and concurrence shall not include the grant of a right to any State or Indian tribe to exercise an absolute veto of any aspect of the planning, siting, development, construction, and operation of the project.

(e) The Secretary and the State or affected Indian tribe shall seek to conclude the

agreement required by subsection (b) not later than one year after the date of notification under section (a). The Secretary shall report to the Congress annually thereafter on the status of the agreement approved under subsection (c). Any report to the Congress on the status of negotiations under subsection (b) of the agreement under subsection (c) by the Secretary shall be accompanied by comments solicited by the Secretary from the State or affected Indian tribe.

(f)(1) The Secretary shall notify the Governor, the State legislature, and the Tribal Council of any affected Indian tribe in an affected State at least ninety days prior to submitting an application to the Commission for authorization to construct a repository or monitored, retrievable storage facility of the Secretary's intention to file such application.

(2) If at any time after the Governor or an affected Indian tribe has received the notice required under paragraph (1), but no later than ninety days after receipt of such notice, the Governor or the Indian tribe notifies the Secretary in writing of objections to the proposed repository or monitored, retrievable, storage facility, the Secretary shall promptly transmit such objections together with the Secretary's comments and recommendations to the Congress.

(3) If the Governor or the Indian tribe has filed objections in accordance with paragraph (2), the Secretary shall not submit such an application and shall suspend further site-specific activities on the proposed repository or monitored, retrievable storage facility if during the sixty-day period of continuous session following submittal to Congress of the objections, either House of Congress passes a resolution pursuant to section 703 stating in substance that the proposal for the repository or retrievable, monitored storage facility does not sufficiently address State or tribal concerns to permit the Secretary to apply to the Commission for an authorization to construct the facility.

SEC. 702. (a) For the purpose of this Act (1) continuity of session is broken only by an adjournment of Congress sine die; and (2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(b) Sections 702 through 706 of this Act are enacted by Congress (1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by section 703 of this Act; and they supersede other rules only to the extent that they are inconsistent therewith; and (2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

SEC. 703. For the purposes of this Act "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the believes that the proposed development of a repository or monitored, retrievable storage facility at within the State of , which is the basis of objections transmitted to Congress by the Secretary of Energy on , 19 does not sufficiently address State or tribal concerns to permit the Secretary to apply to the Nuclear Regulatory Commission for an authorization to construct such repository or monitored retrievable storage facility, the blank spaces therein being appropriately filled.

SEC. 704. (a) No later than the first day of session following the day on which objections by a State or Indian tribe are transmitted to the House of Representatives and the Senate under section 601(f), a resolution, as defined in section 703, shall be introduced (by request) in the House by the chairman of the committee to which the report is referred, or by a Member or Members of the House designated by such chairman; and shall be introduced (by request) in the Senate by the chairman of the committee to which the report is referred, or by a Member or Members of the Senate designated by such chairman.

(b) A resolution with respect to a proposed facility which is the basis of such objections shall be referred to the appropriate committees of the House and Senate (and all resolutions with respect to the same report shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within forty-five calendar days of continuous session of Congress following the date of such resolution's introduction.

SEC. 705. If the committee to which is referred a resolution introduced pursuant to subsection (a) of section 604 (or, in the absence of such a resolution, the first resolution introduced with respect to the proposed facility which is the basis of such objections,) has not reported such resolution or identical resolution at the end of forty-five calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

SEC. 706. (a) When the committee has reported, or has been deemed to be discharged (under section 705) from further consideration of, a resolution described in section 705, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(b) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

(c) Immediately following the conclusion of the debate on the resolution with respect to the proposed facility which is the basis of such objections, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final approval of the resolution shall occur.

(d) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to the proposed facility which is the basis of such objections, shall be decided without debate.

SEC. 707. In considering any objections by a State or Indian tribe submitted to the Congress pursuant to this title, the Congress may obtain the views and comments of the Nuclear Regulatory Commission on such objections. The provision of views by the Commission shall not be construed as binding the Commission with respect to any licensing action pertaining to the facility which is the subject of such objections.

SEC. 708. (a) Notwithstanding any other provision of law, the provisions of this Title shall constitute the exclusive authority for any official of the Federal Government to enter into any agreement with any affected State and any affected Indian tribe (1) for participation in a process of consultation and concurrence in the planning, siting, development, construction and operation of a repository pursuant to Title IV of this Act or a monitored, retrievable storage facility pursuant to Title V of this Act or (2) for any other participatory right in the Secretary's decisions associated with the activities of planning, siting, development, construction and operation of a repository pursuant to Title IV of this Act or a monitored, retrievable storage facility pursuant to Title V of this Act.

(b) The provisions of this title shall constitute the exclusive rights of participation by an affected State or Indian tribe in the planning, siting, development, construction, and operation of a repository or a monitored, retrievable storage facility that is required to be licensed by the Commission: *Provided, however,* That nothing in this Act shall preclude any recognized right of any State or Indian tribe under existing law with respect to such a repository or monitored, retrievable storage facility.

CRIMINAL CODE REFORM ACT

AMENDMENT NO. 1351

(Ordered to be printed and to lie on the table.)

Mr. DENTON (for himself, Mr. HELMS, and Mr. EAST) submitted an amendment intended to be proposed by them to the bill (S. 1630) to codify, revise, and reform title 18 of the United States Code; and for other purposes.

● Mr. DENTON. Mr. President, on behalf of Senators HELMS, EAST, and myself, I have submitted for printing an amendment in the form of a substitute for S. 1630, the "Criminal Code Reform Act of 1981." This substitute is the product of many months of work and represents, I believe, a workable alternative to the bill as it was reported from the Committee on the Judiciary. This substitute is a composite

of current law and the best features of S. 1630, which is itself a product of the earlier work done by the National Commission on Reform of Federal Criminal Laws.

As a member of the Judiciary Committee and a former cosponsor of S. 1630, I have come to appreciate the difficulties and pitfalls inherent in the preparation of a massive recodification of the Federal Criminal Code. It was, therefore, with a great deal of reluctance that I requested my staff and several consultants to prepare an alternative to the committee bill for a new Federal Criminal Code. I am, however, convinced that the passage of S. 1630 would be a mistake and that the full Senate should consider another approach that embodies a greater reliance on current law.

There is much that distinguishes this substitute from S. 1630. I would like to highlight briefly some of the more important additions that our substitute would make to the proposed Criminal Code.

First, it would establish a constitutionally enforceable death penalty for certain heinous crimes. The Judiciary Committee previously defined the challenge set by the Supreme Court for the Congress and the State legislatures as "one of designing a procedure and establishing criteria for the imposition of the death penalty that would bring the 'arbitrary and capricious' result flowing from unfettered discretion within constitutionally tolerable bounds." In developing a death penalty statute, we have relied upon the procedures and criteria set forth in S. 114, a death penalty proposal which is within those bounds and upon which the Judiciary Committee has acted favorably. The provision, as incorporated into our version of the Criminal Code, would provide that, after a conviction for which a penalty of death is authorized, the court must hold a separate hearing on whether to impose the death penalty. The statute would leave largely unchanged the current laws that define offenses for which the death penalty may be imposed.

Second, our substitute for S. 1630 includes the provisions of S. 101, the DeConcini bill, which would modify the exclusionary rule. This modification of the Criminal Code provides that evidence would not be excluded from any Federal criminal proceeding solely because that evidence was obtained in violation of the fourth amendment to the Constitution, unless the court finds that such a violation was intentional or substantial.

Third, our substitute also contains S. 613, the Thurmond proposal that would treat serious acts of violence related to labor disputes as extortion for purposes of Federal criminal law.

Fourth, the substitute contains the latest version of the McClure-Volkmer bill to reform the 1968 Gun Control Act.

There are several important features of S. 1630 that we chose to keep in our substitute. These include, for instance, most of the procedural innovations in S. 1630, including pretrial detention, new definitions of insanity and competency, bail reform, and compensation for victims of crime. The changes made in the Federal rules of procedures, along with various changes made in sentencing and juvenile justice procedures, have been incorporated into our version of the bill.

We have replaced, however, the broad generalizations by which S. 1630 defines substantive criminal offenses with an equally organized but often more precise restatement of current Federal law. We have incorporated, by convenient cross reference, the bulk of criminal offenses outside of title 18 of the United States Code but have left the substance of those offenses in their original setting. In this manner, nontitle 18 offenses remain in the context where they most clearly reflect a given Federal policy or concern.

Just as the original S. 1630, our substitute repeals a large number of obsolete statutes such as those making it a Federal crime to detain a Federal carrier pigeon or to seduce a female passenger on a steamship. Moreover, we have sought to eliminate a number of other unnecessary provisions maintained even in S. 1630, such as, those statutes making it a crime to impersonate a 4-H Club member or misuse "Johnny Horizon," the fictional protector of public lands.

In a more serious attempt to strengthen the Federal Government's ability to punish leaders of organized crime, we have increased to life imprisonment the maximum possible penalty for a number of the racketeering offenses, For the first time, professional criminals involved in organized crime would face a penalty commensurate with the seriousness of their activities.

Whereas S. 1630 generally reduces sentences for all offenses, our substitute retains the tougher sentences found in current law and, also, eliminates our much abused system of parole.

By restoring and reorganizing many of the time-proven statutes found in current law, our version of S. 1630 would answer a large number of objections raised by both liberal and conservative organizations. It would, for instance, eliminate some provisions objected to by numerous business organizations, including provisions which expose manufacturers of dangerous products to possible prosecution for murder, provisions that would hold a corporation liable for actions of its agents even when the company explicitly prohibits such actions, and provisions that require a businessman to sequester this own records if he believes that a Government agency might wish to examine them in a future proceeding.

The substitute restores current law with regard to obscenity, prostitution, and sexual offenses, except in those instances where clarification and revision of current statutes is necessary.

We have returned to provisions of "current law" instead of defining several broad new offenses, such as obstructing a Government function by fraud or physical interference, because many have seen them as threats to constitutionally protected conduct.

In short, this recodification of the substance of current law addresses the justified concerns of business, religious, and civil liberties groups.

Mr. President, a recent article in the National Law Journal by Louis Linden, executive director of the National Association of Criminal Defense Lawyers, eloquently stated the case for this more judicious approach to recodifying the Federal Criminal Code. I would ask unanimous consent that it be placed in the record at this time.

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

[From the National Law Journal, Mar. 1, 1982]

TIME IS NOT RIGHT FOR MASSIVE REFORM OF CRIMINAL CODE

(By Louis Linden)

In the January 25 issue of The National Law Journal, Otto Obermaier argued that the time has come for us to finally approve a federal criminal code. Apparently, he believes that this is not only the right time, but that the code under consideration in Congress is the right code for the right time. He couldn't be more wrong on both accounts.

Ironically, he has identified the flaw in his argument but he has not recognized its importance. He states that, ". . . [C]riminal code reform will never be had if it becomes a vehicle for the achievement of partisan political goals by a transient political majority." The major problem with wholesale criminal code reform is intrinsic in the nature of the political process as we know it. This nature dictates that this is most emphatically not the time for wholesale reform and that there isn't a right time.

By definition, all political majorities are transient in a pluralistic democracy. Indeed, open access to majority power is the very heart and soul of such a system. Some majorities are more transient than others. It is likewise mistaken to think that "the achievement of partisan political goals" can ever be eliminated from the deliberations and decisions of such a body. Certainly there have been times when this motivation has been suppressed and deferred to a shared perception of the common good. But history shows us that these situations are few and far between. This is neither an indictment nor a commendation; it is simply a fact of life, the nature of the beast.

There can be no doubt that the public perceives crime as a most important issue. Whether the "crime problem" is actually as great a threat as believed by some is irrelevant. The effect upon the political process is governed by the old aphorism that what one

believes to be real will be real in its consequences. It the voters at home perceive it to be real, it is real in Congress. The writers of the Constitution obviously foresaw this aspect of our system, which is why they bothered to write a supreme document at all. The Constitution protects individuals from what may be only passing perceptions becoming irretrievably bad law. It provides a long-term continuity that is not swayed by monentary passion.

In this context, it is valid to pose that the time of greatest public concern is the worst time for consideration and action. The basis of codification should be thorough, logical and rational analysis of the objective to be obtained and the means of obtaining that objective. Such an analysis is nearly impossible when conducted on the procrustean bed of public outrage. The political pressure generated by such an environment precisely militates against the dispassionate analysis that is necessary for a successful result.

For instance, the Moral Majority made a substantial effort to influence certain aspects of S. 1630 being considered by the Senate Judiciary Committee. The substantive changes demanded by the Moral Majority related to "moral issues," obscenity, prostitution and rape/sexual assault.

For the most part, definitions of these offenses were broadened to include more behavior than is the case under current law or under previous drafts of the criminal code. Obscenity (Sec. 1842) in particular was broadened to apply to virtually any sex-oriented publications, regardless of their "redeeming social value." The 16 years of testimony and drafting and redrafting and endless debate that Mr. Obermaier cites resulted in the draft that was before the committee. That work was washed away by the opinions and desires of an influential group that cannot be said to speak for the American people as a whole. Whether the amendments improved the draft is a value choice, but it certainly demonstrates a major problem in the procedure for creating a whole new code at one whack.

Another similar and related problem exists in the sheer magnitude of the task. Code reformers would have us believe that they have the capability to reform, streamline and improve the 3,000 or so criminal laws which exist in the U.S. Code. Mr. Obermaier maintains that this must be done to improve the ad hoc nature of these laws; yet he ignores the positive aspects of this "ad hoc" process. Admittedly, great disparities in wording and importance of statutes exist. However, he ignores a very important fact: That each of those laws was given individual consideration by the congressmen who enacted them. The piecemeal fashion by which they were created at least yielded an individual decision on the nature and wording of each statute. This is in stark contrast to the codification process.

In the process at hand, the entire body of federal criminal law is considered as a whole made up of constituent parts. The constitutent parts are thereby diminished in importance. What previously had engendered extensive debate and contemplation becomes at best a bargaining chip to be traded off for other chips. It is doubtful that the time and effort devoted to the reporting out of a code will be anywhere near the aggregate time and attention devoted to the individual laws. The trading of chips, often called the art of compromise, is what politics is all about. To deny that criminal code reform is a creature of politics is to deny reality.

Comparison with codification by state legislatures is misleading. Mr. Obermaier opines that 34 states have already codified in the last 20 years. He then argues that the federal government should codify to promote what he describes as "wholesale improvements" in the other jurisdictions. While it makes one wonder who is leading whom, there are great differences between the roles and jurisdictions of the states and the federal government. The vast bulk of what was considered criminal under the common law is not a federal crime except where certain uniquely federal aspects are involved. The states have the luxury of creating structures and hierarchies that can be imposed upon the broadest possible base of proscribed conduct.

The federal task is more difficult. The limited jurisdiction of the federal criminal law is the result of a legislative deference to the doctrines of federalism. It is questionable whether the same uniformity enjoyed by the states is appropriate to the federal needs. Coherence and logical order is not undesirable, but the value of uniformity for uniformity's sake is dubious.

Outside of imposing this uniformity, it is difficult to say how codifying a very different set of laws will encourage the states to wholesale improvement. Substantive laws are not, as Mr. Obermaier would have us believe, analogous to the Federal Rules of Evidence. While practitioners may benefit from uniform procedural and evidentiary rules in courtrooms throughout the country, it does not logically follow that the interests vindicated in those court rooms are the same.

The codification that Mr. Obermaier champions also leads to a blurring of the distinction between technical and substantive change. Technical improvement would be served simply by putting all of the federal criminal statutes in one title and organizing them in logical groupings.

But the overhaul of the substantive provisions of the laws is qualitatively different. As lawyers, we have an innate desire for consistency and organization. The codification process currently underway subordinates the importance of the individual substantive law to the symmetry of arbitrary categories, guidelines and hierarchies. Even more obvious is the desire to make substantive reform as long as we are doing a technical reform.

Hence, Mr. Obermaier's suggestion that we include the president's recommendations for criminal law reform in the new code. Here the process of revision supplants codification and the judgments of one administration supplant the judgments of a dozen administrations. The complete process as envisioned by Mr. Obermaier is not a codification, but a complete remake of all federal criminal laws.

There is an alternative solution that is readily available to us, and it should be seriously considered. We must admit the magnitude of the task before us and address it is terms of practical political realities. The present Congress should undertake simply to place all federal criminal statutes under one title, organized in groups logically determined. Any attempt to remedy inconsistencies between laws should be avoided. After all, the Republic has not crumbled under the weight of these inconsistencies thus far, and its immediate demise due to these circumstances is extremely unlikely.

After this has been accomplished, and only then, should the Congress consider substantive revision of the law. Substantive revision will be done not in a wholesale fashion, but to one category of laws at a time. The process thus envisioned would be spread across several Congresses and a number of years. In spite of the years of staff work and debate that have already gone into this effort, the present codification movement is moving with a haste that will be detrimental to the quality of the finished product. We should take the time and do it right. Posterity is a harsh judge of quality.

Mr. DENTON. Mr. President, Mr. Linden argues that disparities and differences do, indeed, exist in current Federal criminal statutes but that each statute was considered and adopted individually by the Congress. This piecemeal fashioning, he believes, produced an "individual decision on the nature and wording of each."

By contrast, S. 1630 and its forerunners consider Federal law "as a whole made up of its constituent parts." I can assure the Senate that the individual importance of many criminal statutes has been lost sight of during consideration of S. 1630. During any radical recodification of our Nation's criminal laws, trading on individual statutes may be inevitable, but it is not wise. Many sacrifices of current law were made for little more than the sake of "uniformity." I believe that Mr. Linden is correct when he says that, "the codification process currently under way subordinates the importance of the individual substantive law to the symmetry of arbitrary categories, guidelines, and hierarchies." Mr. Linden advocates that the Congress simply place all Federal criminal statutes under one title, organized in logically determined groups.

Our substitute permits us to recodify Federal criminal law in just that manner, while enacting needed procedural reforms and repealing outdated statutes. Moreover, it avoids the fundamental deficiency in S. 1630, which Nicholase E. Calio pointed out in a recent monogram: "S. 1630," he contends, "replaces statutory language (particularly, traditional concepts of mens rea or criminal intent) enhanced and illuminated by hundreds of years of common law with new words and definitions subject to de novo interpretation by a modern Federal judiciary which is already unable to keep pace with its caseload."

I, too, believe that the time has come to create a systematic, consistent and comprehensive Federal Criminal Code to replace the hodgepodge that now exists. Our substitute is designed to fulfill that purpose and promote sound criminal justice. I urge its adoption.

Mr. President, at a later time, I will submit a number of technical amendments to this substitute.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL EXPENDITURES, RESEARCH, AND RULES

Mr. DANFORTH. Mr. President, the Subcommittee on Federal Expenditures, Research, and Rules will be holding a series of hearings on the administration's proposal for a uniform Federal procurement system, and various legislative proposals pending before the subcommittee which address individual problems not covered by the proposal.

The first series of hearings will focus on: First, the administration'a proposal for a uniform Federal procurement system, which was submitted to the Congress on February 26 of this year, and second, the administration's suggested legislation to implement the overall procurement system improvements identified in the proposal. The administration's legislative proposal is expected on April 30. Taken together, they represent what the administration believes is needed to improve the efficiency of the Government's procurement practices—a topic that has been receiving more and more attention from the Congress, the press, and the American people.

On Monday, May 30, the subcommittee plans to invite testimony from: First, the Office of Management and Budget, and its Office of Federal Procurement Policy; second, the Department of Defense; third, the National Aeronautics and Space Administration; fourth, the General Services Administration; and fifth, the General Accounting Office. On Wednesday, May 5, and Friday, May 7, the subcommittee plans to invite testimony from witnesses representing those who sell to the Federal Government, and other interested persons. The hearings are scheduled for room 3302 of the Dirksen Senate Office Building. On May 3, they are scheduled to begin at 9:30 a.m.; on May 5 at 2 p.m.; and on May 7 at 9:30 a.m.

The subcommittee's second series of hearings will look at specific problems not addressed in the proposal for a uniform Federal procurement system and legislative proposals pending before the subcommittee. On Wednesday, May 12 and Thursday, May 13, the subcommittee will invite testimony on: First, Senate Joint Resolution 93, and related proposals, which seek to reaffirm the policy of relying on the private sector to meet public requirements for goods and services; second, S. 1782, which proposes to eliminate retainage on Government construction contracts; and third, proposals to improve the effectiveness and fairness of the Government's contractor suspension and debarment programs. These hearings are scheduled for room 3302 of the Dirksen Senate Office Building, and are scheduled to commence at 2 p.m.

The subcommittee encourages the submission of written testimony by any interested person. Written submissions should be addressed to the Subcommittee on Federal Expenditures, Research, and Rules, 128 C Street NE., room 44, Washington, D.C. 20510. For additional information, interested persons should contact Pat Otto, chief clerk of the subcommittee, or its procurement counsel, William B. Montalto, at (202) 224-0211.

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Water and Power to consider S. 956, to amend the Reclamation Safety of Dams Act of 1978 to authorize additional appropriations; S. 1573, to amend the Water Resources Development Act of 1976 with respect to Lake Oswego; S. 1621, to authorize the replacement of existing pump casings in southern Nevada water project pumping plants 1A and 2A; and S. 2177, to amend title III of the Colorado River Basin Project Act. The hearing will be held on Thursday, April 22, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Water and Power, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing you may wish to contact Mr. Russ Brown of the subcommittee staff at 224-2366.

SUBCOMMITTEE ON ENERGY REGULATION

Mr. HUMPHREY. Mr. President, I would like to announce for the information of the Senate and the public that S. 1966, a bill to eliminate the unnecessary paperwork and reporting requirements contained in the Public Utility Regulatory Policies Act of 1978, has been added to the agenda of the subcommittee hearing scheduled for Monday, April 19, at 10 a.m., in room 3110 of the Dirksen Senate Office Building.

For further information regarding this hearing you may wish to contact Ms. Marilyn Burkhardt of the subcommittee staff at 224-5205.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the Finance Committee, along with the Joint Committee on Taxation, be authorized to meet during the session of the Senate at 2 p.m. on Thursday, April 1, to hold a markup to discuss spending reductions and revenue increase proposals within the jurisdiction of the Finance Committee.

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

ADDITIONAL STATEMENTS

ADMINISTRATIVE GAS DECONTROL IS WRONG

● Mr. SASSER. Mr. President, we are all aware of the high price of energy these days, and even more mindful of the potential costs of any legislative changes in the Natural Gas Policy Act of 1978.

Last week, I submitted testimony before two Senate committees, the Energy and Natural Resources Committee and the Appropriations Committee, on the matter of decontrolling natural gas through the back door. At that time I joined 31 Senators in cosponsoring a resolution, Senate Resolution 331, calling for an end to the administrative decontrol of natural gas by the Federal Energy Regulatory Commission.

Since then, it has been revealed that the Commission has already spent $25,000 and plans to spend up to $400,000 more to study new ways to accelerate the price increases for natural gas. Using these tax dollars in this manner could cost the consumer billions of dollars in increased inflation and direct gas costs.

I believe that this matter belongs before the full Senate, as well as before its committees of jursidiction.

I oppose this backdoor effort to administratively decontrol large volumes of our natural gas supplies while the administration claims that it will wait for next year to offer legislation to decontrol gas prices altogether.

Since 1977, natural gas prices have risen 30 percent each year. Consumers in my own State of Tennessee have written me, called me and sent me telegrams complaining that these high costs were hurting them in their businesses and in their homes. I ask unanimous consent that two such letters be printed in the RECORD at the end of my remarks.

But to summarize the words of my constituents, "Enough is enough."

With our economy at its current rate of output, with 8½ percent unemployment throughout the Nation and 12.2 percent in Tennessee, we cannot afford the additional business closings that would be caused by sharply higher gas prices.

The Council on Wage and Price Stability stated that the pressures on the economy of natural gas decontrol would be very negative. The Council estimated that decontrol would add 1 percent to our current level of unemployment and 3 percent to our current level of inflation.

Again, "enough is enough."

I believe that there are two areas in which the American people would be hurt most in their daily lives by the proceedings which the Federal Energy Regulatory Commission (FERC) is pursuing this month: In food prices and in the home.

If natural gas prices are decontrolled, farm costs could rise by an additional $8.2 billion by the end of 1984. Farmers will be badly hurt, and consumers would be hurt in turn, as nitrogen fertilizer prices triple over 3 years. Other prices will also soar to the detriment of the entire Nation.

The other cost would be to our Nation's households. According to the March Department of Energy report, 55 percent of our Nation's homes are heated with gas. The percentage is higher in Tennessee. Most of these people cannot afford the $1,000 it costs to change their gas burners over to coal or oil if gas prices go through the roof.

But what is FERC proposing? It would increase gas costs nationally by $48 billion over the next 3 years. In my own State of Tennessee, the additional cost of heating a home, thanks to the possible FERC ruling that may emerge next month, could be as much as $900 for a home in Memphis and $600 for a home in Nashville over 3 years.

And yet Commissioner Butler says that he hopes to act in the absence of congressional action to totally decontrol natural gas prices. The legislative decontrol that Congressman GRAMM and Senator JOHNSTON propose would cost the Nation over $50 billion, and my own State of Tennessee $3.2 billion in just 3 years, over a half of which would come directly from Tennessee household utility bills.

I find this impossible to support and I hope that the committee shares this view.

In 1978, Congress determined a schedule for easing the burden of the increases in natural gas prices under NGPA. Once again, I say that any change should be made by Congress.

It is ironic, and hypocritical, that an administration that constantly berates unelected officials for their habit of making law through bureaucratic fiat, would condone these actions by FERC. If it opposes the FERC procedures, then it should keep a bureaucrat from making national policy. If the administration supports FERC in this matter, then it should be honest with the American people and submit to Congress its proposal for gas price decontrol.

I believe that the administration is unwilling to take credit for the $18 billion in additional annual gas costs that this action would entail, but that it is taking shelter in the FERC ruling procedure to raise prices to the so-called market price.

Once again, "Enough is enough."

And so I hope that my colleagues join me as a cosponsor of Senate Resolution 331, a sense of the Senate resolution opposing the administrative raising of natural gas prices in advance of the schedule legislated in 1978.

I submit for the RECORD two letters that I received with reference to this matter.

The letters follow:

DENTO SCRAP MATERIALS, INC.,
Pulaski, Tenn., December 28, 1981.

Hon. JAMES SASSER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SASSER. I fully support your position in opposing the Deregulation of Natural Gas. I earnestly hope that you are successful in your efforts.

My Company employs 35 people in Pulaski and we are a major recycling firm in the processing of Ferrous and Non-Ferrous Scrap. Our recycling processes utilize natural gas as an energy source. Any radical increase in the price of natural gas would greatly add to the price spiral affecting our manufacturing costs and jeopardize the future of our people. It is most difficult for the small businessman without compounding his plight with higher energy costs.

On behalf of my employees and myself, your continued outspoken opposition will be appreciated.

Sincerely,

THEODORE D. LIPMAN,
President.

BOYS CLUBS OF KNOXVILLE, INC.,
Knoxville, Tenn., December 28, 1981.

Senator JAMES SASSER,
405 Russell-Senate Building,
Washington, D.C.

DEAR SENATOR SASSER: I want to applaud you on your efforts in trying to halt the push for the deregulation of natural gas. We are all aware of the increased cost in utility cost over the past few years and the suggested deregulation would again excel this expense. Ironically we are in the process of converting our boiler from burning fuel oil to natural gas, at a cost of $10,000. At the end of 1980 and through November 1981, we have spent over $56,000 for fuel oil and we are anticipating a reduction of at least 50 percent.

I appreciate your efforts and I support your stand. As a director of a non-profit organization, the deregulation would place another financial burden on our operations. I feel we have suffered enough through the recent federal cut backs.

Thanks again.

Sincerely,

JOHN LEE,
Executive Director.●

NATIONAL CONSTRUCTION INDUSTRY WEEK

● Mr. DURENBERGER. Mr. President, the week of February 28 through March 6 was National Construction Industry Week. This week emphasized the importance not only of that industry in America, but also of the role of women in construction and construction-related industries. It is important to note that many women and minorities are now involved in the construction industry and notice should be taken of the growing contributions they are making.

I submit for the RECORD the news release outlining just some of these advances.

The news release follows:

THE NATIONAL ASSOCIATION OF WOMEN IN CONSTRUCTION (NAWIC) SUPPORTS NATIONAL CONSTRUCTION WEEK

As a member of the national Construction Industry Council (NCIC) the National Association of Women in Construction (NAWIC) sponsored the 1982 Construction Industry National Legislative Conference held in February 28–March 2 in Washington, D.C. Jan L. Burger NAWIC President moderated an Affirmative Action panel. Seventy five NAWIC members attended this year's conference which has a registered attendance of 650 NCIC members. NAWIC has participated in this annual event for the past five years.

NAWIC is the only professional construction association which represents women employed in the construction or construction-related industries. There are approximately 9,000 NAWIC members—employees and employers—in the Association. Membership categories include: 5 percent trade/jobsite personnel; 5 percent architects; 30 percent accounting/bookkeeping/controller; 45 percent administrative/management; and 15 percent clerical.

Educational opportunities are provided for NAWIC members and nonmembers through the NAWIC Educational Foundation. The Founder's Scholarship Foundation awards National Merit Scholarships annually to students pursuing a construction-related degree. NAWIC Education Foundation programs offer three basic programs: Introduction to Construction, a basic course in construction terminology offered to members and non-members; Certified Construction Associate, a home-study course, equivalent to a Construction Management degree upon certification by examination, offered to members and non-members; and Degree and Special Courses, a tuition assistance plan offered to members pursuing an education at the college level. The NAWIC Education Foundation is in the process of adding a fourth program which will be utilized to reimburse members enrolled in Apprenticeship Training.

The Association has been working diligently to assist trade associations, unions, and the industry at large, to interest women and minorities in careers in the construction trades. NAWIC is endeavoring to provide an avenue of preapprenticeship training through a special Training Program Committee (women in skilled construction trades) which has been established this year. When funding is available, it is anticipated that five NAWIC/All Craft Centers (the original one to be located in New York City) will be situated in strategic areas across the country. Each Center will be located in an area where there is an established NAWIC Chapter to lend a support system relative to training and job placement.●

CULTURAL EXCHANGES WORK

● Mr. BIDEN. Mr. President, international cultural exchanges are among the most valuable and least appreciated programs to promote better understanding of our people and our Nation.

We have firsthand evidence of the benefits of the Fulbright teacher exchange from David Menser, a teacher at Mount Pleasant High School in New Castle County, Del., who wrote an article for the Wilmington Evening Journal last January 12.

Mr. President, I commend Mr. Menser's thoughtful statement to my colleagues, and I ask that his article, "Cultural Exchanges Work," be reprinted in the RECORD.

The article follows:

[From the Wilmington, Del., Evening Journal, Jan. 12, 1982]

CULTURAL EXCHANGES WORK

Sir, may I ask you a personal question? What kind of gun do you have?

As much as some of us may not like to admit it, a large part of the impression that Britons have of America is associated with guns. The television programs we export to the BBC, with the notable exceptions of "Little House . . ." and "MASH", seem to be violent and gunny. The student who asked the question was not being glib; he wanted to know. That an adult, male, American might not have a gun did not occur to him. He was typical of many I met in Britain.

The purpose here is not to argue the pros and cons of guns. It is an argument for the continuation of government support for the Fulbright programs. I believe it is money well spent. It is money invested in the promotion of a better and more accurate understanding of our country. Good will is there in Britain in abundance. It is the legacy of World War II and the postwar years.

My wife and I found none of the old and anti-Americanism of the Yankee Go Home sort. What we did find, was an appalling ignorance of American life in the 1980s. The presence of 150 Fulbrighters can dispel much of that ignorance at a minimal cost to the American taxpayer.

Many Americans have some notion of what the Fulbright program is. The teacher exchange I took part in was one of the many facets of a larger program begun in the 1950s. Our particular exchange took place at all levels, from prekindergarten to university. The Americans came from all over the United States, from eastern Oregon to New York's Bronx, from Alaska and Hawaii. We were assigned to jobs all over the United Kingdom, inlcuding three who went to Northern Ireland.

For most of us, the year was not one spent in dusty libraries behind the ivy covered walls of some English university. We were teachers working in small villages, in community colleges in inner-city London, and large comprehensive high schools in cities like Manchester and Glasgow. Given our combined teaching assignments, we probably saw 5,000 students every day. Our exposure to students was enormous. Most of us also had exchanged living accommodations with our counterparts. We lived, shopped, walked and went to the pub and church in the communities where we taught. In our part of London, we rarely heard an American accent.

The total cost of the Fulbright program last year was about $340,000. Most of the costs are borne by the individual participants. Our salaries were paid by our home districts, but it is important to remember that our counterparts took over our classrooms. American teachers receive no financial assistance from the state or federal government. An estimate of the International Communications Agency, which administers the program, states that for each $1,000 spent to run the program, the average teacher spends another $5,000 out of his pocket.

I believe this is proper. While we were American ambassadors of a kind, we were also learning to our own benefit. It was enormously expensive to live in Britain last year. For most of the year London ranked as the most expensive city in the world, yet all of us felt the cost was worth it. Unlike the other governments, our government pays none of the living expenses for the teachers. In spite of this, there were 2,100 applicants for 100 positions, clear evidence that there are more than enough American teachers ready to pay their own way. No program is more cost effective.

Though we can pay our own way, what the individual teacher cannot do is arrange the exchange and it is this fact that costs the government money. The total spent by the U.S. government is used to administer, together with a similar agency in the British government, the placement of teachers on both sides of the Atlantic. An individual, except in those special cases where there is already a personal contact, simply does not have the resources.

Neither time nor space allow for much personal reminisence, but I hope you will permit me one. My wife had a colleague at the college, a kind, gentle and well-educated woman whose original home had been in Malaysia. She has traveled all over the world. In one of her conversations it came out that she had never been to the United States. When Edie asked why, she replied that she had always been afraid, Americans seemed so violent. After saying that she thought a moment and added, "But I've never really known an American before."

With this in mind, I cannot understand why the Congress is willing to let a program which has been so successful die. Other articles in these papers have told of successes in other Fulbright programs. I can only believe it is because of lack of understanding.

Here is a program that is successful and for the most part, self-supporting. It costs so little.

I completely understand the need for the government to economize. I appreciate the well known fact that each group in our society, including ex-Fulbrights, has its own project. At the same time I am convinced that if we do not defend the projects we believe are worthwhile, they will be left to die. I believe the teacher exchange program is worth defending.●

A TRIBUTE TO CURTIS LEROY CARLSON

● Mr. DURENBERGER. Mr. President, Curt Carlson is a classic example of the American dream at work. He climbed up the ladder of success by virtue of his own hard work, prudence, and perseverance. His efforts have created a huge economic enterprise that employs thousands of people.

I have known Curt Carlson for many years, and in that time, have come to recognize his true interest and concern for the future of America and the health of the American economy. It will be entrepreneurs like Curt Carlson who will lead us to the economic recovery of the coming years.

I ask that the attached article be printed in the CONGRESSIONAL RECORD.

The article referred to is as follows:

CAPITAL FORMATION

(By Maurice Barnfather)

In 1933, when he was 18 years old, Curtis LeRoy Carlson, one of five offspring of Swedish immigrant parents, got a school vacation job as a messenger—bellhop they called it then—at Minneapolis' Farmers & Mechanics Savings. It paid $50 a month, with a late night on Thursday for an extra 25 cents. A man can't get rich on that. Can't? Curt Carlson did. When the tellers at the bank needed weekend money before payday on Monday, young Carlson went in for some modest loansharking. Naturally, he doesn't put it quite like that. "I would give them $5 for the weekend, and they would pay me back $6 on Monday," he says. "There's no use thinking you're going to make money if you don't have the capital working for you."

That's stating precisely the principle on which Carlson has built his empire. At 67, Curt Carlson is 100% owner of one of the U.S.' largest private companies: Plymouth, Minn.-based Carlson Cos.—likely 1982 sales, $2 billion—which comprises 75 different businesses and has grown at a 33% compounded annual rate for the past 44 years. Carlson says his net worth is at least $500 million. Clearly, he enjoys playing the part of the dynamic, supersuccessful magnate.

The centerpiece of Carlson's contemporary chrome-and-glass office is a giant, brightly lit globe. He spins it and points to Iowa. In the restaurant business, Carlson owns the 285-outlet Country Kitchen chain. "That's a family restaurant," he says, moving right along to his obvious personal favorite, the TGI (thank God it's) Friday's chain. Friday's is a singles place, with bars on three levels so that hopefuls can check out Miss or Mister Rights no matter which bar they are propping up. "This year we'll add 17 to the already 50 locations," Carlson says proudly. "It's not the biggest thing we have, but one of the best." Friday's averages $3.6 million sales a year from each restaurant. "The highest of any chain in the country." Singles bars? What kind of business is that? A high cash generator, says Carlson. He bought the Friday's chain when it had only 11 restaurants and wanted to go public to raise capital. Carlson had capital, and used it to expand Friday's. It wasn't the sociology of singles that attracted him, it was their spending.

"The public votes with its dollar," he declares. "Get their dollar and you'll succeed." The many ways he has devised to pluck that dollar include Gold Bond trading stamps, food wholesaling, sports equipment, construction and interior design, catalog showroom selling, jewelry manufacturing, homebuilding. Carlson is a one-man conglomerate. He hasn't neglected real estate, where Carlson is planning to break ground shortly on a $300 million office complex with hotel and shops—the Carlson Center—straddling 300 acres of Minnetonka and Plymouth. "A kind of Hanging Gardens of Babylon," he quips.

The globe revolves. His hand lands on Egypt. Last year he opended the Radisson Oasis Hotel, near the pyramids outside Cairo. There are now 24 Radissons, 8,492 rooms, generating revenues of $117.4 million. Carlson smiles. "I like being an innkeeper," he says. But hotels average only a

5% return on investmemt. What is there to like in that?

Carlson smiles again and explains that hotels shelter profits from his other businesses. Under the new Accelerated Cost Recovery System of depreciation, real estate is depreciated over 15 years as opposed to the old rule of useful life. Furniture, fixtures, TVs can be depreciated over five years, and there are investment tax credits for elevators and escalators.

Carlson has the private businessman's view of profits: They should be made but not seen. "Profits are something you've got to pay tax on," he observes, leaning back in his well-upholstered leather chair. "Get cash flow from depreciation and you keep it." He estimates he has leveraged his capital 2-to-1, but this is no problem so long as there is cash flow to support the debt. Today's fearsome interest rates? "Costly," says Carlson. A threat? "Certainly not."

Carlson still drives his own fawn-colored Lincoln Continental to work. He pumps his own 23 gallons of gas at a station near the office. He prefers a quick lunch of Nachos—tortilla chips topped with jalapeño peppers and cheese—at a local Friday's, and is demanding of his employees. The corridor outside his office is known as Ulcer Alley. "If I find they are riding on the efforts of the rest of us, it's only a matter of time before. . . ." His finger makes an ear-to-ear slicing motion. "But if they're producing, I fall in love with them."

Each year his 25 top executives get a new car—one year a gold-colored Cadillac (after Gold Bond stamps), the next a blue Lincoln. Never a green car. "That's Sperry & Hutchinson's color," he says. "I hate it." To keep his managers happy, Carlson invests in a retirement trust an amount equal to one-fourth of their annual salaries. "Compounding is magic," says Carlson. "They don't pay taxes either until they take it out. That's a terrific incentive, a terrific means to hold them. They all have a lot to lose." Because of such golden handcuffs, Carlson rarely loses his best executives, many now millionaires.

So big is he on incentives that Carlson has an incentive program company selling to other businesses such plans as two weeks in Florida for the bestselling local Ford dealer. The motivation division of Carlson Marketing Group Inc. grossed $462.9 million (revenues) last year.

The quintessential entrepreneur, Carlson wouldn't feel at home in your typical big company. Nevertheless, he strongly recommends working for a big company as training for would-be entrepreneurs. He spent 18 months working for Procter & Gamble as a soap salesman after graduation from the University of Minnesota in 1937 with a degree in economics. Why P&G? Says Carlson: "Anybody starting his own business should go with a big company first. There are rules on making money, and you learn from a big company."

But it is essential that the entrepreneur spot his chance and make the break. Carlson's first big idea came indirectly. He was selling P&G's soap to grocery stores and noticed that any incentive—two for the price of one, a cents-off deal—boosted sales. But it was department stores that gave trading stamps. And Carlson saw they didn't fit. If you want that suit or that pair of shoes, stamps won't influence you. But why not grocery stores? "They sell identical items, all national brands. So everything else equal, the one giving stamps will have the advantage."

He was right, of course. His Gold Bond Stamp Co. was born in 1938. "Gold and Bond have good connotations," he says. "So I put them together, figuring that was better than calling it Carlson Stamps." The idea was simple. A grocer bought stamps from him for $14.50 and Carlson redeemed them for merchandise that cost him only $10—although the retail price was much higher. The spread between $10 and $14.50 covered his overhead and Carlson's profit came from the float—from the use of the money in the long interval between issuing the stamps and redeeming them for merchandise. At first the idea needed a little help, so his wife, Arleen, sporting a drum majorette's costume, would work the floor of the local grocery, telling cutomers what they were missing. By 1941 Carlson had 200 accounts, including gas stations and drugstores.

World War II was a problem. Shortages meant retailers didn't need the inducement of stamps to sell goods. Carlson even worked for a while in his father-in-law's children's clothing business. Nevertheless, he survived, and by 1952 he was ready for his most important deal, when he got the now $4.2 billion (sales) Super Valu Stores to begin giving Gold Bond stamps. The first year of that deal Carlson did $2.4 million in sales. By 1960 all but 1 of the 20 largest supermarket chains gave stamps, and Gold Bond was the third biggest in the business, after Sperry & Hutchinson and Top Value. It was then that Carlson, realizing that if everyone gave stamps their attraction would soon fade, began his diversification into hotels.

Regrets? "I've had a few," says Carlson with a wink. "You have to make mistakes if you're going to move forward." For example? "I went into meat packing, which was kind of stupid." But mistakes are to be learned from. Meat packing was losing money and Carlson couldn't stop the losses. Result: Thereafter he bought only profitable situations that he could expand with his capital—no turnarounds.

Will Carlson, one of the U.S.' 20 largest private companies, go public? "No way," he snaps. "I would go public tomorrow if no member of my family were interested in this business. But they are," he says, referring to Edwin (Skip) Gage, 41, husband of daughter Barbara. He's now president of Carlson Marketing Group Inc.

To keep ownership in the family, Carlson has devised a clever and elaborate distribution of his 100% shareholding after he retires. When will that be? He smiles. "I consider a goal as a journey rather than a destination. And each year I set a new goal."●

DEATH OF ESTONIAN PATRIOT MARKED

● Mr. DOLE. Mr. President, March 27, 1982, marked the first anniversary of the death of Dr. Juri Kukk, Estonian scientist and human rights activist. Dr. Kukk died in a Soviet prison hospital after having endured a hunger strike to protest his mistreatment at the hands of Soviet authorities.

Dr. Kukk had been sentenced to a 2-year term in a Soviet labor camp for allegedly slandering the Soviet political and social system, but his real crime, in the eyes of the rulers of the Soviet empire, was his Estonian patriotism and his public disenchantment with communism. In 1978, this esteemed member of the Soviet scientific community resigned from the Communist Party in protest against Soviet repression in Estonia. Because of this, I need hardly add, he was unemployed.

In the summer of 1979, Dr. Kukk and his wife applied to emigrate from this so-called workers' paradise and were refused permission to do so. In a short time, Juri Kukk was hauled into court for criticizing the Soviet Government, both in print and in his oral statements, and for calling his plight to the attention of foreign correspondents. Such activities are theoretically permitted by the Soviet Constitution, which claims to guarantee freedom of speech. But as Soviet citizens express it in private, "you can say whatever you want, as long as you've read it in 'pravda'."

And so, Juri Kukk was convicted, an almost foregone conclusion, for slandering the Soviet state and sentenced to labor camp No. 241-17 near the Arctic Ocean. This in itself is a violation of Soviet law, inasmuch as a 2-year term of imprisonment is supposed to be served in the republic where the crime allegedly took place.

HUNGER STRIKE IN PROTEST

Protesting against the entire series of unjust acts to which he had been subjected, Juri Kukk initiated a hunger strike prior to his trial and continued this strike to the very end, when he expired in the town of Vologda, about halfway between Moscow and Murmansk. When Dr. Kukk's widow, Silvi, arrived with five friends in Vologda to take her husband's remains back to Estonia for interrment in his native land, the authorities refused this request. In addition, they would not supply a death certificate, although this is the normal procedure.

And so, Juri Kukk, Estonian patriot and human rights activist remains buried far from his homeland. A post with his prison number enscribed upon it was considered a suitable marker until the authorities allowed his widow to place Dr. Kukk's name on the gravesite. Indeed, the Soviet imperialists would like very much that Dr. Kukk's name should disappear from the memory of his countrymen * * * that the ideals for which he stood should be forgotten by citizens of that proud nation on the Baltic that has suffered under the Soviet yoke for four decades.

But Estonians have not forgotten. They continue to cherish the memory of Juri Kukk, martyred for his patriotism. And neither do we forget, as we mark his death today. Neither has the Soviet Union ceased its harassment of those close to Dr. Kukk. I am reliably informed that packages mailed from abroad to Silvi Kukk are being returned to the senders with no apparent explanation. It would appear that

there is no act, no matter how petty, to which the authorities are unwilling to stoop to persecute anyone who dares raise their voice against the injustice of the Soviet Empire.

Mr. President, I call upon the American Government and the American people to continue their unswerving support for the Estonian people, and for all prisoners of conscience such as Juri Kukk, until the day that the Soviet yoke is cast off its suffering captive peoples.●

SEVERE DEPRIVATION AS AN ENERGY STRATEGY

● Mr. JACKSON. Mr. President, on February 23, 1982, Secretary Edwards testified before the Committee on Energy and Natural Resources to discuss the administration's proposed budget for fiscal year 1983. In the course of his testimony he made the following statements:

But Mr. Chairman, as you know, there is a tremendous amount of conservation going on today that is driven by the price of energy, and in industry, and in residences and personal lives. There are tremendous amounts of conservation going on.

We have been trying to see how much effect the Government programs and outlays in conservation have had on conservation. We have only been able to trace about 5 percent of all the conservation that goes on in this country to Government outlays.

The chairman asked for a report substantiating the Secretary's statement and on March 23, the Secretary supplied for the record a report entitled, "Effects on Investment in Energy Conservation of DOE's Programs and of Market Forces" by Robert C. Marlay of the Office of Policy, Planning and Analysis, DOE.

This is a most interesting report, Mr. President. It effectively explains why Secretary Edward's Federal energy policy, which consists in part of abolishing Federal energy conservation programs and relying on—if not celebrating—higher energy prices, is a failure. One must look behind the energy consumption statistics to see what is really happening in our economy as a result of higher energy prices.

Mr. Marlay states:

Curtailment of energy consumption, declining labor productivity, lower standards of living and slowed economic growth appear to be the predominant market response to higher energy prices, at least in the near-term (last seven years).

Marlay goes on to say:

In summary, the market has responded strongly and, perhaps, predictably to higher energy prices. It has not necessarily responded optimally from a policy point of view. Energy consumption has been reduced by as much as 12 quads from 1973 base year efficiency levels. This response is dominated by price-induced behavioral actions of a curtailment nature: reduce driving, lowered thermostats, non-heated rooms, changing consumer demand for industrial output and others. It has also depressed labor productivity, lowered standards of living, changed lifestyles, slowed economic growth, aggravated inflation, *and caused severe deprivation in some segments of society.* This type of market response can be expected to prevail for some time into the future and will likely become more prevalent as prices continue to rise faster than income. The large reductions in energy use per unit of GNP are not the result, primarily, of investments in technology. Of that portion of energy savings attributed to increased price, less than one-third and, perhaps, less than one-fifth, is due to investments in improved energy efficiency. Of these investment-type of responses, turnover of stock in the passenger automobile fleet and additions of new plants in industry appear to have contributed the most so far to improved energy efficiency; retrofit in industry and housing, the least. (emphasis added.)

Perhaps Secretary Edwards took too seriously President Reagan's facetious remark that energy conservation means freezing in winter and sweating in the summer.

While high energy prices appear to result primarily in energy conservation through deprivation, the type of energy conservation that can promote, not hinder, our economy's recovery from the effects of the economic recovery program, is that which encourages investments in more efficient uses of energy. That is where the Federal energy conservation programs can have an important effect. Mr. Marlay addresses this in his report, conceding that Federal energy conservation programs are responsible for about 5 percent of observed savings, but noting their powerful leverage on future investments in more efficient uses of energy.

Mr. President, I submit for the RECORD the report, "Effects on Investment in Energy Conservation of DOE's Programs and of Market Forces."

The report follows:

EFFECTS ON INVESTMENT IN ENERGY CONSERVATION OF DOE'S PROGRAMS AND OF MARKET FORCES

(By Robert C. Marlay)

This paper addresses three points relevant to the current policy debate on energy end-use, conservation and the Federal role. These points are: (1) the effects to date of DOE's programs on investment in conservation, (2) the effects to date of natural market forces, mainly higher energy prices, and (3) the likely effect in the future of eliminating Federal programs, relying instead on market mechanisms. Estimating such effects is a complex business analytically, with many varying disciplinary approaches. This paper performs no new analysis, but attempts to summarize what information is available today. Some highlights are:

EFFECTS OF FEDERAL PROGRAMS (INCLUDING TAX CREDITS)

The effects to date of DOE's conservation programs ($781 million in fiscal year 80) and tax credits ($620 million in fiscal year 80) on national energy consumption are small, probably accounting for less than 5 percent of the observed reduction in energy use per unit of GNP. The effects on investment in energy conservation, however, may be larger (this is reasoned below), but still less than 15 percent of the total.

This finding should not be unexpected. Many of the programs were not focused on the present or near-term, but on the longer-range future. Others were not even focused on conservation, but on such areas as emergency planning, energy impact aid and low-income assistance. In general, DOE's programs have focused on areas of alleged market failure where near-term payback, almost by definition is expected to be marginal. Longer-term payback, however, particularly form R&D programs may be higher.

Having had little effect on the whole does not mean that Federal programs are ineffective. Detailed cost-benefit analyses have shown that many of these programs are, indeed, cost-effective, some more so than tax credits. If some programs are not, others could take their place. The important issue is whether they are needed.

EFFECTS OF THE MARKET (PRICE)

The market has responded strongly to energy price signals. Significant energy savings have been achieved both by price-induced changes in consumption patterns (behavioral changes of a curtailment nature) and by investment in energy efficiency improvements. Curtailment actions appear to have dominated the market response to date. Energy efficiency improvements by way of capital investments have had secondary effects only.

For this reason, the effects of Federal programs (including tax credits) on investment may be larger than their effects on energy consumption. Investment is believed to have accounted for a relatively small part (one-third or less) of the overall market response. To the extent that Federal expenditures have focused primarily on promoting investment rather than on curtailment, their leverage on this type of response may have been greater than on the whole. This area needs study.

Curtailment of energy consumption, declining labor productivity, lower standards of living and slowed economic growth appear to be the predominant market response to higher energy prices, at least in the near-term (last seven years).

Technology based energy efficiency improvements have made their largest contributions in two areas, increased fuel economy in automobiles and new plants in industry, but their effects are still of a secondary nature, even in their respective sectors, compared to price-induced curtailment actions.

Investment in new technologies and turnover or modernization of existing capital stock are inherently much slower phenomena than behavioral decisions to do without. It should not be unexpected, then, that investment has had the lessor effect on the whole to date.

EXPECTATIONS ABOUT THE FUTURE

An energy conservation policy based solely on price will undoubtably reach a large and significant audience of potential investors in energy efficient technology. Whether they are sufficiently motivated by price to invest in a market decision, largely dependent on the cost of capital financing.

If high interest rates prevail, however, past behavior (the last seven years) will likely continue for some time into the future, that is, higher prices will induce further curtailment and more investment, but curtailment will continue to dominate the response.

For this reason, additional Federal initiatives aimed specifically at accelerating investment may be desirable. If they are, nonprice market incentives (tax credits, accelerated depreciation allowances, etc.) may be warranted. Federal programs (other than tax incentives) may be warranted on similar grounds.

The existence, a lack thereof, of Federal programs aimed at accelerating investment can have a measurable effect. Their need, however, must be determined on the basis of demonstrated market failures.

Market failure in the past may have been caused, in part, by Federal price controls and, in part, by a general unfamiliarity with conservation technologies and their potential. These barriers are now being removed. To the extent that some Federal programs were motivated on this basis in the past, a reassessment of their need must now take place.

Lastly, many questions about the market, its responses, its strengths and weaknesses, and the role for Federal programs and incentives need to be examined more carefully. These are central issues in the current debate and should have priority on any analytical agenda for the coming year.

GENERAL DISCUSSION

There is no doubt that the dramatic increases in energy prices since 1973 have had a profound effect on the U.S. economy. Today consumers pay, directly or indirectly, $400 billion a year for energy, 15 percent of GNP, and there is every sign that these costs will continue to rise faster than income in general.

One consequence of higher energy prices, to be sure, is reduced energy use per dollar of GNP. This ratio has declined by 13 percent since prices began to rise sharply in 1973. In earlier years, by comparison, energy and GNP appeared inseparable. As energy prices increase relative to other goods and services, there is a natural and expected market response to use less energy and, if possible, to substitute other goods and services instead.

The economic substitution of capital for energy through innovation, new or improved technologies and retrofit is one type of market response, often referred to as conservation or improved energy efficiency. In general, it means delivering the same energy service or comfort level with less energy and improved efficiency. There is also a second type of market response. This is the substitution of labor for energy or simply doing without. This is often called curtailment, self-denial, changing lifestyles or lowered standards of living. It is also called, confusingly, conservation.

Both types of market responses are operating (data is provided later). In the transportation sector, consumers are buying more efficient cars (improved energy efficiency) and driving less (curtailment). In the residential sector, homeowners are insulating their homes and lowering thermostats. In business, some industries are expanding with modern and energy efficient facilities, others are forced to shutdown. Obviously, millions of individual decisions must be made, many of them difficult ones, and the marketplace is particularly effective in bringing these about.

There is some evidence, however, that higher energy prices acting alone tend to evoke more of the curtailment type of market response than that which improves energy efficiency, especially in the shorter term. Technically speaking, the large increases in energy prices, combined with the pervasiveness of energy use in the economy in general, are believed to have caused a significant change in the preferred structure of the economy. The process of adjusting toward this new optimum has created a high demand for capital, driving upwards its price as well. As the prices of both energy and capital increase, there is a resulting shift in the economy away from both. The real price of labor, meanwhile, has remained constant or even declined slightly. The market response, predictably, is to use more of this input, driving down labor productivity. As labor productivity declines, by most measures, so does the standard of living.

THE EFFECT OF DOE'S PROGRAMS

Although enery consumption per dollar of GNP has risen and fallen at various times in the post-war period, the recent downward trend is a marked departure from historical behavior. The 1980 estimate of 51,400 Btu's per constant (1972) dollar of GNP is substantially below that of any other time in the last 30 years. This reduction roughly translates into about 12 quads of forgone energy use, based on 1973 efficiency levels, or about $60 billion in 1980 energy purchases.

It is unlikely that Federal conservation programs, including tax credits, have had a significant effect at this scale. Most of these programs were intended to serve less immediate purposes. A breakdown of fiscal year 1980 expenditures shows where the emphasis has been.

	Millions
Grants to schools and hospitals and low-income persons	$342.7
State planning grants	98.8
Transportation (R. & D. and info)	113.4
Buildings (R. & D. and info)	103.4
Industrial and multisector (R. & D. and info)	79.3
Energy impact assistance	43.0
Total DOE fiscal year 1980 expenditures	780.7
Corporate tax credits	190.0
Individual tax credits	430.0
Total tax expenditures	620.0

Approximately 40 percent of the DOE conservation budget in FY 80 was future oriented, focusing on research, development, demonstration and commercialization of high risk technologies. Such programs could have had little effect on either 1980 energy consumption or investment. Another 20 percent was of a planning nature, assisting state and local governments in preparing for energy emergencies, for the development of state energy management plans or for energy impact aid. These programs may have had some effect. The remaining 40 percent was in the form of grants to schools and hospitals and low-income persons for weatherization, intended primarily to offset the negative impacts of higher energy prices on specific segments of society rather than to motivate investment by the private sector. These programs have likewise had little effect on investment at the national scale.

Between 1975 and 1980, perhaps as much as $100 million (accumulated) has been spent on information or so-called outreach programs. These programs were intended to motivate investment and many have been effective. An evaluation of the Energy Analysis and Diagnostic Centers Program, for example, found that $5 of private investment actually resulted from each $1 of Federal outlay, with an additional two dollars planned for future years. Assuming an upper limit of $10 for $1, a total Federal expenditure of $100 million on outreach programs over several years could not have induced more than $1 billion in incremental private investment. Assume, furthermore, that all the other Federal programs induced an additional $1 billion in investment. Together, Federally induced investments above and beyond normal levels may have amounted to about $2 billion from 1975 to 1980. The energy savings resulting from these investments would be about $1 billion per year, or about 2 percent of the total 1980 response.

Residential and business tax credits for energy conservation have also induced investments. Treasury analysts assume only $1 of incremental investment for each $1 of tax credit. Others argue that the very existence of a tax credit stimulates interest in investments much more from a marketing point of view, than from a financial point of view. Conservation tax credit claims are projected for the 1980 tax year to be about $500 million for individuals and $200 million for corporations, implying a total conservation investment in that year of about $4.5 billion. Not all of this investment, however, was induced by the existence of tax credits. Much of it would likely have taken place anyway, without the tax credit. Assuming a $2-for-$1 effectiveness, tax credits may have induced $1.4 billion of incremental investment of the total of $4.5 billion in 1980.

Extending this analysis to tax years 1977, 1978 and 1979 (period affected), perhaps as much as $4 to $6 billion of accumulated incremental investment has been induced by the tax credits, so far. These investments would return, on the average, about $2 billion in energy savings per year. Adding this $2 billion (due to tax credits) to the $1 billion (due to information and other DOE programs), the combined effect to date would be about $3 billion per year, or about 5 percent of the total 1980 response ($60 billion).

Having had little effect upon the whole, however, is not to say that Federal programs have been "ineffective." The study of the Energy Analysis and Diagnostic Centers program, for example, shows that this type of focused program is two to five times more effective in motivating private investment (per dollar of Federal outlay) than the tax credits.

The real issue, then, is not so much one of effectiveness; less effective programs could always be replaced with more effective ones. Rather, it is whether Federal programs are needed at all, particularly in view of a large and apparently successful market response. This then shifts the focus of the debate, somewhat, away from the specifics of programs and measures of effectiveness, and more toward the market itself, its strengths and weaknesses.

THE EFFECT OF THE MARKET

If Federal programs, including those at the state and local level sponsored by the Federal government, account for less than 5 percent of the observed reduction in energy consumption per dollar of GNP, then the market must be responsible for the remaining 95 percent. Further, the apparent energy savings are significant, on the order of 12 quads. In this sense, the market has worked well, in both relative and absolute terms. Such savings could have been achieved only through a large collective response from millions of individuals. Price has undoubtedly motivated these actions

and higher prices in the future will motivate even more.

In the context of the general discussion earlier, however, it is important to understand the specific nature of these actions. Some lead to fundamental improvements in energy efficiency, contribute to productivity, advance the Nation's economic growth and reduce future vulnerability to the negative impacts of embargo, disruption and energy price dictums. Others, however, force curtailment of energy use, depress labor productivity, aggravate inflation, change lifestyles, lower standards of living, cause severe deprivation in some segments of society and slow economic growth.

Knowing how much of each type of market response has taken place is relevant to the current debate because Federal programs which advance technology (such as research, development, demonstration and commercialization projects) and non-price market mechanisms which lower the price of capital (such as tax credits, financial incentives and direct assistance) are both targeted exclusively on promoting the first type of market response and obviating the second.

But what evidence is there to suggest how much of which is happening? The following paragraphs assemble some sketchy information on this question for each of three energy end-use sectors: transportation, residential buildings and industry.

In the transportation sector, some insight is gained by examining the case of the passenger automobile. Overall fuel consumption in 1980 was down 25 percent from a level that would have occurred had both travel behavior and automobile technology remained same as in 1973. For 1980 data, the breakdown is as follows:

	Percent
Decrease in auto travel	9.6
Decrease in travel speed	1.6
Decrease in vehicle size (interior volume)	1.8
Technology improvements in car MPG	10.2
Improved driver technique and owner maintenance	1.3
Total reduction below 1973 base case	24.5

Of this breakdown, technology improvements in car MPG (miles per gallon) and better maintenance (tune-ups, tire pressure monitoring, etc.) account for about one-half of the observed market response. The rest may be attributed to decrease in travel (reduced service), decrease in travel speed (substitution of personal time for energy) and decrease in vehicle utility as measured by interior volume (smaller cars).

In the residential area, energy consumption per household was about 12 percent lower in 1980 than it was in 1973. This is a significant change, but it is short of the 30 to 50 percent reduction DOE estimates is achievable—with no decrease in services or comfort provided—through cost-effective investments, averaging $2000 per household. Moreover, the 12 percent reduction appears to have been achieved largely by curtailment actions, rather than by investments in efficiency.

In gas-heated homes, for example, consumption for space heating was calculated by the American Gas Association to have been about 12 percent lower for the period 1972-1978 than for the period 1967-1972. AGA concluded that a large and variable behavorial component was involved, and that very little investment in retrofit had occurred.

AGA's conclusion is corroborated by other sources. Oak Ridge analysts, using EIA data, found that in 1977-1978 more than half of the U.S. households took no retrofit action. Similarly, IRS data show that only 7.8 percent of all households took advantage of the tax credit for residential conservation measures in 1978; the comparable figure for 1979 was 6.1 percent. The average investment claimed by these taxpayers, furthermore, was about $700, or about one-third the recommended level.

Together, these findings suggest that behavorial actions of a curtailment nature have dominated the residential sector's market response. The fraction of total savings attributable to investment in retrofit over the last seven years is certainly less than 40 percent and may be less than 20 percent.

In the industrial sector, 1980 energy consumption per unit of output (value added measure) was down more than 17 percent from that of 1973 base year efficiencies. Of this, the breakdown is estimated as follows:

	Percent
Shift in output mix	8.0
Continuation of 1954-73 trends	6.7
Accelerated improvements in energy efficiency	2.7
Total reduction below 1973 base case	17.4

The first category is a shift in structure of industrial sector output away from energy-intensive industries toward lighter manufacturing. This is believed to have been exogenously imposed on the sector by changing consumer demands away from energy-intensive goods they can no longer afford. The second is improved energy efficiency due to the addition of modern and more efficient facilities under normal growth conditions. These gains are consistent with long-term trends, even in times of declining energy prices. The third is accelerated energy efficiency, above and beyond normal trends, resulting from investment induced by higher prices.

The price induced response, therefore, is estimated to be that of the changed output mix, plus any accelerated energy efficiency improvements observed since energy prices began to rise sharply in 1973. Of the total market response in the industrial sector, less than one-fifth (2.7 percent of 17.4 percent) is attributed to accelerated investment in energy efficiency improvements.

SUMMARY OF MARKET EFFECTS

In summary, the market has responded strongly and, perhaps, predictably to higher energy prices. It has not necessarily responded optimally from a policy point of view. Energy consumption has been reduced by as much as 12 quads from 1973 base year efficiency levels. This response is dominated by price-induced behavioral actions of a curtailment nature: reduce driving, lowered thermostats, non-heated rooms, changing consumer demand for industrial output and others. It has also depressed labor productivity, lowered standards of living, changed lifestyles, slowed economic growth, aggravated inflation, and caused severe deprivation in some segments of society. This type of market response can be expected to prevail for some time into the future and will likely become more prevalent as prices continue to rise faster than income.

The large reductions in energy use per unit of GNP are not the result, primarily, of investments in technology. Of that portion of energy savings attributed to increased price, less than one-third and, perhaps, less than one-fifth, is due to investments in improved energy efficiency. Of these investment-type of responses, turnover of stock in the passenger automobile fleet and additions of new plants in industry appear to have contributed the most so far to improved energy efficiency; retrofit in industry and housing, the least.

FUTURE EFFECTS OF ELIMINATING FEDERAL PROGRAMS

In the longer-term, although not yet apparent from the experience of the last seven years, curtailment may give way to investment. Investment in new technologies and turnover or modernization of capital stock are inherently much slower phenomena than sudden decisions to simply do without. It should not be unexpected, then, that investment has had the lesser effect on the whole to date.

If high interest rates on capital prevail, however, investment in energy efficiency improvements will proceed even more slowly. Acceleration of investment, consequently, may be desirable. It has been linked to economic revival, improved labor productivity and the return to rising standards of living. If such arguments are convincing, then policy mechanisms could be installed in ways that are most effective for each sector or activity in the economy. Nonprice market incentives such as investment tax credits and accelerated depreciation allowances, may be appropriate for some sectors. Federal programs, rather than market incentives, may be more appropriate in others, particularly in the areas of identified market failures or where tax-related incentives are not applicable.

If acceleration of investment is an objective, then presumably the best ways of achieving it can be found. Increased energy prices are beneficial means toward this end. Tax credits, if one believes the Treasury analysts, would appear to be somewhat ineffective, having low leverage (1:1 or 2:1) on incremental private investment per Federal dollar. Some DOE programs, if one believes the DOE analysts, would appear to be much more effective than tax credits, having higher leverage ratios, 5:1 or better.

While DOE programs have had little apparent effect on national energy consumption to date (less than 5 percent of observed savings), primarily for reasons of focus in time and purpose, they may have had a larger effect on investment. DOE's programs have focussed primarily on investment, hence, whatever impact they might have had on the whole may be attributed primarily to the investment portion. If the investment response is less than one-third of the whole, DOE's 5 percent of the whole may actually be 15 percent of the one-third.

A national energy conservation based solely on price, or on both price and nonprice market incentives combined, without Federal programs, will likely reach a large and significant audience of potential respondants. The future effects of such a policy, however, are difficult to know. In general, the extent to which capital investments can be encouraged as energy prices rise, the more rapid the transformation of existing capital stock to new optimums and the less difficult and prolonged the period of adjustment.

The existence, or lack thereof, of Federal programs targeted on this objective can have a measurable effect on the rate of private investment. Whether or not Federal programs are advisable would appear to depend more on the issue of market failure

and need, rather than on the issue of effect or effectiveness. If Federal action of one form or another is desired, then a subsidiary issue becomes important, that is, determining which programs or measures are more effective than others, per dollar of Federal outlay, whether they be program budget items or "tax expenditures."

Lastly, the marketplace is now in transition. Energy prices, in particular, have risen dramatically again in 1979 and 1980, oil has been decontrolled and natural gas price controls are gradually coming off. It is difficult to know whether market failures in the past will continue to be market failures in the future. Clearly, however, a thoughtful understanding of the market, its responses to price, its strengths and weaknesses, is a fundamental prerequisite to policy analysis. To this end, these issues should have priority on any analytical agenda for the coming year.●

THE HUMAN LIFE BILL

● Mr. EAST. Mr. President, I have been especially disturbed by some of the misstatements I have heard concerning the human life bill. In the interests of furthering my colleagues' understanding of that bill, I commend to them an article by Congressman HENRY J. HYDE, a sponsor of the bill, which appears in the latest issue of the Human Life Review. I ask that it be printed in the RECORD.

The article follows:

THE HUMAN LIFE BILL: SOME ISSUES AND ANSWERS

(By Henry J. Hyde)

Section 1. (a) The Congress finds that the life of each human being begins at conception.

(b) The Congress further finds that the fourteenth amendment to the Constitution of the United States protects all human beings.

Section 2. Upon the basis of these findings, and in the exercise of the powers of Congress, including its power under section 5 of the fourteenth amendment to the Constitution of the United States, the Congress hereby recognizes that for the purpose of enforcing the obligation of the States under the fourteenth amendment not to deprive persons of life without due process of law, each human life exists from conception, without regard to race, sex, age, health, defect, or condition of dependency, and for this purpose "person" includes all human beings.

Section 3. Congress further recognizes that each State has a compelling interest, independent of the status of unborn children under the fourteenth amendment, in protecting the lives of those within the State's jurisdiction whom the State rationally regards as human beings.

Those three sections of the pending Human Life Bill[1] present some of the most fascinating and legal and biological questions ever to face the Congress or the Courts.

Of course there are other controversial issues in this legislation, such as a proposed limitation of lower federal court jurisdiction, but the questions of when a human being's life begins, when personhood attaches and the constitutional power of Congress to make such determinations are of more interest to me and are presently engaging some of the finest medical and legal minds in the country.

Before addressing the question of when a human life begins, it is prudent to inquire whether an answer is possible, and also whether it makes any difference.

A certain amount of courage (or stubbornness—they are often the same) is required to press this inquiry in the face of the explicit contempt of such as A. Bartlett Giamatti, President of Yale, who advised his freshman class to avoid Moral Majority types as ". . . those who presume to know what God alone knows, which is when human life begins."

I am convinced that biology can tell us when an individual's human life begins. Wasn't the significance of the birth of Louise Brown that her conception was in a test tube?

It is instructive to study the semantic tactics of some academicians and biologists who support the abortion ethic. They choose to pose the relevant question as "when does human life begin?" and then to answer that there is no answer—we are dealing with an unsolvable mystery. But pose the question "when does an individual's life begin?" and answers are possible.

One need not be an historian to draw interesting parallels between the 17th Century astronomer Galileo and his struggle at the hands of "misguided ecclesiastics" unable to reconcile their theology with his notion of a unified cosmos. Today we see these roles exactly reversed, with many churchmen (among others) insisting that an individual's life begins at conception (and hence ought to be legally protectable) and some scientists and certain university presidents denying that such scientific information is even discoverable.

As for the need for such inquiry, it seems only sensible that Congress—which so often legislates on matters of life and death—seek to inform itself on when an individual's life commences. Legal consequences and constitutional rights come into play once we commence dealing with a human life. The time frame for attaching these consequences and rights cannot be a matter of indifference to responsible legislators.

The whole controversy became national in scope when the Supreme Court, in *Roe* v. *Wade* (410 U.S. 113, 1973), with Justice Blackmun speaking for the majority, asserted:

"We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer."

As I read this statement, the Court is making at least three important points:

1. There is no consensus as to when life begins;

2. We (the Court) are therefore incompetent to make a declaration on this "difficult" question;

3. In any event, we don't need to do so to decide that the unborn is a non-person.

It is not disrespectful to note that Dred Scott stands for the proposition (among others, of course) that the Supreme Court is not infallible. Its self-confessed inability to determine when a human's life begins does not foreclose Congress from exploring the question.

Congress is uniquely structured to hold hearings and evaluate conflicting testimony as a basis for determining public policy. The business of Congress is legislation, and the business of the Courts ought to be adjudication.

It is crucial that we differentiate between several important interrelated but somewhat different terms—"actual human life," "biological human life" and "personhood."

One leading doctor, opposed to this legislation (Dr. Leon Rosenberg of Yale University Medical School) told the Senators during the hearing that he knows of "no scientific evidence which bears on the question of when actual human life exists." This assertion was roundly criticized in a letter to the magazine Science (July 31, 1981) from Dr. C. B. Goodhart of Gonville and Caius College, Cambridge, England, who replied in part:

"But, leaving aside the question of what the word actual means with its theological overtones, Rosenberg would surely agree that the new biological human life begins with the activation of the egg at fertilization. The fertilized egg is certainly human, since it belongs to no other species than Homo sapiens; it is certainly alive, since it can die (as good a definition of life as most!); and it certainly constitutes a uniquely separate human organism, no longer forming any part of its mother's body and already genetically as distinct from both of its parents as it will ever be, right from the start. It is no less a separate organism because at this stage it may not represent one single individual, being still capable of developing into monozygotic twins; if there are problems here, they are theological rather than biological ones, however.

"Presumably, what Rosenberg means is that there is no scientific evidence bearing on the question of the existence of the human person, as distinct from biological life. Since only a human can have the status of a person, this is not a problem which arises with the development of other animal species. The biological life of a chimpanzee, for instance, starts with the fertilization of the egg, as it does with a human, and it then regularly develops to maturity and death. It is only with humans that there is this further problem as to whether and when the developing organism begins to exist as a person."

Clearly, it is the law's task (rather than biology's) to determine what value society will place on this biological human life, once it has begun. If we are to postpone "personhood" until some arbitrary time after biological life has begun, we must accept the anomoly of a class of humans—alive—but not to be recognized as possessing the human rights inherent in every person. There are plenty of historical precedents for this (the institution of slavery, as an obvious example) but no confirmed utilitarian can doubt that involuntary euthanasia of handicapped infants, the aged and unwanted, and the abortion of the innocently inconvenient preborn are facilitated by simply classifying these defective or unwanted humans as non-persons.

The Fourteenth Amendment provides: "Nor shall any State deprive any person of life, liberty or property without due process of law." Could express words and intention be clearer in setting out a separate constitutional right to life?

Contrast this explicit constitutional guarantee of a right to life with the fuzzy foundation of the right to abortion which the Court said rested in a right to privacy it took them 105 years to discover.

[1] Footnotes at end of article.

How can this right to life be secured or enforced if life cannot be defined? The Court pronounced itself incapable of providing a definition and thereby signed a death warrant for over one and a half million unborn children annually. In the face of this inaction by the Court, in response to this massive epidemic of destruction, Congress has the responsibility to provide a definition securing the right to life guaranteed by the Fourteenth Amendment to every human, even if it is just a tiny island of humanity known as the fetus.

If it is accepted that human rights have a hierarchy, then the right to life must be primal. It provides the foundation for the structure of all other human rights, including the newly discovered constitutional right of privacy.

Now science not only has an answer, but it has the answer to the question of life's beginnings. This answer is based on fact, not opinion, on reason and observation rather than emotion and speculation. Science is not tainted by religious or philosophical bias, nor should it be colored by pro-abortion or anti-abortion prejudice.

So let us advance our inquiry one logical step at a time, remembering we are not asking a generic question about human life but rather about when an individual's human life has its beginning.

It is worth noting that of all the 22 expert witnesses who testified before the Senate Subcommittee on the Separation of Powers (chaired by Senator John East, of North Carolina) on the medical and biological questions, none ever claimed that unborn children are not alive nor that they belonged to any species than human, or even that they were a part of the mother rather than a distinct individual human being.

Some, however, refused to acknowledge that "human being" means any individual which is genetically human. Rather they chose to define "humanness" with reference to various qualities of life that they deemed essential. But these were essentially philosophical or moral preferences having nothing to do with answering the medical-biological question "when does a human life begin?"

A fair summary of the voluminous testimony would conclude that the life of each human being (or any other individual belonging to a species that reproduces sexually) begins at conception. The male sperm cell and female egg cell, prior to conception, are only parts of the parents-to-be. When the sperm cell and egg cell unite in conception (a process also called fertilization) a new distinct individual being is created, of the same species as the parents.

Medical and biological literature universally agree on the origin of each human life. The report of Senator East's subcommittee has set out a representative sampling of this literature.[2]

Other testimony offered before the Subcommittee confirms that the life of each human being begins at conception. Though it was argued that human life is a continuum with no identifiable beginning, the words of Jerome Lejeune, M.D. (Professor of Fundamental Genetics, University of Rene Descartes, Paris, France) show that such arguments are not to the point of the Human Life Bill. "Life has a very very long history, but each individual has a very neat beginning—the moment of its conception." Dr. Watson Bowes, Professor of Obstetrics and Gynecology at the University of Colorado School of Medicine testifed that, "If we are talking, then, about the biological beginning of a human life or lives, as distinct from other human lives, the answer is most assuredly that it is at the time of conception—that is to say, the time at which a human ovum is fertilized by a human sperm." Dr. Bowes ended his prepared remarks by saying, "In conclusion, the beginning of a human life from a biological point of view is at the time of conception. This straightforward biological fact should not be distorted to serve sociological, political, or economic goals."[3]

WHEN IS A HUMAN BEING A PERSON?

Acknowledging that biological life commences at fertilization of the female egg by the male sperm, the crucial question yet remains, "What value shall we assign to this new genetic package, this new entity that is both alive and for the human species?"

Obviously we now go beyond a purely scientific inquiry and are in the realm of philosophy.

When one asks "What is a person?" the answer supplied by Robert E. Joyce, Ph.D., Chairman of the Philosophy Department of St. John's University in Minnesota, is helpful. He has written that:

"A person is essentially a being that is naturally gifted (not self-gifted) with capacities or potentialities to know, love, desire, and relate to self and others in a self-reflective way. The person is—not by self but by nature—able to be aware of who he or she is and able to direct his or her own self in accord with this nature. A tree acts in accord with its nature, but does not direct itself that way—it is not consciously a tree. A dog or a dolphin acts in accord with its nature, but does not and cannot direct itself as a self in accord with its nature. A person can. The person's dignity and freedom are, at least partly, based on his or her capacity for freely acting in accordance with nature, rather than merely existing. Our freedom as persons resides not so much in our ability to do as we please, but in our ability to act freely and deliberately as we were gifted."[4]

In his book, "Abortion, Law, Choice, and Morality," Daniel Callahan has said:

"Abortion is not the destruction of a human person—for at no stage of its development does the conceptus fulfill the definition of a person, which implies a developed capacity for reasoning, willing, desiring, and relating to others—but is the destruction of an important and valuable form of human life."[5]

This view harmonizes with that of the majority in *Roe* v. *Wade*. But in response to this, Professor Joyce asserts:

"I would suggest that a person is not an individual with a developed capacity for reasoning, willing, desiring, and relating to others. A person is an individual with a natural capacity for these activities and relationships, whether this natural capacity is ever developed or not—i.e., whether he or she ever attains the functional capacity or not. Individuals of a rational, volitional, self-conscious nature may never attain or may lose the functional capacity for fulfilling this nature to any appreciable extent. But this inability to fulfill their nature does not negate or destroy the nature itself, even though it may, for us, render that nature more difficult to appreciate and love. That difficulty would seem to be a challenge for us as persons more than it is for them.

"Neither a human embryo nor a rabbit embryo has the functional capacity to think, will, desire, read, and write. The radical difference, from the very beginning of development, is that the human embryo actually has the natural capacity to act in these ways, whereas the rabbit embryo does not and never will. For all its concern about potentialities, the developmentalist approach fails to see the actuality upon which these potentialities are based. Every potential is itself an actuality. A person's potential to walk across the street is an actuality that the tree beside him does not have. A woman's potential to give birth to a baby is an actuality that a man does not have. The potential of a human conceptus to think and talk is an actuality. Even the potential to actuation (called 'passive potency' by traditional philosophers) is itself an actuality that is not had by something lacking it."

These concepts argue that personhood is an endowment, not an achievement, and assert in Joyce's phrase that "Nature does not revolve around function. Function revolves around nature. Functions can come and go, but nature is dynamically stable."

Often pre-born children are referred to as possessing "potential human life." But a little reflection reveals this is grossly inaccurate. At any moment of its existence a whole living entity—whether a goldfish or a fetus—is either alive or it is not. If it is alive, it is what its nature is, even though it is incomplete in its functional development. This idea is sometimes expressed by stating that a pregnant woman always gives birth to a human being—not a puppy or a rabbit.

Thus there really is no such thing as a potentially living organism. It either is alive or it is not. It possesses great potentiality but is not itself potential life. Therefore the single-celled person at conception is fully possessed of its personhood. It is thus endowed, but will use its inherent potential to achieve. It is no less a person because its functions are as yet undeveloped and this cannot fully express its personality.

(This fact rejects the rationale for the pro-abortion term "prochoice." Presumably the choice is whether or not the pregnant woman is to have a baby. But she already has a baby implanted in her womb, needing only time and nourishment to be born. The "choice," then, is whether to carry the baby to term—let it live and be born—or to kill it through abortion. Every pregnancy terminates. Abortion seeks to exterminate a pregnancy.)

At its roots we have a conflict of immense proportions between the Quality of Life ethic and the Sanctity of Life ethic. If Darwinism is to govern the human aspects of our society, then indeed the handicapped, retarded, insane, sickly, terminally ill, incorrigably poor and the unwanted everywhere can be too much of a financial and emotional drain on those favored elite not so disadvantaged and who arrogate to themselves the crucial decisions as to who shall live and which of us fail to measure up—and thus should die. The implications of the Quality of Life ethic can be rather chilling depending on which group you belong to. I've often thought that the Quality of Life must have been pretty poor at Valley Forge where nearly 3000 men froze or starved to death. But to their everlasting glory, there was something more important to suffer and struggle for—and we should be grateful they shared this commitment.

It is not merely convenient—it is necessary—that combat soldiers dehumanize the enemy. this is the same necessary tactic employed by those advocating abortion in their war against the unborn—dehumanizing them.

That humanity (or humanness) is an objective fact rather than a subjective determination has important implications. If the

latter were true, any human being that the state found undesirable could be re-defined as a non-person and hence disposable. Defenders of slavery justified their position in this manner.

The Philadelphia Inquirer in its magazine section of Sunday, August 2, 1981, published a feature story on "The Dreaded Complication." The complication so dreaded by abortionists is that the "products of conception" they seek to terminate will be born alive. The article describes a live 2½ pound baby boy who survived the abortion whereupon ". . . a nurse took the squirming infant to a closet where dirty linens were stored . . . it was nothing new."

Much needs to be written about the struggle between the two competing ethics, the Quality of Life versus the Sanctity of Life. Suffice it for the purposes of this article to say that this country's tradition and history reflect a deeply ingrained respect for the Sanctity of Life. The Declaration of Independence affirms this belief in the majestic words: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."

That some persons are unwanted or unloved does not exclude them from the family of humanity but, on the contrary, society must take special care of those who are least loved—if we maintain we are a caring and humane society.

As George Will has pointed out, we measure a society's ascent from barbarism by how it takes care of people. The unloved and unwanted are still human beings unless the State reserves the right of redefining them as sub-human. One of the clearest and most dispassionate outlines of the struggle is contained in a September 1970 editorial appearing in California Medicine—over two years before *Roe* v. *Wade* was decided:

"In defiance of the long-held Western ethic of intrinsic and equal value for every human life regardless of its stage, condition or status, abortion is becoming accepted by society as moral, right, and even necessary. It is worth noting that this shift in public attitude has affected the churches, the law and public policy rather than the reverse.

"Since the old ethic has not yet been fully displaced, it has been necessary to separate the idea of abortion from the idea of killing, which continued to be socially abhorent. The result has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continuous whether intra- or extrauterine until death.

"The very considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under socially impeccable auspice."

A final and troublesome question remains: Does Congress have the power to legislate in contradiction of a Supreme Court interpretation of the Constitution? In other words, is the Supreme Court really Supreme?

Professor Joseph P. Witherspoon, Maxey Professor of Law, University of Texas School of Law, has done the most exhaustive research I have seen on the problem. According to him, prior to adoption of the Thirteenth, Fourteenth and Fifteenth Amendments, various political leaders in America held that the Supreme Court could not bind the co-equal branches of the federal government so as to divest them of the power to perform their specific functions as delegated to them by the Constitution.

Thomas Jefferson, for example, stated his views as follows:

"To consider the judges as the ultimate arbiters of all constitutional questions—[is] a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men, and not more so. They have, with others, the same passions for party, for power, and the privilege of their corps. Their maxim is, 'boni judicis est ampliare jurisdictionem,' and their power [is] the more dangerous as they are in office for life, and not responsible, as the other functionaries are, to the elective control. The Constitution has erected no such single tribunal, knowing that, to whatever hands confided, with the corruptions of time and party, its members would become despots. It has more wisely made all the departments coequal and cosovereign within themselves.[6]

"My construction of the Constitution is . . . that each department is truly independent of the others, and has an equal right to decide for itself what is the meaning of the Constitution in the cases submitted to its action, and especially where it is to act ultimately and without appeal.

"[Otherwise] [t]he Constitution . . . is a mere thing of wax, in the hands of the judiciary, which they may twist and shape into any form they please. It should be remembered, as an axiom of eternal truth in politics, that whatever power in any Government is independent, is absolute also; in theory only at first, while the spirit of the people is up, but in practice as fast as that relaxes. Independence can be trusted nowhere but with the people in mass."[7]

Similarly, President Andrew Jackson, in the message setting forth his veto of the Bank Bill on July 10, 1832, observed that—

"It is maintained by the advocates of the bank that its constitutionality in all its features ought to be considered as settled by the precedent and by the decision of the Supreme Court. To this conclusion I cannot assent . . .

"If the opinion of the Supreme Court covered the whole ground of this act, it ought not to control the coordinate authorities of the Government. The Congress, the Executive, and the Court must each for itself be guided by its own opinion of the Constitution . . . It is as much the duty of the House of Representatives, of the Senate, and of the President to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval as it is of the supreme judges when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges, and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive when acting in their legislative capacities, but to have only such influence as the force of their reasoning may derserve."[8]

The views of Thomas Jefferson and Andrew Jackson, as well as the similar views of James Madison,[9] were very influential with the framers of the Thirteenth, Fourteenth and Fifteenth Amendments and with the States that ratified these amendments.

In his debates with Senator Stephen A. Douglas, Abraham Lincoln had stated the nature and basis of the authority of the Congress to legislate in contradiction of a Supreme Court decision which it believed to be erroneous:

"We oppose the Dred Scott decision in a certain way . . . as a political rule which shall be binding on the voter, to vote for nobody who thinks it wrong, which shall be binding on the members of Congress or the President to favor no measure that does not actually concur with the principles of that decision. We do not propose to be bound by it as a political rule in that way, because we think it lays the foundation for spreading the evil (of slavery) into the States themselves. We propose so resisting it as to have it reversed if we can, and a new judicial rule established upon that subject."[10]

In his first inaugural address Lincoln stated one of the underlying reasons for the Republican Party position that Congress could by legislation give effect to an interpretation of the Constitution contrary to that of the Supreme Court:

"Nor do I deny that such decisions [of the Supreme Court on constitutional questions] must be binding in any case upon the parties to a suit as to the object of that suit, while they are also entitled to very high respect and consideration in all parallel cases by all other departments of the Government . . . At the same time, the candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in ordinary litigation between parties in personal actions the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal."[11]

Legal scholars dispute whether the Supreme Court's finding that the pre-born is a non-person (*Roe* v. *Wade*) can be challenged by an Act of Congress. It is the position of many that once the Court has adjudicated this issue only the Court itself can reverse its finding.

But the Court, in *Roe* v. *Wade*, asserted its own incompetency to determine when human life begins, pointing out what they termed the absence of consensus on this issue. This factual vacuum would no longer be present should the Human Life Bill be adopted and signed into law. After hearings, the taking and evaluating of testimony, the findings of Congress—based on these hearings—should, according to established legal precedents, receive great deference by the Court. After all, Congress, a coordinate branch of government, will have filled the Court's proclaimed factual vacuum with its own findings and so a further Congressional determination that each pre-born human life is also a person within the meaning of the Fourteenth Amendment presents the Court with a fundamentally different question of Constitutional law than in *Roe* v. *Wade*.

Once the factual issue of whether the pre-born are human beings is determined in their favor, the Congress, based on this finding can properly declare each human life as endowed with personhood and hence protectable under the Constitution.

The legal environment, the legal landscape, will be different for the Court this time around. Instead of a vacuum there will be Congressionally legislated findings upon which to posit personhood and protection for the pre-born.

Of course the Supreme Court has the responsibility for interpreting the Constitution as it applies to specific cases. But where the Court confesses its inability to resolve

questions that buttress such important and specific Constitutional rights—questions literally of life and death—is Congress powerless to do what it is uniquely structured to do, hold hearings, make findings and determine public policy?

As the East report states the issue, "The purpose of this legislation is not to impair the Supreme Court's power to review the Constitutionality of legislation, but to exercise the authority of Congress to disagree with the result of an earlier Supreme Court decision based on an investigation of facts and a decision concerning values that the Supreme Court declined to address."

The Human Life Bill will be reviewed by the Supreme Court, and thus the Court will have the last word. But in the interim, important dialogue will ensue between Congress and the Court and the void that supports *Roe* v. *Wade* will be supplanted by a legislative foundation that the Court will not and cannot be indifferent to.

The Fourteenth Amendment specifically forbids a State to deprive a person of life, and Section 5 of that Amendment expressly confers authority to Congress for the purpose of enforcing this guarantee through appropriate legislation. The Court is entitled to respect and deference in its adjudications and interpretations, but Congress likewise is entitled to respect and deference in its efforts to deal with questions of immense significance and fraught with profound public policy consequences.

To assert that Congress is necessarily impotent in the face of the Court's confessed impotence on the fundamental issue of when a human life begins is to concede a powerlessness on an issue of paramount importance that the Founding Fathers would be the first to reject, if not denounce.

The status of abortion, the existence and value to be accorded pre-natal life, are questions, in a democracy, that the elected representatives of the people must not be foreclosed from considering.

Anyone who has been involved in this controversy knows only too well that no subject generates emotional reaction more than abortion. Each side views the other as monstrously inhuman and uncaring—and thus demonstrates that each side does care, only from a different perspective and with a different set of values.

Ironically, support for protecting endangered species (the famous snail darter, for example) is a constant theme in Congress. "Save the Whale" organizations and legislation seeking to outlaw the trapping of wild animals have their effective spokesmen. Some Congressmen have even shared an ice floe with baby harp seals to dramatize their plight. But, strangely, many of those active in the cause of humane treatment for animals cannot bring themselves to much concern for the plight of the endangered unborn.

The heart of this issue, of course, is the humanity of the unborn. If you view the fetus as a blob of tissue, a sort of tumor, then surely it is disposable. But if you value the fetus as a pre-born child and respect human life as the ultimate value, all other considerations become secondary. Of course one's religious views can have an impact on whether the pre-born ought to be protected or not. Should you accept the notion that we humans are permitted to share with God as co-creators in the perpetuation of the human race, then clearly the act of conception (which is creation) takes on a special value.

This is not to say tha many persons whose lives embrace religious convictions do not support abortion, because indeed they do, including some clergy.

On the other hand, Bernard N. Nathanson, M.D., an admitted atheist, in his 1979 book "Aborting America"[12] relates his personal odyssey from being a prominent abortionist to becoming a pro-life advocate. He bases his present conviction that abortion is a moral wrong on the Golden Rule—the very basis for a civilized society. He is unable to answer the question as to why he changed so dramatically except to say, as a medical doctor, he opened his mind to "the data" on human life, and its beginnings.

The humanity of the unborn has been called the "13th floor of human society." Everyone really knows it's there, but it is often more convenient to pretend it's not.

I'm not sure I want to passively accept a society in which parents have been told they have no responsibility toward their unborn children, and in which children are told they have no responsibilities toward their parents. This doesn't fit my definition of the caring humane society we pretend to be.

The views expressed 41 years ago during World War II by Dr. Joseph D. Lee, a leader in modern obstetrical practice, which were printed in the 1940 edition of the Yearbook of Obstetrics and Gynecology are more relevant than ever:

"At the present time, when rivers of blood and tears of innocent men, women and children are flowing in most parts of the world, it seems almost silly to be contending over the right to life of an unknowable atom of human flesh in the uterus of a woman.

"No, it is not silly. On the contrary, it is of transcendent importance that there be in this chaotic world one high spot, however small, which is safe against the deluge of immorality and savagery that is sweeping over us. That we, the medical profession, hold to the principle of the sacredness of human life and of the rights of the individual, even though unborn, is proof that humanity is not yet lost . . ."

NOTES

[1] The three sections are quoted from the text of the current Senate version (S. 1741), re-introduced by Sen. Helms on Oct. 15, 1981; they differ somewhat in language (but little in content) from the original versions introduced by Sen. Jesse Helms in the Senate (S. 158) and by Rep. Henry Hyde in the House (H.R. 900) on Jan. 19, 1981; there is also another House version (H.R. 3225) at this writing.—Ed.

[2] The Committee Print of Sen. East's subcommittee hearings, held April 23–June 19, 1981, was reported to the Senate Judiciary Committee in December, 1981; the text of the Committee print (sans dissenting opinions), including the quotations from medical texts, is reprinted as Appendix A in this issue.—Ed.

[3] The Subcommittee heard much testimony in the same vein. Dr. Hymie Gordon, Professor of Medical Genetics and physician at the Mayo Clinic, testified that, "[t]he individuality of the unborn baby is established at the very first second of its conception." Later, Dr. Gordon elaborated: ". . . I think we can now also say that the question of the beginning of life—when life begins—is no longer a question for theological or philosophical dispute. It is an established scientific fact. Theologians and philosophers may go on to debate the meaning of life or the purpose of life, but it is an established fact that all life, including human life, begins at the moment of conception."

Later, Dr. Gordon remarked: "I have never ever seen in my own scientific reading, long before I became concerned with issues of life of this nature, that anyone has ever argued that life did not begin at the moment of conception and that it was a human conception if it resulted from the fertilization of the human egg by a human sperm. As far as I know, these have never been argued against."

Dr. Micheline Matthews-Roth, a principal research associate in the Department of Medicine at the Harvard Medical School, after reviewing the scientific literature on the question of when the life of a human being begins, concluded her statement with these words:

"So, in summary, it is incorrect to say that biological data cannot be decisive. In biology, as in any other branch of science, experiments repeated and confirmed by many different workers using many different species of organisms do, indeed, prove that a particular biological finding is true.

"And, so it is with the biological finding that an organism reproducing by sexual reproduction starts its life as one cell—the zygote—and throughout its existence belongs to the species of its parents. No experiments have disproved this finding.

"So, therefore, it is scientifically correct to say that an individual human life begins at conception, when egg and sperm both join to form the zygote, and that this developing human always is a member of our species in all stages of life."

[4] Robert E. Joyce, "When Does a Person Begin?" from "New Perspectives on Abortion" (Aletheia Books, 1981).

[5] Daniel Callahan, "Abortion, Law, Choice and Morality" (The MacMillan Co.: New York, 1970), pp. 497–498.

[6] Letter to William C. Jarvis, September 20, 1820, "The Writings of Thomas Jefferson" (Ford ed. 1899), 160.

[7] Letter to Judge Roane, September 6, 1819, as quoted by Rep. Philemon Bliss, Cong. Globe, 35 Cong., 2nd Sess (Feb. 7, 1859), App. 7.

[8] "Messages and Papers of the Presidents II" (Richardson ed. 1896), 576, 581–83.

[9] Elliot, "Debates of the Federal Constitution 4" (1836), 549–50.

[10] "The Collected Works of Abraham Lincoln I" (Basler ed. 1953), 494, 516.

[11] Richardson, "Messages and Papers of the Presidents 5" (1897), 9–10.

[12] Nathanson, "Aborting America" Doubleday & Co.: New York, 1979).●

TRIBUTE TO JUDGE CURRAN

● Mr. SPECTER. Mr. President, as a former district attorney, trial lawyer, and Member of this distinguished body, it gives me a special pleasure to pay tribute today to a man who this Sunday will receive one of the highest honors a layman in the Roman Catholic Church can be accorded. Judge Jim Curran of Pottsville, former member of the court of common pleas and president judge of Schuylkill County is being installed in the Order of Saint Gregory the Great, a very high recognition from his Holiness, Pope John Paul II. The formal installation of the judge into this order will come Sunday afternoon, Palm Sunday, at Saint Catherine of Sienna Cathedral in Allentown.

Judge Curran's achievements and successful endeavors are many, spread over a lifetime of outstanding service to his profession, the court, and his fellowman. He attended Kutztown State Teachers College, graduating in 1922, and several years later realized his lifetime desire to be a lawyer, by working his way through Dickinson School of Law, graduating in 1930. Seven years later, at an early age, he was appointed to the Schuykill County Count of Common Pleas, serving as president judge from 1959 to his retirement in 1978.

During World War II, he served in a host of community boards of organizations designed to aid in the war effort, including the Office of Price Administration. His several years of exception-

al service earned him a special recognition of the President of the United States.

There are many examples of the judge's efforts for his fellowman which resulted in this high honor from the Papacy, but his 4 years of leadership as chairman and member of the board of trustees of Good Samaritan Hospital in Pottsville stand chief among them. Under his tenure, three major multimillion-dollar expansion projects were realized, providing an outstanding example of what community leadership can do.●

THE NUCLEAR ARMS FREEZE

● Mr. LEAHY. Mr. President, the senior Senator from Massachusetts has written perhaps the most compelling and eloquent statement I have seen in support of a comprehensive, global nuclear weapons freeze, and negotiated mutual weapons reductions.

His article was published in the Sunday, March 21 edition of the Los Angeles Times. I am submitting that article for the RECORD and urge each of my colleagues to read it.

Mr. KENNEDY and the distinguished chairman of the Senate Appropriations Committee (Mr. HATFIELD) have brought together concerned citizens, Members of Congress, religious and business leaders, and past government officials in a unified and determined call for a freeze and mutual verifiable arms reductions. Their resolution, which I am pleased to cosponsor, carries an urgent call for immediate arms reductions from Vermonters and others around the country, to the very forefront of the vitally important national debate on arms control.

I am especially pleased that the very issues I have been raising for years in Vermont and around the country have been given expression in this resolution—a resolution so sensible and important that it has stirred many who have been skeptical in the past of arms talks to propose freeze alternatives, however flawed or incomplete, of their own.

Mr. President, I cannot be more emphatic in urging that all of us in this body give serious thought to the ideas and arguments presented by Mr. KENNEDY in his outstanding article.

The article referred to is as follows:

[From the Los Angeles Times, Mar. 21, 1982]

CAN A FREEZE HALT THE NUCLEAR ARMS RACE?

(By Edward M. Kennedy)

WASHINGTON.—The issue of arms control—perhaps the most critical issue of our time, or of all time—has now reached the point of stalemate. Soviet President Leonid I. Brezhnev is offering a self-serving and unacceptable proposal to freeze nuclear weapons in Europe alone. The Reagan Administration properly rejects that, but refuses to respond with any comprehensive counteroffer. At the talks on intermediate weapons in Europe, the Administration has put forward a plan as unacceptable to the Soviets as theirs is to ours; as a results, the talks are stalled. The Reagan Strategic Arms-Reductions Talks (START) on strategic weapons have not begun, and no date for the discussion has been set.

Both sides are engaging in a dialogue of the deaf, making propaganda instead of talking peace. In the meantime, a grass-roots movement across the country, reaching from a ballot initiative in California to town meetings in New England, has called for a third alternative that can break the deadlock. That alternative, a global freeze on the nuclear arsenals of both sides, has been incorporated into a congressional resolution, which already has the support of 165 members of the Senate and the House. The resolution calls both for a global freeze and for the negotiation of reductions in American and Soviet weaponry.

The Administration and a number of other critics have reacted intensely and often inaccurately to the congressional proposal, which I am co-sponsoring with Republican Sen. Mark O. Hatfield of Oregon. It is important to make clear what the resolution does—and does not—mean.

First, we are not suggesting a continental freeze in Europe alone. That is the Brezhnev proposal—and we categorically reject it. We favor a comprehensive freeze. Administration officials have sought to blur the difference—and then have cited a range of conflicting statistics to attack our resolution. Secretary of State Alexander M. Haig Jr. first said it would leave the United States with a 6 to 1 inferiority in Europe; later, the President said it might be 3 to 1. It is baffling that on this basic question, the Administration cannot even keep its numbers straight. In fact, the Soviets have 2,004 available warheads in Europe, and we have 1,168. This does not count other American nuclear forces outside of Europe and at sea, which could be used to defend the NATO nations. Is the Administration suggesting that it would not call on these forces in the event of a crisis? Any such suggestion would represent a fundamental and destabilizing change in American policy.

Second, the global freeze proposed in the congressional resolution would not consign the United States to a position of global inferiority with the Soviet Union. The Administration asserts that it would, but advances no proof. Presidential Counselor Edwin Meese III has likened the U.S.-Soviet nuclear balance to a football game where one side is ahead 50-0. But the analogy, which is wrong even as it applies to Europe, is very far from the worldwide reality. The more relevant numbers are the count of strategic nuclear warheads: this country has 9,000 and the Soviets have 7,000. They are ahead in some areas, such as throw-weight; we are ahead in others, such as sea-based missiles. There is, perhaps for the first time in the atomic age, an overall nuclear balance.

Instead of worrying about a theoretical and exaggerated "window of vulnerability," we should focus on this window of opportunity for arms control. But the opportunity could shatter with a further escalation in weaponry, including a new round of the MX missile and the B-1 bomber on our side, and new generations of missiles already on the Soviet drawing board. Thus a freeze makes not only common sense, but strategic sense. For example, a freeze can ensure that nuclear reductions negotiated in the future will not be made meaningless by the development and deployment of new and destabilizing weapons. Together a freeze and reductions will move the United States and the Soviet Union to run the arms race in reverse. By combining these two policies, the freeze resolution goes beyond a codification of the existing nuclear balance, and could move us quickly toward more stable deterrence and a safer world.

Third, despite Administration rhetoric claiming that our proposal does not go far enough, the wording of the resolution plainly and explicitly calls for "mutual and major reductions" in existing nuclear stockpiles. Perhaps the President has not read the resolution itself. His Administration pays lip-service to reduction, but its arms-control policy is now going absolutely nowhere. Our government has a weapons policy, a massive and expensive buildup, but no effective peace policy. Today the two superpowers have in their possession the equivalent of 1 million Hiroshima bombs—nearly four tons of TNT for every man, woman and child presently living on this planet. A freeze would be a first, far-reaching step in the thousand-mile journey to reductions. Instead of piling overkill on overkill, why not start with a freeze?

Fourth, our proposal is not based on trust for the Soviet Union or tolerance of Soviet misdeeds in other areas. We do not accept the concept of reverse linkage—that we must accept Soviet repression in Poland and elsewhere in order to coax them into arms control. We should not enter upon a nuclear freeze or reductions because we like the Soviets or they like us, but because both of us prefer existence to extinction. Every measure we would take depends on strict verification. And our resolution does not call for unilateral action but for mutual agreement. It will not weaken, but strengthen our defenses. Some of the resources that are freed can be reallocated to our conventional military forces, which is where we do need to do more.

Finally, some critics have suggested that our resolution involves a dangerous excess of democracy—that it invites the public into a debate where only experts dare to tread. We do not share the notion that a professional elite deserves a monopoly on what could become the ultimate issue of personal survival for hundreds of millions of people. While the negotiators have been debating the nuclear version of the question of how many angels can dance on the head of a pin—which is, precisely how high can each side make the rubble bounce?—concerned citizens have developed and lobbied for a sane alternative. We regard it as a strength of our system that free men and women can stand up and speak out. They have offered a proposal in the American free marketplace of ideas, and every citizen of the world, including the people of the Soviet Union, who do not have the right to speak, will be in their debt if this initiative helps to postpone the moment of humanity's final conflict.

In reality, the nuclear-freeze resolution commands support not only in Congress and among religious and business leaders, but among many past officials of the Defense and State departments. They have seen the nuclear danger up close, and they know that a freeze followed by reductions may be our last great chance to avert the last great war. They know that we are rapidly nearing the point of no return in the nuclear arms race. Soon both sides will fear that the other has a first-strike capability that could destroy its deterrent. Once this point is passed, arms control may become little more than rule-making for the rearrangement of the deck chairs on the Titanic. People in communi-

ties across America have seen the looming iceberg and they hope the captain will see it too. We cannot afford to live in a world of hair-trigger nuclear missiles, where human beings will have only minutes to decide whether to fire them, and where human error could launch an accidental nuclear exchange. This is not a way of life at all; it is a way to nuclear death.

In the second year of the Reagan Administration, apprehension about the nuclear danger has stirred our own nation and strained relations with our NATO allies. Both the Administration and the Soviet leadership deliver speeches about nuclear disarmament, while each relentlessly pursues the phantom of nuclear advantage. In the words of my colleague, Sen. Hatfield, "The result is upward arms management rather than downward arms control." There is broad agreement that the latest Soviet proposal for a limited freeze in Europe is unequal and unacceptable. But there is also an urgent need to challenge the Soviets to go further, to freeze more, to take a bigger step back from the brink. With the world trapped between the seemingly irreconcilable positions of the Administration and the Kremlin, only the emerging initiative for a nuclear freeze and reductions can break the deadlock that consistently defeats the chance for a stable peace.●

WHY NATO DOESN'T WORK

● Mr. GOLDWATER. Mr. President, many questions are raised today relative to NATO, why it works at all, why it does not work better, and where our responsibilities lie in the matter. Dr. Ronald Nairn, a New Zealander who is now an American citizen, one of the most knowledgeable men I have ever met concerning matters of the world, has written an excellent article which appeared in the Friday, March 26 issue of the Wall Street Journal. The title, "Why NATO Doesn't Work," should invoke the interest of all readers of the CONGRESSIONAL RECORD. I ask that the article appear at this point in the RECORD. The article referred to is as follows:

WHY NATO DOESN'T WORK

(By Ronald C. Nairn)

The de facto dissolution of NATO proceeds, but the wrong reasons are being given for the event. Whether Western Europe is or is not pulling its weight is not the cause. Neither is the European peace movement, even that small part of it known to be acting at the behest of the Soviets. Nor should the economic and cultural attractions of the Pacific Basin be construed as a strategic alternative to NATO. Isolationists no doubt abound, but isolationism is not a coherent alternative strategy for the U.S.

The core reason for the unworkability of NATO is this: For better or worse only a superpower can "balance" another superpower. And in a real alliance, a superpower cannot behave as a superpower.

An alliance presupposes an approximate equality of relationships between sovereign states. If it is to have a working life, an alliance presupposes that each member's voice has due weight because each member has not only affinity of interest, but the means to discharge its responsibility effectively. Effective alliances are rare in history, and they are short-lived.

We shouldn't make the mistake of confusing alliances with empire, either. The Warsaw Pact is an empire. By its charter, the Warsaw Pact is a series of bilateral relationships between the Soviet Union and pact members. In operation, the pact is political and territorial dominion by a central authority. Soviet action in East Germany in 1953, in Czechoslovakia in 1968 and in Poland today illustrates the point. The Brezhnev Doctrine, conferring upon the Soviet Union the right to "defend socialism" on the merits of the Soviet Politburo's judgment, currently sanctifies the empire's rationale.

But the decay of the Soviet empire, which probably began as far back as the Kronstadt Naval Revolt of 1921, may be slow. The ancient process of unregenerate use of terror is now supported by modern technology, which may delay decay.

NATO can't function as an empire, least of all under the aegis of the U.S. constitutionally, politically and culturally. Americans are incapable of making an empire function and the NATO members wouldn't accept such an American role in any case. So we come back to the alliance, a configuration, it is suggested, that is unworkable.

DENIGRATING ITS TRUE STATUS

A superpower cannot hold together an alliance (as opposed to an empire), especially during an extended peace. In these circumstances the superpower continuously denigrates its true status. Its overweening presence, especially in decision making, must be constantly adjusted downwards to preserve alliance "unity."

If the superpower dominates overtly (as it in reality does), it is said to "overreact"; it is "reckless." But if the superpower operates at low key, it "lacks credibility." As the superpower backs and fills, it is criticized for "vacillation," and not having a "coherent policy." All these charges have validity and can't be answered within any configuration NATO can devise.

Within the larger context of world strategy the U.S. and NATO do not have a fundamental common goal. NATO is concerned with the security of Europe. But the U.S., whether it likes it or not, is completely involved in the security of the world, a world in which Europe is but a single, albeit important, element.

There is an ancient foreign-policy maxim suggesting it is vital that Western Europe not fall under the domination of one power. This is basically a British concept. It makes sense for them. Today, however, this concept, though important, hardly has vital significance for the U.S. The most ardent militarist would agree with the most ardent pacifist that the vital element of military domination today is the "overkill" potential of nuclear, chemical and biological weapons, each with worldwide applications that belong solely to the two superpowers. Thus the old idea of fixed, vital geographic regions takes on a different meaning.

Today's vital region for the U.S. is not even the Panama Canal. It is the security of NORAD (the North American Air Defense Command), SAC bases, logistic support for missile submarines, airborne command posts and the like. An overall territory as vital gives way to a condition that is vital, and that condition is first to deter and in the event respond to the capacity of the USSR to destroy the U.S. or vice versa. Of these two conditions, immunity from nuclear blackmail is probably the more important. Thus the critical conditions of deterring nuclear war or preventing nuclear blackmail (we cannot talk of "winning" a nuclear war because no one knows how to define such a victory) is the indispensable definition of a superpower. The integrity of European geography is not singularly important to this condition. It is certainly not vital. And no amount of tinkering with NATO will alter this fact. Indeed NATO (and alliances in general) tends to exacerbate today's danger by multiplying the ways war could start without offering the means for tomorrow's commensurate benefit: deterring nuclear war and preventing nuclear blackmail.

Beyond tying the U.S. to a fixed geographic area, 10 other nations have none of America's superpower responsibilities and have dissimilar global interests, if any. The allies are bound to the U.S. by a treaty that says an attack on one is an attack on all. The presence on European soil of 350,000 U.S. troops plus a "tactical" nuclear force is a trigger that could fire the nuclear cannon in a bewildering variety of scenarios—none of which need be related to the vital concerns of the U.S. The future offers a worse scenario. As NATO deteriorates, U.S. forces will ultimately become hostages to the USSR; they will be a tripwire potentially able to invoke a war which, in Europe anyway, will be lost. Only the naive would assume that the USSR, or the West Europeans themselves, will not exploit this situation.

But the most pertinent argument against U.S. involvement in NATO is the most obvious. Thirty-five years after World War II, Europe is capable of looking after itself. Western Europe has approximately 250 million vigorous inhabitants possessing sophisticated technology, excellent management skills, a capacity for capital formation and a claim to some mutuality of interests. Unified they match about 80 million Russians plus about 170 million disparate peoples under Russian rule. It is appropriate to Western Europeans to forge an alliance among themselves. Assuming good bilateral relations between America and Europe's nations, it is in the Europeans' interest to control and direct their own affairs and free the U.S. for a true global role.

REALITIES DO NOT GO AWAY

Whether the U.S. can reorder its imagination to play a global role is obviously open to question. So is the capacity of Europe to accept new responsibilities. But potential deficiencies do not make realities go away.

In 1514, Henry VIII pioneered England's new navy. It began a revolution in naval architecture, in navigation, in fire power and other technological changes. Allied to this came gallant seamanship and a rethinking of strategy that came to its first realization in the Napoleonic Wars. Whether the geopolitics of the world changed for better or worse is not the question. Change came in full drama, but it took three centuries.

Over this past quarter of a century, not only has the nature of military and strategic change been extraordinary in effect, but the rate of change bewilders those who will not face its meaning. Today NATO has been superseded by such change. NATO now resembles an automobile to which has been attached a giant tractor wheel.

In a global sense, it is only the maintenance of the idea of liberty, rooted in Europe and viable in America, that offers practical circumstances to some billions of humanity for the realization of their material development. Both Europe and the U.S. would be true to the best in their traditions by seizing the opportunity to form a new re-

lationship that provides each with autonomy to act without the constraints one imposes on the other.

The direct interests of Americans, of Europeans and of others who need liberty to pursue the civilizing process, demand that NATO be rethought. The pursuit of liberty demands that America extricate itself from the NATO bog and involve itself with strategies related to all the world. In turn, Europe should recognize that the Amerian superpower can remain a good friend and supporter even as it withdraws from being a formal, difficult ally.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress received advance notification of proposed arms sales under that act in excess of $50 million, or in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such notifications have been received.

Interested Senators may inquire as to the details of these preliminary notifications at the office of the Committee on Foreign Relations, room 4229 Dirksen Building.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., April 1, 1982.

In reply refer to: I-00921/82ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $50 million.

Sincerely,

WALTER B. LIGON,
Acting Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 29, 1982.

In reply refer to: I-12515/81ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee On Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country for major defense equipment tentatively estimated to cost in excess of $14 million.

Sincerely,

WALTER B. LIGON,
Acting Director.●

DEATH OF SILVESTRE ACOSTA

● Mr. RIEGLE. Mr. President, I was saddened to learn of the passing of a distinguished educator and community leader in Detroit Mich., Silvestre Acosta. Silvestre was truly a man of his community, and the sensitivity, kindness, and compassion that he showed toward his neighbors will long be remembered. He worked in quiet ways to better the lives of people around him; he possessed the tenacity and courage to strive for goals others thought unattainable. His positive outlook, spirit, and devotion served as an inspiration to all of us, and his loss is a loss to us all. Silvestre left his mark on many people and programs, especially in the area of bilingual education. In his honor, the name of a local publication has been changed to the "Silvestre Acosta Bilingual Resource Center Newsletter," and I ask that a tribute that appeared in that newsletter be printed in the RECORD.

The article follows:

DEATH OF SILVESTRE ACOSTA

The tragic death of Mr. Silvestre Acosta on February 21, 1982, came as a great shock to all Detroit Public Schools' employees, but none greater than to members of the Bilingual Education Community of Region Two. Mr. Acosta was well known to administrators and school staff in the Region for his dedication to securing a quality educational program for bilingual youngsters.

Mr. Acosta began his career in Detroit in September of 1969. For the next ten years he was a teacher at the Webster Elementary School. In March of 1979, he was promoted to Junior Administrative Assistant and, in that capacity, served as the coordinator for the Bilingual Education Program in Region Two and as administrative head of the Bennett Bilingual Resource Center.

A pioneer in bilingual education at the state level, he helped establish the Webster Bilingual Program in 1971 and spearheaded the effort to get what is now Public Act 294 passed in 1974, thereby requiring bilingual education programs in state schools.

Mr. Acosta's devotion to the bilingual students in Region Two will long be remembered.●

POLISH CRISIS

● Mr. KASTEN. Mr. President, nearly 4 months have passed since martial law was imposed in Poland, and internal repression of the Polish people continues. Thousands of Poles are still being held against their will, and this morning's New York Times spotlighted the tales of brutality which are now filtering through to the West. I ask that this article, "From Polish Internment Prisons, Tales of Brutality," be printed in the RECORD.

The article follows:

FROM POLISH INTERNMENT PRISONS, TALES OF BRUTALITY

(By John Darnton)

Warsaw, March 31.—One day this week, letters written by martial law detainees were tossed out of the upper floors of a prison in the northern Polish town of Ilawa and fluttered down across the gray, barbed-wire topped wall onto the streets. They described a brutal assault inside the prison last Thursday.

The letters said that 50 to 60 guards went on a rampage around 7 p.m., opening cells on an entire floor and beating every prisoner they could lay their hands on. The guards appeared to be drunk or drugged, the letters said, and were operating under orders of a captain and the deputy warden.

Altogether, about 70 internees were beaten, four of them seriously enough to require hospitalization, which was denied to them at first.

The letters ask anyone who finds them to bring them to the attention of the Roman Catholic Primate, Archbishop Jozef Glemp, and to the public.

"Our personal safety is not assured," one letter said. "We can be dragged out of our beds at night and beaten."

INTERNEES START HUNGER STRIKE

The internees, believed to number 149, began a hunger strike on Saturday, demanding an investigation by the Ministry of Justice with the participation of the episcopate and the International Red Cross.

The brutality at Ilawa, the second such incident there, is not an isolated case. More and more instances of beatings of internees are coming to light in interviews with released detainees, family members of people still interned and political activists. Many of the incidents are known to the church.

On Jan. 19 at Zaleze prison near Rzeszow, internees were beaten and then punished by being put in isolation cells. One of the most severely injured was Zygmunt Leszyk from Cracow. Little is known about what sparked the incident, but the prison, which contained about 250 internees, was apparently the scene of a demonstration. Recently four internees were formally placed under arrest and stood trial on charges of organizing protests. The trial was suspended when one of the defendants was found physically unfit.

A DISPUTE LEADS TO BEATINGS

On Feb. 13 at Wierzchowo, a prison for young offenders, 32 internees were beaten inside their cells by riot police units called Zomo. The repression, said to be well planned and coordinated, apparently grew out of a dispute that began when some internees refused to leave their cells during a search because, they insisted, they had the right to be present while their personal belongings were examined.

On Feb. 13, an undetermined number of internees were beaten at a prison in Nysa because they persisted in singing songs and lighting candles in their cells to protest martial law. Among those hurt were M. Radajewski and Lothan Herbst, who heads the Wroclaw branch of the writers' union.

On Feb. 16, two internees at Ilawa, identified only by their last names, Pagacz and Adamek, were beaten when they refused to leave their cells.

Sometime in mid-February, Zbigniew Sekulski, a young songwriter and activist who has collected information for Amnesty International, the rights group, was beaten in a prison at Lowicz. Other internees said that, when he refused to remove a Solidarity button, he was taken into a corridor. They heard screams and then he was held for a few days in a single cell. When returned, he complained of pains in his ribs.

In the basement of the headquarters of the special Zomo police in Katowice, numerous internees were beaten before being sent to other detention centers, according to several reports. Among them were miners who participated in the strike at the Piast mine in the days after the imposition of martial law. Two of those most seriously hurt were Jozef Bocian and Jerzy Grzebieluch, a member of the suspended farmers' union.

Only in recent weeks was it discovered that 16 internees were still being held in the police station. Bishop Herbert Bednorz of Katowice has asked permission to enter the building.

Many of the beatings appear to stem from disputes over the interpretation of regulations, since internees are supposed to have special privileges such as unlocked cell doors, denied to criminals. In some cases, the internees have kept up their spirits by group singing—with lyrics that mock the Government or the Soviet Union—and this grates on the guards and prison wardens. Sometimes a crowd outside the prison joins in the singing.

"I think the tensions were deliberately introduced by the authorities," said one man released from Grodkow prison, outside of Wroclaw. He said the cell doors were opened on Christmas and were then abruptly closed, with searches, on New Year's Eve.

"Over a loudspeaker they warned us against group singing," he said. "So we all started singing. To try and break it up—because it was synchronized—they took away our watches, but we used the time signals over the loudspeakers as a cue. Then came the announcement of punishments—no walks, no letters, no parcels, no visits. We answered with a prison orchestra—spoons on tin plates and cups against the bars."

"SEA OF UNIFORMS" IN CORRIDOR

Suddenly, he said, the doors were flung open and there was "a sea of uniforms," hundreds of Zomo policemen lining the corridors and equipped for battle, with helmets, plastic shields and visors, and truncheons. A confrontation was put off, through negotiation, although the negotiators had nervous moments walking through a phalanx of cursing policemen.

They kept muttering how much they would love to kick our butts," the former internee said.

The authorities are sensitive to charges that internees, who now number 3,600, are being mistreated. The Government has depicted internment as a kind of forced stay in a guest house, emphasizing that the internees are not subject to the prison regime undergone by common criminals. The conditions are checked periodically by delegations from Parliament, the church and the International Red Cross, officials say.

Officials who have called in Western correspondents to complain about dispatches on internment conditions have said that there may well have been one or two instances in which zealous guards exceeded their orders. But they insist that the basic policy is to treat internees as humanely as possible.●

AMBASSADOR THEODORE E. CUMMINGS

● Mr. LUGAR. Mr. President, it was with great sadness late yesterday that I learned of the death of our most distinguished U.S. Ambassador to Austria, Theodore E. Cummings.

Ambassador Cummings' lifetime dedication to humanitarian endeavors, the arts, public service to his community and most recently as the President's representative to Austria are an outstanding example for all of us to follow.

Ambassador Cummings' personal dealings with people was also reflective of his gentle manner and innate kindness. I wish to extend my sincere sympathy to the family and many friends of Ambassador Cummings. Their loss is shared by the entire Nation.●

WEAPONS TESTING

● Mr. PRYOR. Mr. President, last fall during hearings on defense procurement in the Governmental Affairs Subcommittee I expressed concern about problems with weapons and equipment made available to American military personnel in the field.

Probably one of the most highly publicized weapons failures was that of the M-16 rifle. We know now that we were sending Army soldiers into battle in Vietnam with a rifle that had a very high failure rate. In James Fallows' book, "National Defense," the entire history of the development of the M-16 has been presented.

We are now engaged in a $1.6 trillion 5-year defense buildup. Very little attention, however, has been paid to the testing and evaluation of these new weapons systems. It is not only a question of how much we want; it is a question of how well our weapons are going to work in the field, in realistic testing environments.

I would like to share with my colleagues an excellent article in Reason magazine, April 1982, by Dina Rasor entitled "We Pay for Duds: How the Pentagon Cheats on Weapons Testing." I encourage all Senators to take a close look at this article.

I have spoken several times in the last few months of my concern about the illusion of strength that the United States seems to be trying to create. We are now living in a military world of computer simulations and paperwork armies, and if we are truly going to commit ourselves and our national resolve to a renewed military buildup, then it is of the utmost importance that we follow closely the development and testing of these new weapons systems to insure that in the future we are providing our young fighting men and women with reliable and trustworthy weapons.

I believe this matter requires congressional attention and I will be developing appropriate comments and proposals to address this problem in the Congress in the coming weeks and months.

I ask that the text of Ms. Rasor's article be printed in the RECORD.

The article follows:

WE PAY FOR DUDS: HOW THE MILITARY CHEATS ON WEAPONS TESTING

(By Dina Rasor)

We will never know how many Americans killed in Vietnam were lost due to enemy fire or to the politics of the Pentagon bureaucracy. We do know that the Army sent soldiers to Vietnam knowing that their most commonly used weapon, the M-16 rifle, would fail. And the Pentagon sent to Vietnam a tank, the Sheridan M-551, that was giving the Army serious difficulties.

The unreliability of the M-16 rifle had been thoroughly established and documented in field tests at Ford Ord in 1965. Even though the solution was a simple change of powder, the Army sent the unfixed rifle to Vietnam. There it jammed frequently enough in combat to induce soldiers to write to their parents, girlfriends, and members of Congress to complain about their rifles and about their buddies dying with jammed rifles in their hands. After numerous lives were lost because of this failure, Congress held extensive, yet not well publicized, hearings on the tragedy.

Paul Hoven, a helicopter pilot in Vietnam claims that he "never recalled seeing a captured Viet Cong using an M-16," although the Viet Cong would use all types of old captured World War II rifles. He saw the rifle jam "all the time" in use by his door gunners, the crew covering the sides of the helicopters from attack. He himself used a captured Viet Cong rifle rather than risk his life with a jamming M-16.

If Hoven had been a tank commander in a Sheridan M-551 light tank, he would have felt no safer. According to the first official report on the tank, it had 16 major equipment failures, 123 circuit failures, 41 weapons misfires, 140 ammunition ruptures, and 25 engine replacements. For the tank's main gun, the Army used a "caseless" ammunition that was unsuited to the high humidity in that part of the world, so gunpowder would sprinkle down inside the tank around the soldier's feet—a problem that could make the tank a rolling bomb during enemy fire.

Like the M-16, the Sheridan was extensively tested before it was sent to Vietnam. The Army Test and Evaluation Command listed numerous combat safety and effectiveness problems, yet it continued to roll off the production lines. The program was termed a "billion dollar boo-boo" by Rep. Samuel Stratton (D—N.Y.) after an intensive investigation in 1969, again prompted by soldiers' complaints from Vietnam.

In the years since the Vietnam war, there have been many in-depth analyses of the "lessons" in foreign policy and national

character learned by the United States. Sadly, a lesson of vital importance to our future national security has been overlooked or covered up: why the Vietnam war was full of examples of weapons failures and unrealistic weapon systems that cost in tax money, unfulfilled military missions, and our soldiers' lives.

What is supposed to protect the soldier and the taxpayer from a "dream weapon" that fails miserably in the real world? The Pentagon calls it "operational testing"—a series of realistic battlefield tests meant to weed out turkeys before they reach the soldier in the field. But it was deficiencies in operational testing that kept the Vietnam weapons failures from being caught. In spite of countless lives lost and weeks upon weeks of congressional hearings and repeated critical reports from the General Accounting Office, those deficiencies still exist today.

HOW DO YOU BUY A WEAPON?

As a defense "ombudsman" for a nonprofit taxpayer organization, I have had a firsthand opportunity to see what drives the Pentagon and Congress to continue to buy and use weapons that will fail. I first became acutely aware of this problem while investigating the Army's new main battle tank, the M-1. One could hardly find a more revealing case study of the way operational testing has been so deformed by the Pentagon bureaucracy and porkbarrel pressures that soldiers continue to end up with weapons that will fail them on a battlefield.

The process the Pentagon uses to procure our weapons is an enormous bureaucratic mass, full of charts, chains of command, and acronyms. But in a simplified form, the basic components of buying a weapon are these:

First, after a service (Army, Navy, or Air Force) decides, with congressional approval, to build a weapon, a program manager is selected. He sets up an office with a staff of perhaps 200 to 500 people in the research and development command of the service to implement the development and production of the new weapon.

At "milestone" points scheduled by each service, it is decided whether or not to continue with the weapon. At Milestone I, the initial decision to begin the program is made. Between Milestone I and II, advanced development begins, with separate components of the weapon being developed at the same time. At Milestone II, the issue is whether to proceed into "full-scale engineering development" (usually a billion-dollars-plus commitment). Few weapons are ever cancelled once full-scale engineering development is approved. Between Milestone II and III, the prototypes are redesigned and tested to provide the basis for a production decision. At Milestone III, the service decides whether to engage in limited production and further R&D or to proceed to full production of the weapon.

The milestone decisions are made in each service by a council representing several appropriate commands. Those decisions are reviewed by DSARC, the Pentagon's Defense System Acquisition Review Council.

Where does testing of weapons fit in the milestone maze? There are two types of testing, developmental and operational. This is how Russell Murray, former head of Department of Defense Program Analysis and Evaluation described the difference between them to the Senate Governmental Affairs Committee in October 1981:

"The object of developmental testing is to find out whether a new weapon meets its technical specifications. The object of operational testing is to find out if the weapon—even if it does meet its specs [specifications]—will really be useful in combat.

"Developmental testing is conducted by highly trained scientists, technicians, and specialists under tightly controlled, laboratory-like conditions. Operational testing is conducted out in the field by run-of-the-mill servicemen under conditions simulating wartime as closely as possible."

So it is the operational tests that are supposed to protect the soldier from exotic-weapon nightmares. After Milestone II and the full-scale engineering decision, operational testing should be more important than developmental testing and should be one of the major factors in any production decisions.

But when we move out of the ideal world of chains of command and reporting channels and decision schedules, we find that the system doesn't work as it's supposed to. In the real world of politics and bureaucracy and porkbarrel, it is doing no better than it did with the Vietnam era's M-16 and Sheridan tank. The system is still promoting expensive and ineffective weapons at the expense of our soldiers.

David Hackworth, a former full colonel in the Army who served in Vietnam and was considered one of the Army's top counterinsurgency experts, recently wrote in the Washington Post of this new generation of weapons:

"My bet, unless cooler heads prevail, is that during the next five years America will spend $1.5 trillion replacing Vietnam era junk with a new generation of junk. It will be more wonder junk—the latest marvels of the dreamers and schemers. The kind of junk that the military has been saddled with since the end of World War II. . . ." As Defense Secretary Caspar Weinberger ponders such difficult problems as the B-1 bomber program versus the Stealth and the $75 billion MX missile scheme, I would like to repeat the words of a country boy corporal when he first saw Taylor's incredibly expensive Davey Crockett nuclear rifle: "Sir, that thing just won't work on the battlefield." A few years later, of course, it was returned to weapon wonderland with thousands of other harebrained, half-baked flops. Luckily it came between wars and nobody was hurt except the taxpayer who paid millions for it."

Included in this new generation of weapons is the Army's M-1 Abrams tank—and we're not talking millions, but billions, of taxpayers' money. From January 1980 to January 1981 alone, the price of the tank, which has a nine-year history of cost overruns, rose from $1.5 million per tank to $2.5 million per tank—a million-dollar jump per unit in just one year. The cost of the tank is now around $2.6 million per copy—and growing. So to buy the planned 7,058 of the new wonder tank, being built by the Chrysler Corporation, the taxpayer will shell out at least $18 billion before the Army is through.

The M-1 tank program caught my eye early in 1981 because of its dramatic increase in price. Although a new tank may not be as glamorous an item to buy as a new jet or missile, several military sources have impressed upon me that it could well prove to be a more decisive factor in any war in the near-term future (although you will never get the Air Force to admit that). While many different aspects of the buying of the M-1 tank are open to criticism, the way it was tested and the way the test results were reported to Congress are dramatic illustrations of what is wrong with our testing and procurement bureaucracies in the Pentagon.

WHAT'S IN A TANK?

Known until recently under its experimental designation, the XM-1, the M-1 tank is the Army's third attempt in the past 15 years to build a new tank. Congress had turned down two previous attempts, the MBT-70 and the XM-803, as too costly and too complex and too failure-prone. So the Army's technical reputation was at stake when the M-1 program was formally begun in November 1972.

The M-1 has many new "wonder" features that the Army claims improve significantly on the current M-60 series' survivability, effectiveness, and mobility. These features include new "magic armor," called Chobham armor, made of a classified superalloy reinforced with fiberglass; "fire-resistant" hydraulic fluid; and a fire-detection and -suppression system that is supposed to put out fires in the tank, including the engine, automatically. Its laser range finder tells the gunner instantaneously how far away an enemy target is, and its thermal imaging system assists targeting in darkness, smoke, and dust. The firing system is computerized, and, to improve shoot-on-the-move accuracy, an elaborate stabilization system keeps the tank turret pointed at the target when the tank is rolling. Although the tank weighs in at 60-plus tons, its 1,500-horsepower gas turbine engine (similar to that in an airplane) allows it to attain a speed of 45 miles per hour on a flat road.

All these items have helped to push up the program unit cost of the M-1 to three times that of our standard M-60A1s. But what we're getting, says the Army, is the largest, fastest, and best tank in the world, crucial in any attempt to meet the "projected Soviet threat."

Do the complex new features improve battlefield effectiveness? In June 1981, six NATO countries held a "tank olympics" in West Germany. The Americans' performance was feared by competitors because their M-60A3 tanks were outfitted with a thermal imaging device and a laser range finder similar to the new equipment in the M-1. The English also entered their tank with a laser range finder.

None of these advanced devices was included on the German-made Leopard IA4 and IA3 tanks entered by the Germans and the Belgians. The Germans, who have won these contests in the past, said they placed emphasis on training and tactics—and they won again in this contest, with the Belgians second and the Americans third. As Defense Week reported: "The competition is a test of marksmanship, yet the laser rangefinder in the U.S. and British tanks seemed to help them little. 'The optical rangefinder is better,' asserts a German tank commander."

So it is important to realize that the complex new features do not necessarily increase effectiveness in a real match and under high pressure. In this case, tactics and training won over new electronics systems. Furthermore, these advanced technologies increase maintenance and spare-parts headaches and decrease the percentage of weapons ready to fight. Keep this in mind as we go into the details of the M-1 tests.

If you strip away all the fancy additions and the computer-age refinements, you come down to a very few basic characteristics of a useful tank. First and foremost among these is the ability to move immediately and quickly at all times. This, in turn,

requires that the tank run consistently and reliably under adverse combat conditions with few breakdowns. When the tank does break down, it must be easy to fix quickly. The Army calls these characteristics RAM-D (reliability, availability, maintainability, and durability). The RAM-D requirements for the M-1 have caused the Army a lot of grief, but they could also mean life or death to the soldier in the battlefield.

In Operational Test I (OT I) on prototype tanks in 1977, the Army found that the M-1 was having a lot of trouble with its RAM-D requirements. As a result of congressional pressure, continuations of OT I in 1978 and 1979 stressed RAM-D, and the Army extended OT II to check prescribed fixes for the RAM-D problems. Looking into this is where I ran into a key problem with our weapons procurement: institutions that begin to deform test data before they are transmitted to decisionmakers in the services, the Pentagon, and Congress.

GRADE INFLATION

In April 1980 the Army issued a report on the final phase of OT II testing of the M-1 at Fort Knox, Kentucky, in late 1979. When you glance through the executive summary, the tank appears to have been doing quite well. However, the data and comments in the rest of the thick report are a cry for help about a weapon system with serious problems.

The total mileage for the test was 16,070.4 miles, racked up by three tanks. During the testing period, 1,007 maintenance actions were recorded. Taken in raw form this would mean that the tank had a problem approximately every 16 miles. Of course, it is reasonable to conclude that at least some of these maintenance actions, which can range from changing a light bulb to replacing an engine, were not occasioned by major problems that would be serious in combat.

The Army, however, takes this logic far beyond the reaches of reality. In interpreting the raw data from the Fort Knox tests, the Army's "scoring conference," a group of senior officers and civilians, from various commands, threw out all but 171 of the 1,007 maintenance actions. This made the tank have a "chargeable" maintenance failure every 93.97 miles for the Army's definition called "system reliability," or, as the Army says, 93.97 mean miles between failures—MMBF. It just happens that the goal the Army had set for itself for this point in the tank's development was 90 miles between failures. (Note: the Army has another mission criterion, called "combat mission reliability," and in grading the tank in this area the scoring conference threw out all but 56.2 of the 1,007 maintenance actions and had the tank going 285.95 MMBF versus a required 272 MMBF).

When I saw these numbers in the OT II report, I thought that perhaps the scoring conference knew something about the tank of which I was unaware. But as I flipped through the computer printout of the failure log, I noticed that the operational test director (the officer out in the field directing the test of the tank) had also noted which tank failures required immediate maintenance so as to ward off much worse trouble. He did record these failures, and when I divided his number into the 16,000 miles of driving covered in the test, I found that the M-1 failed seriously every 34 miles.

The Army, of course, was not happy when I pointed out to members of the press, and they reported, that the tank was really failing every 34 miles, instead of the 93.97 miles claimed by the Army's scoring conference. But I found that I was not the first person to catch such "grade inflation" by a scoring conference.

In April 1980 hearings before the Defense Subcommittee of the House Appropriations Committee, Rep. Jack Edwards (R-Ala.) had been disturbed by "discounted" failures of the power train (the engine, transmission, and final drive) in the first phase of the OT II testing. During the hearing, Congressman Edwards handed a list of recorded but discounted failures to Army Gen. Donald R. Keith, who was explaining to the committee the M-1's progress:

"(a) June 27, 1979, engine No. 47, catastrophic failure—discounted.

"(b) August 13, 1979, engine No. 50, catastrophic failure—discounted.

"(c) August 23, 1979, engine No. 33, major failure—discounted.

"(d) September 26, 1979, engine No. 51, major failure—discounted.

"(e) July 6, 1979, transmission No. 27, catastrophic failure—partially discounted.

"(f) July 5, 1979, transmission No. 21, catastrophic failure—discounted.

"(g) August 27, 1979, transmission No. 17, catastrophic failure—partially discounted."

General Keith was not prepared to give Mr. Edwards an explanation during the hearings but later submitted to the committee the following:

"That is correct, these failures were discounted by both the Scoring and Assessment Conferences. Remember that our objective is to determine the inherent durability of the power train itself when it is operated and maintained properly. *Other components which cause the power train to fail as a result of their own failure are not charged against the power train. Instead, these other components are assessed in accordance with the XM-1 reliability scoring criteria. . . . Although these failures were discounted, corrective action was taken in every case through either a hardware or procedural change to preclude recurrence. In those instances where partial discounting was indicated, changes had been made and sufficient test miles had been accumulated on the new item to show that the problem had been partially corrected. In the case of the transmission (#27) with the thin wall casting, checks of production castings demonstrated that there were no recurrences. So, the bottom line is this:* only inherent design faults are charged against power train durability, *but corrective action is taken to preclude recurrence of all pattern type failures.* [Emphasis added.]

General Keith claims that the Army was trying to test only the inherent design problems of the power train. But remember, that is the purpose of developmental testing. In OT II the Army was well into operational testing that is supposed to assess the tank, warts and all, in a combat-like environment. The soldier under enemy fire is not going to care whether a catastrophic failure in his tank was caused by what General Keith calls an "inherent design fault" or by what a scoring conference thinks is a "non-chargeable" incident. In either case, he may well be dead.

Even after invoking the help of the scoring conference to improve the reported power-train durability, the Army fell way below its own requirement. The Army specification was that 50 percent of the tanks go 4,000 miles without overhauling any portion of the power train. At the end of OT II, only 22 percent of the tanks could do so—this figure was without the failures Congressman Edwards had asked about.

Later tests would show that the "corrective action" emphasized by General Keith did not improve the power-train durability. The probability of operating for 4,000 miles without an overhaul actually went down during the first part of Operational Test III. And in the final results of OT III, the power-train durability figure was 15 percent after scoring.

As for system reliability, the Army's reporting of OT III Fort Knox tests shows the same grade inflation that I'd found in earlier operational testing. This time, the scoring conference rated the M-1 tank at 160 mean miles between system failures, up from 93.97. But when I went through the OT III failure log and applied the OT II test director's immediacy criterion, I found that the tank's more realistically assessed MMBF had only improved from 34 to 43 miles.

In a report on testing of the M-1 released in January 1982, after I had done my own investigation of OT III results, the General Accounting Office levels the same charge against Army grading of the M-1:

". . .the Army's statistics mask the fact that the M-1 sustained many component and part failures that did not figure in the Army's scoring. . . . However, statistics developed by the Army which measured mean miles traveled between what the Army terms 'essential maintenance' . . . showed the tanks traveling 48 mean miles at Fort Knox [OT III] and 43 mean miles at Aberdeen [DT III] between essential maintenance demands. . . . These scores, however, did not figure in the official calculations."

As the GAO concluded:

"This [the Army's actual] scoring methodology may be appropriate for measuring whether or not the contractor has met hardware design requirements. In our opinion, it does not realistically assess the tank's reliability or maintainability in the hands of soldiers."

TESTING BIAS

Helping new weapons to make the grade by inflating test scores is one reason ineffective weapons make their way into soliders' hands. My investigations have led me to believe that inadequate testing—testing that is biased in favor of the new weapons—is another key factor.

For example, operational testing is supposed to be the one way to make sure an unrealistic and inoperable weapon system does not reach the battlefield. To accomplish this, it is vital that the weapon be maintained and operated by the same average personnel and soldiers who will take the weapon into battle. Conversely, "babying" their exotic weapons through operational testing is another way the armed services can cover up battlefield weaknesses.

Maj. Gen. Richard Lawrence was responsible for the last phase of the M-1's OT III testing at Fort Hood, Texas. In March 1981 he told the House Armed Services Committee that "crews and unit mechanics are supporting the system as they would in combat, and they are doing it exceptionally well."

While this operational testing at Fort Hood was in train, I was invited by Sen. TED STEVENS (R-Alaska), chairman of the Defense Subcommittee of the Senate Appropriations Committee, to accompany him to Texas to review the M-1's performance. Our entourage included three senators, four Senate staff members, and myself. Instead of just watching the M-1 perform, we all had a chance to drive the standard M-60A1 tank as well as the M-1 tank, compare the

gun stations of the two, and fire the M-1's main gun.

Although this public relations show was carefully staged, I did manage to talk to two tank commanders as we drove the tank. One of them asked where I had gone to college and surprised me by bragging about having graduated from an Ivy League school. Later, the other tank commander also told me that he had graduated from a large eastern university. These are hardly typical of Army commanders in the field, particularly since four of the five commanders in every tank platoon are supposed to be sergeants, not officers.

Later in the tour of the M-1 facilities, we were taken to the maintenance depot. Although several of the mechanics were quite young, I was struck by the age of the man who showed us how the Army tests the tank's electronic components. He was easily over 45 years of age and not in military uniform. Although I could not tell whether he was a Chrysler contract employee (General Lawrence insisted no contractor personnel were involved at direct support levels), he certainly was not the type of man one would expect out in the field in a wartime situation.

It would not be the first time overly qualified operators and maintenance crews were used in operational testing of new weapons. The General Accounting Office (GAO) has caught the Air Force doing it, too. In a June 1978 report to Congress, the GAO charged that—

"Air Force systems are not always operated and maintained during IOT&E (initial operational test and evaluation) by personnel with qualifications similar to those who would operate and maintain the systems after they are deployed. In many cases, contractor personnel perform much of the required maintenance.

Clearly above average Strategic Air Command pilots (graduates of test pilot school) were used during the B-1 test program. Pilots used for the A-10 test program were considered to be more qualified than the average Tactical Air Command pilot. . . .

"Service maintenance personnel . . . were generally very high caliber with considerable experience working in their specialty area. They were usually much more highly qualified than personnel who will maintain the system after it is deployed."

The GAO concluded that, because of these and other testing deficiencies, "operational test results might not adequately reflect the performance, maintainability, and readiness of the systems in a realistic operational environment."

During Operational Test I (OT I) of the M-1 tank, the Army did do some testing that would be useful in seeing whether it would be more reliable on the battlefield than the standard M-60A1—they tested the tanks side-by-side. This is perhaps one of the best ways to find out whether a new system is worth buying or whether you would be better off modifying the old system.

The only problem is that the Army did not continue side-by-side testing throughout the development of the tank program. The following numbers may tell you why. In OT I at Fort Bliss, Texas, during 1977, driving over the same roads and using the same scoring conference measuring "system reliability," the M-60A1 went 493 mean miles between the failures (MMBF) compared to 77 MMBF for the M-1. The Army's discontinuation of comparative testing again skewed the results in favor of the new weapon.

A few years later the Army's Logistics Evaluation Agency looked back through M-60A2 testing records, to see how the M-1's performance was stacking up. As noted in the 1979 logistics report, which I obtained by a Freedom of Information Act request:

"A current comparison shows the M-60A2 tank was tested (engineering test/service test (ET/ST)) for a total of 26,667 miles and 622 performance maintenance reports were written. At approximately the equivalent XM1 test mileage (21,423), 1,752 performance reports have been submitted" or about 3½ times the M60A2 incidents. [Emphasis added.]

To place this in perspective, the M-60A2 was by far the most complex model of the M-60 series but significantly less "advanced" than the M-1. It has been widely recognized as a disastrous failure, so disastrous that all of the Army's 750 M-60A2s have been recalled from Europe. Despite the fact that the M-1 needed maintenance 3.5 times as often as the unacceptable M-60A2, the Army continued to push the M-1 tank program forward with unrealistic optimism and continued to praise the tank at every milestone and every attempted congressional review.

REPORT CARD MANEUVERS

How much of the bad news discovered during operational testing reaches Pentagon decisionmakers and Congress? It is very hard to find out how much is transmitted during the closed-door meetings of the Pentagon's Defense System Acquisition Review Council that reviews each service's milestone decisions. But it is not hard to see that the promoters of the weapon system—the program manager, the research and development factions, and even the services themselves—are constantly trying to turn in to Congress glowing report cards that obscure bad marks in "battlefield" testing.

I have observed first-hand the elaborate effort the Army has made to minimize glaring faults of the M-1. Important shortcomings of the tank were not reaching Congress through hearing testimony or through the congressional staffs and especially not during congressional tours to review the weapon system.

One of the standard reporting-to-Congress techniques was demonstrated during hearings before the House Armed Services Committee on March 18, 1981. Maj. Gen. Duard Ball, program manager for the M-1 tank, told the committee that the power-train durability number had reached 30 percent—even though it had recently slipped from 22 percent to 19 percent, as Maj. Gen. Louis Wagner, commanding general of the US Army Armor Center at Fort Knox, had conceded to the committee earlier the same day.

While General Wagner was talking about the durability figure in operational testing, General Ball was using a figure that combined operational and developmental testing—although he didn't mention that to the committee. Since developmental testing is done by scientists in ideal conditions, the numbers from developmental testing are usually higher. They are often combined with operational testing results to pull up bad "battlefield" scores.

The General Accounting Office (GAO) has caught the Navy glossing over weapons problems in the same way. In a 1979 report to Congress, "Need for More Accurate Weapon System Test Results to Be Reported to the Congress," the GAO found that on a Congressional Data Sheet (a congressionally mandated report card to Congress) for the Major Caliber Lightweight Gun System, the Navy had also combined developmental testing and operational testing—and had put the combined results under the heading "operational testing" with no qualifying statements. The GAO showed with a chart (see box) how misleading that type of reporting is to members of Congress trying to decide whether to vote to buy the weapon. In the same report, the GAO revealed that misleading report cards had been sent to Congress for eight other Navy or Air Force weapon systems.

MISLEADING REPORT CARDS

A GAO table showed actual test results versus the Navy's reported results:

Objective	Characteristic	Demonstrated performance according to the most recent	
		Operational test report (Feb. 1977)	Congressional data sheet (Jan. 1978)
300 rounds	Mean rounds between failure (overall)	214 rounds	305 rounds.
800 cycles	Mean cycles between failure	533 cycles	952 cycles.
150 hours	Mean time between failure	98 hours (no critical or major failures)	195 hours (no failures).

An internal Army document reveals how low test scores are jacked up:

ISSUE: RAMD

	Requirement	M1 DT III	
		As tested	Adjusted [1]
Reliability (MMBF):			
System	101	75	99
Mission	320	251	336
Durability:			
Power train	[2] .5/4000	[3] .34 (.21)	[3] .40 (.37)
Track	[2] 2000	950	950
Maintainability:			
Maintenance ratio [4]	1.25	1.71	1.35

[1] Adjusted based on demonstrated corrective actions; all corrections may not be in initial deployment talks.
[2] Miles.
[3] ( ) = combined DT/OT III value.
[4] On-vehicle, active maintenance manhours/operating hour (10 mph). Adjusted value reflects failure rate reduction (38 percent) and atypical tire modifications (12 percent).

On November 5, 1981, Gen. John W. Vessey, vice-chief of staff of the Army, gave the House Armed Services Committee the final Army picture of the tank's RAM-D testing just after the M-1's full-production decision. Although he told the committee that the numbers he presented were based on combined operational and developmental test scores, he did not give any hint of the relative contribution of each.

Nor did Vessey mention that the developmental scores were not actual test results but "adjusted" results. The chart on page 25, reproduced from a summer 1981 internal but unclassified Army briefing that was leaked to me, reveals how important this adjustment was in helping the Army "meet" its RAM-D requirements. The creative "adjustment" referred to is to assume away any failure for which some engineer has subsequently proposed a fix, whether or not the fix has been installed.

Even after adjustments for such fixes, the M-1's crucial power-train durability requirement had still not been met. Although General Vessey admitted this to the committee, he did not give any number. In the final phase of operational testing, it was 15 percent, compared to a 50 percent requirement.

In a 1980 report released to me in January 1982 after being sanitized (classified material removed), the General Accounting Office concluded that, even after 10 years of GAO prodding of the services and the Department of Defense to improve their reporting to Congress, major problems still remained. Among its findings:

"Congressional testimony for 11 of 36 systems we received either (1) included misleading or inaccurate data or (2) in our opinion, could have been improved by including additional data.

"Eight of 16 Navy and Air Force data sheets for fiscal year 1980 still omitted or misstated data identified during our previous review which in our opinion should have been reported.

"Budget justification data, including RDT&E description summaries, . . . contained the following:

"Misleading or incomplete statements of system capability (three systems).

"Misleading, incomplete, or inaccurate data on planned tests, test results, or operational experience (seven systems). . . .

". . . we identified . . . incomplete, misleading, or inaccurate reporting for 20 of 27 systems included in our review which have SARs (System Acquisition Reviews)."

THE M-1 ROLLS ON

To illustrate the way weapons testing is so deformed that it cannot serve its purpose, I have taken you through only one aspect of the M-1 testing—RAM-D. Deficiencies in many other, equally important, areas have not been fixed and are following the tank into full production and delivery to Europe. I discovered several very serious defects that appeared at the end of the testing of the M-1 but did not come to the fore in congressional testimony and review.

All the way through the troubled evolution of the M-1 testing, the Army has touted its "fire-resistant" hydraulic fluid and its fire-suppression system to protect the soldier from fires inside the tank. This is an important concern considering that, according to a top Israeli tank commmander in the 1973 Mideast war, 300 of the 800 Israeli tank crewmen killed in that conflict were burned to death by the flammable hydraulic fluid in their US-built M-60s.

On November 5, 1981, General Vessey told the House Armed Services Committee:

Crew survivability, appropriately allocated number one priority, has had the greatest effect on the design of the tank. The system combines armor of a special design, compartmented ammunition and fuel, flame resistant hydraulic fluid, and automatic fire detection and suppresion, *to provide unprecedented crew-protection. Effectiveness of these systems has been demonstrated conclusively through testing of both individual structures and a combat loaded tank against a variety of potential enemy munitions including small arms, large caliber tank and anti-tank munitions, and anti-tank mines. The results are impressive evidence of this tank's outstanding protection for its crew.* [Emphasis added]

Shortly after this testimony, I obtained a copy of an anonymous maintenance cable sent from Fort Hood, Texas, to the M-1 tank command in Warren, Michigan. The cable, dated October 1981 (after OT III, the last operational testing) listed many maintenance problems, but one item caught my eye:

"E. Hydraulic Fluid (FRH). The high pressure hose from the reservoir has failed twice causing severe fire damage to the tank. The FRH burn point is only 216 degrees F and flash point is 425 degrees F. Any conception that its use makes the Abrams tank fire proof is in error. A substitute more fire proof fluid should be used. As an interim solution, this hose should be shielded to divert any spray away from the hot engine."

Although the cable provided no further details about the two tank fires, the thought that these tanks did catch fire twice, with no one shooting at them, was very sobering.

The low burn and flash points of the hydraulic fluid is particularly disturbing because the exhaust from the M-1's unique turbine engine alone runs between 900 and 1,500 degrees F. There are other, less flammable, hydraulic fluids on the market. Commercial airliners use Skydrol, a much more flame-resistant hydraulic fluid.

A colleague of mine then pointed out that, since the tanks did receive severe fire damage, the automatic fire-suppression system must have failed. A few days later, our fears were confirmed. I obtained a copy of an Army Developmental Test III briefing, dating from the summer of 1981, that listed the fire-suppression system as a "critical hazard" for the M-1.

In December 1981 I asked Gen. Robert L. Kirwan, head of the Army's Operational Test and Evaluation Agency, whether he was satisfied that the M-1 had met its requirements enough to warrant full production. His reply:

"The M-1 tank was one of the most tested development acquisitions within the U.S. Army. The OTEA conducted thorough operational tests of the M-1 tank, reported and evaluated those tests, and presented its findings and evaluations of those tests to the appropriate decision makers. I am satisfied that our testing of the M-1 tank was accomplished adequately, professionally, and credibly."

Congress has approved funds for fiscal year 1982 for the M-1 to go into full production, and the Department of Defense has given the M-1 its official blessing as the US main battle tank. M-1s are now being shipped off to Europe.

CAPTURED TESTERS

Why doesn't someone do something about this? you may ask. They have tried. Since 1970 there has been an intense effort to get operational testing away from the promoters of the weapons—the research and development community in the services and the Pentagon—and into the hands of independent operational testers who would put the soldier above the politics of procuring weapons.

In 1970 a Blue Ribbon Defense Panel appointed by President Nixon, perhaps in reaction to weapons failures in Vietnam, studied several issues in defense procurement, including operational testing. The panel found, for the most part, that the Operational Test and Evaluation (OT&E) function of the services was not managing to weed out undesirable weapons.

The panel recommended sweeping reforms, including establishing an independent Operational Testing and Evaluation group in the Office of the Secretary of Defense (OSD) under civilian leadership and establishing a separate, independent Defense Test Agency. They also recommended that the OSD testing group, as well as the operational testing program in each service, have a substantial and separate budget from the R&D groups.

Under the Nixon administration, Undersecretary of Defense David Packard responded by setting up a testing group in OSD, but this group reported directly to the Pentagon's chief weapons developer and promoter, the Director of Defense Research and Engineering, who is responsible for all weapons R&D and procurement. Packard apponted a retired Army general, Gen. Alfred D. Starbird, to set up the organization. General Starbird had deep roots in the developer community; he had been program manager of the Army's Anti-Ballistic Missile System—a system plagued with problems that had been covered up in testing.

There is an ongoing debate in the Department of Defense (DOD) whether the service testing agencies and the OSD testing group are truly independent of the strong research and development community in DOD. I interviewed one person in the Pentagon who has been deeply involved in testing and prefers to remain anonymous for fear of his position. He claims that these procedural reforms are mere "window-dressing" and that the so-called independent testing agencies are still "captured" by the R&D factions in the Pentagon.

When I asked retired Adm. Isham W. Linder, the current director of DOD Test and Evaluation (the "independent" group set up during the Nixon administration), if his office is truly independent, he responded with an emphatic yes. He admitted that his funding comes from the Office of the Undersecretary of Defense for Research and Engineering but claimed this is only for convenience. He told me that he does consult with Dr. Richard DeLauer, the undersecretary of defense for Research and Engineering, but can go "straight to the Secretary of Defense" if he needs to. For the record: the DOD directory lists Admiral Linder a part of DeLauer's R&E department.

In Linder's office in the Pentagon, we talked about reporting systems and program managers who become overzealous "salesmen" for their weapons. He described the role of his office as one of "monitoring tests" and watching over the service's testing agencies. He is happy, he said, with the Navy's test agency, which has been in existence since the end of World War II, but noted that it took the other two services "a long time to accept the idea" of independent test agencies. He also expressed satisfaction with the Air Force test agency but confided that the Army's agency, OTEA, is "fighting for life" from an overbearing TRADOC, the Training and Doctrine Command for the Army.

I left the office feeling that Admiral Linder is confident of his agency and the service agencies' watch over our weapon systems. He certainly does not seem to be the sort of man who would allow flawed weapons onto the battlefield to threaten soldiers' lives.

And yet . . . one must look at the record during his "watch." As director of Defense Test and Evaluation since the spring of 1978, he has overseen the testing of the M-1 tank, the newest version of the Sparrow missile, and the Navy F-18 fighter—all of which have had major testing problems. We don't know whether Linder raised a fuss at closed-door Milestone reviews of these weapons, but the ultimate proof of his effectiveness is whether the testing he "monitors" stops weapons that will fail on the battlefield.

Maj. Gen. Robert Kirwan, director of the Army's Operational Test and Evaluation Agency, is adamant that his agency is independent and reports directly to the Army vice-chief of staff. "The OTEA zealously

protects its independence so that its assessments remain unbiased," he said in a letter to me. Yet Admiral Linder is worried that OTEA is being swallowed up by the Army developer, TRADOC.

BATTLING THE SYSTEM

Most of the "mavericks" in the defense testing area prefer to remain anonymous because they are still reliant on the Pentagon. I did meet one, however, who pushes his independence about as far as he can and still remain in a position of power. He is Vice-Adm. Robert Monroe, currently the director of Research, Development, Test, and Evaluation for the Navy. He has only been in this position for a couple of years; before that he was the head of the Navy testing agency, OPTEVFOR (Operational Test and Evaluation Force).

After a few minutes into our first interview, it was apparent that Monroe, although he has been kicked upstairs, is still an operational tester at heart. He spoke in glowing terms of the importance of operational testing and how it must be separate from developmental testing. "I believe in these things," Monroe explained. "There is a constant fight to ensure that expediency doesn't take over and weaken the (weapons) system."

He outlined the dilemmas and pressures that face an operational tester under the current system. There is resistance to his recommendations by the program manager and the sponsors of each weapon. The program manager is "on occasion more success-oriented" and willing to "burn more bridges" and move ahead with a weapon that is not fully developed or tested. Decisionmakers want to keep moving ahead with a program so that the service's budget does not lose the dollars associated with it.

Monroe insisted, however, that the operational tester wins in this struggle and that the Navy test agency is independent and reports directly to the chief of Naval Services. The 1970 Blue Ribbon Defense Panel also reported that Navy operational testing was the "most logically organized." And DOD sources confirm that Navy testing is good but worry that the test results are often ignored by higher-level brass.

As commander of OPTEVFOR, Monroe did manage to stop the Major Caliber Lightweight Gun (the MK-71) and to delay production decisions on the Navy Harpoon missile and the newest model of the Sparrow missile, the AIM-7F. In our discussion, he went into great detail about stalling production of the Sparrow air-to-air missile because of reliability problems—extremely low mean flight hours between failure.

A DOD unclassified analysis of the Sparrow testing supports Vice-Admiral Monroe's claim of good testing:

"Testing conducted during IOT&E revealed or verified design and performance problems requiring major modifications. Early identification of these problems permitted the Navy (and the Air Force) to develop employment doctrine and tactics to minimize missile shortcomings.

"Adequate testing also provided the Services and DOD decision-makers with sufficient information to affect their decisions to delay production. . . ."

Yet the report also refers to the AIM-7F's "limited potential in the more demanding combat environment" and "the controversy surrounding the missile system itself." As the operational tester of the newest Sparrow, Monroe was able to hold out on the narrow reliability issue but was still unable to stop it because of its lack of effectiveness.

The Sparrow has been built in various forms since 1955. They were used in Vietnam and were one of the notable weapon disasters in that war. At $44,000 each (in 1968 dollars) they only killed the target, according to a recently declassified DOD study of Vietnam weapons failures, in 8 percent of the firing attempts. The testing of the new AIM-7F Sparrow was not done side-by-side the old Sparrow to see whether it improved on the major deficiencies of the old one. This new version is claimed to be more lethal, but this could only be established by extensive firings against multiple real aircraft targets. These extensive firings have not taken place. I have been told by several Pentagon sources that the missile, at $120,000 each, still is not a very effective weapon.

Even if Vice Admiral Monroe also fought against the missile because of its poor effectiveness as a weapon, he was fighting a Sparrow weapon "constituency" that had been growing since 1955. Faced with that type of opposition, he was lucky to be able to delay the Sparrow because of reliability problems.

During my second interview with Monroe, he emphasized that the Washington environment is not conducive to careful consideration of operational testing needs or results. He called Washington a "hyper-political town" where people take sides on weapon systems based on general liberal or conservative politics. He does not believe in the independence of the OSD testing agency and would like to get testing "out of Washington" and place more reliance on the operational testers in the field.

CAN WE WIN THIS WAR?

In 1977 a group of concerned defense experts in the Pentagon and President Carter's transition team, dismayed at the existing testing structure, took advantage of a new administration reorganization. They convinced then-Secretary of Defense Harold Brown that testing had to be pulled away from the influence of the R&D community in the Pentagon. Secretary Brown agreed to set up a new independent testing and evaluation office to, as he told Congress, separate "the analysis of operational test results from the personnel responsible for research and engineering, thereby providing me with completely independent evaluation." The plan called for splitting the testing in the Office of the Secretary of Defense, leaving developmental testing to the developers and operational testing to the new independent group.

The R&D community saw this attempt as a direct attack on their ability to move weapons through the system without criticism. The attempted "coup" only lasted a little over a year. The undersecretary of Defense for Research and Engineering at the time was William Perry. According to Rep. Les Aspin (D-Wis.), Perry had convinced Harold Brown to limit the staff of the new OT&E organization to 8 people instead of the recommended 22 and had made it impossible for the group to obtain a formal charter that would allow them to ensure adequate operational testing. They did find that several major weapons—the Pershing II missile, the Infrared Maverick missile, and the GBU-15 (a TV-guided missile)—had been prematurely pushed into the production stage despite serious failures during testing. But in October 1978 the independent OT&E office asked to be disbanded (a remarkable occurrence in any bureaucracy) because of the impossibility of carrying out its functions without an appropriate staff and charter.

Congressman Aspin learned about the death of the agency after he discovered that the telephone number had been changed. He objected to the demise of the office, but to no avail. When I interviewed him recently, he referred to the OT&E defeat as "an indication of lack of commitment to getting to the heart of the problems of military procurement."

So what is the solution to the inordinate power of R&D interests? How can we get effective and affordable weapons to the soldiers in the field?

Vice-Admiral Monroe's proposal to get testing out of Washington might work if all the operational testers were as hard-nosed as Monroe, if the test data were not laundered, and if decisionmakers would listen to the operational tester and make the hard decision to cancel a weapon that will not work. There are too many loopholes for the weapons promoters to slip through in Monroe's solution.

Kwai Chan, group director of the GAO's Institute for Program Evaluation, would like to see money appropriated for missions and have several types of weapons in each service compete for this mission budget. For example, we might have the mission of defeating an enemy tank, and the Air Force would compete with the Army to come up with the best solution. This could be a very productive idea if the services would cooperate and if testing were honest.

Several sources inside the Pentagon still believe in the possibility of an independent testing agency. One of them believes such a group could be successful if given "young and tough guys" who had not been trained in the old bureaucratic system. With the Reagan administration's moves to "decentralize" DOD, however, turning over major decision making to the services, it is unlikely that this is a viable option for some time.

It is patently clear that more governmental studies or investigations will not solve the problem. Additional paper reforms promise to be deformed by the bureaucracy to fit its need to survive and advance careers.

How can this overzealous, money-spending developer complex be reformed? As a defense "ombudsman," it has been very hard for me to understand why people in the bureaucracy are able to do such a basically evil thing as to send a soldier into battle with a weapon that they know will fail. Thomas Amlie, former director of the Navy Weapons Center at China Lake, who has been in the system over 20 years, shed light on the problem in a paper widely circulated in the defense community a few years ago:

"The DOD has all the symptoms of being corrupt, incompetent and incestuous, and is so to an alarming degree. This is not because of some sinister plot. . . . Many of the players are aware that things are going badly and are unhappy because they do not have meaningful jobs where they can contribute. They are not, in the main, dishonest or incompetent, just caught in a very bad situation. . . . The bureaucrat soon learns that he who does nothing has a simple life and he who tries to do something gets in trouble. Even if the doer succeeds, he is seldom rewarded. All pressures are to maintain the status quo and not rock the boat because the Congress and Administration are willing to put up the money every year, independent of the results. . . .

"The basic reason for the problem is incredibly simple and will be incomprehensi-

ble to one who has not spent time in the system: there is no profit and loss sheet. Thus, there is no competition or incentive to produce. The goal of every good bureaucrat is to get an exclusive franchise on whatever it is he is doing. If nobody else is doing it, no one can measure how well or poorly he is doing it. . . . The only requirements are to stay busy, generate paper and make no mistakes. The reader tempted to criticize this behavior is invited to first imagine himself in the situation, complete with a large mortgage and children in college."

So to make sure we deliver affordable and effective weapons to the battlefield, we must have good and independent operational testing. But in order to have this type of testing, we must dramatically change the way the Pentagon procures its weapons.

Some simple but major changes would be to set up a testing system in which the developer and promoter of the weapon must turn the weapon over to the operational testers when the development tests end. Under the current system, these tests often run concurrently, OT and DT results are often muddled together, and there is not a distinct decision point to go or not to go with the weapon. Another improvement would be to fire people who cover up, lie, or attempt to promote a weapon system that is not working. This would send messages throughout the bureaucracy that successful weapons, and only successful weapons, can get people promoted. It is also essential for Congress to insist that test results be reported under oath.

One of the most effective changes would be to refuse to fund any new weapon that costs three times as much as its predecessor, to set a reasonable budget limit for each new weapon and refuse to change it, and to reward innovative people who produce inexpensive and effective weapons—in other words, insert a profit and loss sheet in weapons procurement.

These changes would require a giant change in attitude on the part of the Pentagon, Congress, and the general public. One of the first steps toward this change is to support honest operational testing and a stronger role for test results in the decisionmaking process. This first step is necessary to begin to weed out the generation of ineffective weapons that are still being produced, "fixed," and handed over to our soldiers.

Can we do this as a nation without another war filled with weapons failure horror stories and countless numbers of our sons unnecessarily lost?●

SUPPORT FOR THE JACKSON-WARNER RESOLUTION

● Mr. DOMENICI. Mr. Speaker, today I would like to announce my intention to support the Jackson-Warner resolution (S.J. Res. 177) dealing with nuclear arms control. I believe, as it is evident that a majority of the Senate also does, that the Jackson-Warner proposal represents the correct and prudent approach to the important issue of arms control and its relationship to national security. The remarks of the President during his news conference last night indicate that the administration also views this as the correct approach. I have been concerned that our past preoccupation with arms control led us to neglect the basic responsibilities of seeing to the existence of an adequate national security posture. There are all too many examples over the past decade—the so-called SALT decade—of unilaterally deciding to cancel or delay important defense-related actions in the forlorn hope that some magical SALT breakthrough would release us from the responsibility of seeing to our own defense. Regrettably, we are forced to deal with the legacy of that neglect today. Indeed, part of the serious economic situation we face today is complicated by the inescapable need to substantially increase—year to year—the level of funding for national security in order to make up for the lost momentum of a decade of SALT.

The President's remarks last night, coupled with the amount of support which this Jackson-Warner resolution has already achieved, have reassured me that there is little danger that the United States would repeat the mistakes of the previous SALT experience. It is apparent that we will not let emotional reactions about the consequences of nuclear competition—reactions which are altogether understandable and which I believe I share with the majority of Americans and people throughout the world—overcome the requirement that Government maintain a cool and hardheaded perspective about the nature of the military competition and inhibit the requirement to see to the security of the country. The administration will not, as this resolution implies, let the United States be frozen into a position of inferiority. We will keep the pressure upon the Soviet Union to agree to equable and verifiable reductions in the world's nuclear arsenals. We will recognize that deterrence is a dynamic, not static, situation which must be continually maintained. That process of maintenance is expensive and it is certainly a situation which, at its outer boundaries, holds the most horrifying scenarios of devastation. But that is part of the nature of the nuclear deterrence relationship we exist in today and we dare not shirk from its maintenance at this point.

I commend all Members of Congress, and all Americans, who have rightly pointed to the grave responsibilities and implications which the present nuclear environment entails. They are right to focus our attention on the matter as the highest priority issue to deal with. But I cannot support any measure which would again thrust the United States into the position of gambling with security.

I have great confidence that the deterrence relationship, if properly maintained, will provide mankind with the time to agree to the elimination of nuclear weapons. But it seems to me that deterrence maintenance, not unilateral and naive constraints, is the essential condition for such an agreement to occur.

I am pleased to join my other Senate colleagues in supporting Senate Joint Resolution 177.●

THE DISABILITY INSURANCE PROGRAM

● Mr. MOYNIHAN. Mr. President, in 1980, after the General Accounting Office investigated problems in the social security disability insurance—DI—program, Congress amended the Social Security Act to insure that only genuinely disabled persons receive DI benefits. The Disability Insurance Amendments of 1980 require the Social Security Administration to reexamine everyone now receiving DI benefits. Those found no longer disabled are to be removed from the benefit rolls.

These mandatory reviews, known as continuing disability investigations, began in March 1981. Evidence provided by the Social Security Administration itself indicates that a very great number of disabled persons are being removed from the rolls, along with those who no longer are infirm. In 1981, the State agencies that carry out DI reviews examined 351,000 cases. According to SSA, benefits were terminated in 45 percent of these cases. Persons denied benefits may appeal their case to an administrative law judge. Benefits were reinstated in 47 percent of the appeals.

That eligibility regulations are to be maintained scrupulously should be an elementary principle of government, but the evidence provided by SSA indicates that there are serious problems with the continuing disability investigations. As a result, on February 11, I joined with Senator METZENBAUM to introduce S. 2086, a bill to require SSA and the State agencies that carry out case reviews to adopt some procedural safeguards to protect those entitled to DI benefits. We have called upon the Senate Finance Committee to hold hearings on the problem, and I am confident those hearings will soon be held.

Hearings have already been held by the House Committee on Ways and Means Subcommittee on Social Security. At that time, my distinguished colleague, Senator RIEGLE, presented incisive testimony on the problem of continuing disability investigations, putting forth lucidly and thoroughly the problems disability insurance beneficiaries face. I commend it to the Senate, and ask that it be printed in the RECORD.

The testimony referred to is as follows:

TESTIMONY OF SENATOR DONALD W. RIEGLE, JR. ON H.R. 5700—THE DISABILITY AMENDMENTS OF 1982

Mr. Chairman and Members of the Subcommittee, I would like to thank all of you for providing me with the opportunity to testify here today on one of the most unpleasant and distressing issues before Congress today. I am referring to the massive assault the Federal Government has undertaken against our nation's disabled citizens. Some may consider these harsh words to be an exaggeration of the problem before us. However, I think a careful and detailed examination of the matter will substantiate my characterization of the current administration of Continuing Disability Investigations—CDI's—within the Social Security Disability Insurance Program.

I would like to congratulate you, Mr. Chairman, and you, Mr. Archer, for taking the leadership in fashioning a comprehensive bill designed to confront this most difficult problem. Your bill goes a long way toward dealing with many of the problems in current law that are resulting in extreme and often unnecessary hardship for thousands of disabled social security beneficiaries. I have some suggestions with regard to specific sections in H.R. 5700 which I think will strengthen the objectives of the legislation to protect the rights of beneficiaries while assuring that only eligible individuals are in receipt of benefits. However, I'd like to begin by briefly characterizing the problems with the administration of CDI's today, as I see them as a United States Senator and as a representative of the citizens of Michigan.

I think Congress acted reasonably when it required in the Social Security Disability Amendments of 1980 that all non-permanent disability cases be reviewed at least every three years and all permanent cases every seven years. No one wanted to see individuals, who had medically recovered or who had returned to substantial employment, continue to receive benefits in violation of Federal law. The rapid expansion of the Social Security Disability Insurance program during the nineteen seventies together with projected shortfalls in the Disability Insurance Trust Fund, made the tightening, of what was previously a rather lax administration, necessary if we were to assure that there would be sufficient funds available for legitimate beneficiaries.

However, the implementation of this provision in the 1980 Amendments, which the Reagan Administration voluntarily launched nine months earlier than required by law, has resulted in severe hardships for thousands of social security disability beneficiaries who are forced to go without benefits for many months, and who must demonstrate at several different levels within the appeals process, that their disabilities continue and that they remain eligible for social security disability benefits. This would not be so troublesome if the majority of individuals who were forced to go through this process were individuals who were no longer entitled to benefits. However, this is not the case. Almost two-thirds of the terminations of current beneficiaries by the Administration since their voluntary implementation of the review requirements of the 1980 Amendments, were reinstated after appeal. The most recent data shows that 69 percent of those individuals who are thrown off of the disability rolls, who are forced to find alternative funds for basic sustenance, perhaps by selling their homes or essential possessions they have earned after years in the work force, are later proven eligible for disability benefits. Even though these individuals will receive retroactive payments covering the period when their benefits were terminated, their previous financial status is often irretrievable. In addition, many of these individuals will lose up to 25 percent of their wrongfully terminated benefits for attorney's fees.

Clearly these figures are a serious indictment of the system and strong evidence that we need major revisions in the CDI procedures. Without swift action, the situation promises to get worse. The individuals who were initially chosen for reevaluation in the CDI program were selected from a group of individuals most likely to no longer be disabled for the purposes of benefits. And it is out of this group that only one-third who are initially terminated are permanently removed from the rolls. The poor correlation between the initial terminations and those terminations at the conclusion of the appeals process, promises to increase as less "error prone" cases are reviewed. It seems to me totally unacceptable to force the 2.9 million Americans who are currently receiving social security disability benefits to be subject to a review process that results in the wrongful termination of thousands of cases.

On a more personal level, I would like to take a moment to share with you some of the specific problems we are experiencing in Michigan as a result of the current administration of CDI's. In my seven regional offices in Michigan, we have seen our social security disability case load increase by as much as 95 percent since March of last year. In addition to individuals who have already received termination notices, my regional offices have been receiving regular phone calls from current recipients who are worried about their cases being reviewed and who are concerned about their prospects for being terminated.

Beneficiaries are not the only individuals contacting my offices expressing concern about the current CDI program. I have also been contacted by disability examiners from the Michigan State Disability Determination Office. These are the individuals at the front line of the disability review program. After holding meetings in my office with examiners, I found that the examiners feel that many of the terminations are wrong, but the new guidelines tie their hands so much that they are unable to do anything about it. They spoke of many instances when they have tried to "sneak" someone through who they knew as disabled as defined by law, only to have it reviewed at the Social Security headquarters in Baltimore and sent back to them for re-determination. The examiners explained that the new Program Operation Manual (POMS), the Federally issued manual which governs the determination of disability by the state agencies, makes significant changes in the previous criteria utilized for determining desability. This is especially evident in cases involving mental impairments, where vocational criteria are no longer considered and an IQ must be under 60. These rigid determinations have bizarre results, where individuals committed to the Michigan State Psychiatric Hospital are considered no longer disabled and have had their benefits terminated.

Heart disease is another area resulting in a high percentage of denials as a result of the new POMS. The manual is very specific about the degree of occlusion which must have occurred and require that treadmill and EKG evidence be presented. When a patient is unable to take a treadmill-EKG as a result of his or her doctor's advice, they are terminated because of lack of evidence to prove the claim. The Social Security Administration will not accept any tests or other evidence as an alternative to the treadmill.

This harsh and over-zealous attack on our nation's disabled citizens has resulted in unnecessary hardship and suffering. On Thursday November 5, 1981, a Lansing man who had been receiving social security disability benefits since 1967 as a result of a severe back injury, stood outside of the local Social Security office and killed himself with a shotgun shortly after discovering his disability benefits had been terminated. Numerous other suicides have been reported around the country as a result of CDI's. Another case being monitored by one of my regional offices in Michigan, concerns a 38 year old man who is terminally ill, suffering from leukemia, ploycythemia vera (a blood disease), chronic arthritis, hypertension, severe bone pain from both cancer and hepatitis, along with a severe personality disorder associated with a history of both drug and alcohol abuse. The Social Security administration says the extreme debilitating bone pain, associated with cancer, is no longer a factor for consideration. This man's problems are so severe, and he's so depressed, that the doctor will not allow the family to tell him his social security disability benefits have been terminated.

These are just a couple examples of a whole litany of cases that one could cite from my state and from every state in the Nation where the aggravation created as a result of the CDI reviews worsens heart conditions, hinders treatment for emotional and mental conditions, and in general, turns an already marginal existence into a nightmare.

I have some suggestions with regard to specific sections of H.R. 5700 which I would like, if there's no objection, to have inserted into the hearing record. However, I would like to commend the Subcommittee for moving forward with this needed legislation and treating this matter with the highest priority. As is evident from my earlier comments, I see this as a major problem within the Social Security Disability program, and I'm pleased that something is being done about it.

I did want to briefly mention that I particularly support the provisions of H.R. 5700 that extend the issuance of benefits during the appeals process. As I have already indicated, the provision in current law regarding the termination of benefits, is perhaps the greatest source of hardship for beneficiaries. In addition, I strongly support the provisions of the bill that extend vocational rehabilitation services to individuals who were terminated from the disability rolls as a result of a CDI review. This is an innovative approach for providing assistance to individuals who, while no longer disabled for purposes of receiving social security benefits, are nevertheless often in need of vocational and rehabilitation counseling and services.

In closing, I would like to reiterate my contention that the current administration of the Continuing Disability Investigations is resulting in cruel and unnecessary hardships for thousands of disabled Americans. We must seek ways to get Federal spending under control and to eliminate waste and fraud in government programs and activities. However, we must not approach that objective in a manner which results in the

needless suffering of innocent bystanders. I believe that H.R. 5700 is an important first step in the right direction and I commend the Subcommittee for taking the leadership in this area and for providing me with the opportunity to share my thoughts with you today.

Thank you.

SPECIFIC COMMENTS ON H.R. 5700 BY SENATOR DONALD W. RIEGLE, JR.

Let me briefly discuss the specific provisions in H.R. 5700. The sections of H.R. 5700 that strengthen the reconsideration process, establish uniformity at the various levels of adjudication, and create a Social Security Court, all speak to the need to fine tune the review process with the objective of trying to reduce the number of reversals on appeal. My concerns about all of these provisions is that such fine tuning is achieved by significantly tightening and narrowing the definition of disability. The way in which this bill attempts to attack the problem of wrongful termination is—in essence—to redefine the definition of disability, eliminating many currently eligible individuals. I do not believe that Congress should narrow the already strict definition of disability in the Social Security Act and thereby disqualify individuals with the types of severe conditions I mentioned earlier in my testimony.

I strongly urge the Subcommittee to consider achieving uniformity in the decision-making process by requiring the Social Security Regulations and the Program Operations Manual (POMS) to be redesigned so as to be in conformity with the requirements in the Social Security Act and the judicial precedents established in Federal Court. As the bill is currently drafted, uniformity would be achieved by nullifying judicial precedents and by requiring the adoption of the new Regulations and strict POMS standards at all levels of adjudication. By adopting the Federal Court standards at the first level of re-examination, thousands of disabled beneficiaries will be spared the unnecessary anguish of wrongful termination.

I strongly support the provisions in the bill that extend the option of the recipient to continue to receive benefits after initial notification of termination until a face to face evidentiary hearing is held. This would establish uniformity with the current procedures in the SSI program and would lessen much of the hardship experienced by many beneficiaries who are currently thrown off the rolls in a number of weeks. A similar provision is contained in S. 1944, a bill introduced by Senator Levin, on December 11, 1981, of which I am a cosponsor. I am concerned, however, that the six month limit in H.R. 5700 for such continued benefits may be an insufficient amount of time in some parts of the country where there is a significant backlog of appeals.

I am also concerned about the provision of the bill that would close the record after reconsideration rather than after a hearing in front of an Administrative Law Judge (ALJ) which is the practice under current law. Many beneficiaries do not seek counsel until the ALJ hearing and therefore have inadequately developed records at the reconsideration level. Until we are assured that the reconsideration process will not continue to be pro forma reaffirmation of the initial determination, a fair and complete appeals proceedings can not be assured if the record is closed after the reconsideration level. I recommend the Subcommittee postpone the enactment of this provision awaiting evidence that the reconsideration process has become a meaningful level of review.

In addition, I am strongly opposed to the provision which alters the recency of work test. In a state like Michigan, where employment is a significant problem, many newly disabled individuals out of the work force for several years, due to their inability to find employment during difficult economic times, will be denied benefits. The objective of the Social Security Disability Insurance program to provide funds for lost wages due to a severe disabling condition, would still apply to individuals out of the work force for a few years due to their inability to secure employment.

I would also like to briefly discuss those sections of the bill that deal with vocational rehabilitation. I strongly support the concept that those individuals terminated from the Disability rolls as a result of CDI's are in particular need of vocational rehabilitation services and counseling. Many of these individuals whose benefits are terminated as a result of CDI's, have been on the disability rolls for many years and are almost immediately thrown into a position where they must either seek employment or sell off most of their possessions in order to qualify for welfare. The additional funds made available under this bill to provide these individuals with vocational rehabilitation services will help assure that no one is forced to seek welfare for lack of vocational and rehabilitation counseling. I would however strongly urge the Subcommittee to consider the proposed program outlined in S. 1987 for providing vocational rehabilitation funds to the states for SSDI and SSI beneficiaries and adapt this program to meet the needs of CDI's. This bill, of which I am a cosponsor, was introduced by Senator Cranston on December 16, 1981, and provides the states with adequate funds for the specific purpose of rehabilitating Social Security Act beneficiaries without additional strain to the Disability Insurance Trust Fund and could be easily modified so as to address the specific problems confronting newly terminated CDI's.●

THRIFT INDUSTRY BAILOUTS

● Mr. CHILES. Mr. President, it is no secret that the thrift industry has seen better times. Losses in the past months have been staggering and a large percentage of savings and loan associations in this country are now in serious trouble. Many more are beginning to experience difficulties. In my State of Florida alone, we have already experienced several mergers. These mergers have maintained the financial integrity of the troubled thrift institutions, but in no way have they addressed the underlying problems of the industry which include inflation and high interest rates. While many of us in Congress have been working hard on the interest rate and inflation questions and have endorsed resolutions assuring the public that their savings and deposits are safe and secure, I think we also have to acknowledge that to a large extent, the problems facing thrift institutions must be viewed in terms of Government mandated lending policies.

Recently, we have heard more and more about a so-called Government bailout of the thrift industry. I think this is an unfortunate characterization of the assistance the industry is seeking because it implies in some way that the industry in the past has not been able to efficiently and effectively conduct its business. In fact, this has not been the case. While some may argue that institutions took incorrect actions or actions too late to avoid the present situation, I think Congress must acknowledge that a large part of today's problems stem from the Government.

Twice during the mid-1970's regulatory agencies proposed adjustable mortgages that would have allowed lending institutions to react to free market conditions. Congress, however, applied considerable pressure to the agencies to drop these proposals and maintain the long entrenched, fixed-rate mortgage. Also, during this time, Congress declined to favorably act on legislation that would have allowed thrifts some additional flexibility to diversify their portfolios. Only recently have they been given such authority. Finally, during the late 1970's, the Government approved a 6-month money market certificate tied to the volatile 6-month Treasury bill. This action proved to be a problem because thrifts were not given adjustable earnings capabilities so they had no way to pay the increased market rates for very long without it affecting their earnings.

So before we start talking about Government bailouts of the thrifts and inferring all sorts of negative things about the industry, I would urge my colleagues to remember that a great deal of what faces this important industry today is not all of their own making, but rather has been caused by problems of the economy and the rules under which they were required to operate. Perhaps in this context we can better understand the thrift's desire to have the Federal Government do something about their problems and particularly their low yield, long-term portfolio components.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of Senate employees who propose to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received requests for determinations

under rule 35 which would permit the following named individuals to participate in a program sponsored by a foreign educational organization, the Chinese Culture University, in Taipei, Taiwan, from April 2 to 9, 1982.

Ms. Lynda Nersesian, staff of Agency Administration Subcommittee;

Ms. Ann Agnew of the staff of Senator KASTEN;

Ms. Mimi Feller of the staff of Senator CHAFEE;

Mr. Michael Naylor of the staff of Senator DODD;

Mr. Allen Moore of the staff of Senator DANFORTH;

Mr. Scott W. Martin of the staff of Senator BOSCHWITZ;

Ms. Patricia McDonald of the staff of Senator WALLOP.

The committee has determined that participation by the above-named individuals in the program in Taipei, Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.●

RAFAEL HERNANDEZ-COLON ON THE CARIBBEAN BASIN INITIATIVE

● Mr. CRANSTON. Mr. President, among the finest and most eloquent of Puerto Rican leaders is former Governor Rafael Hernandez-Colon. Thus, I welcomed with great interest the thoughts of Governor Hernandez-Colon on the potentially devastating impact of the Reagan administration's Caribbean Basin initiative, thoughts which Governor Hernandez-Colon expressed at a recent Washington forum sponsored by the Carnegie Endowment.

Governor Hernandez-Colon cited the many disadvantages which hamper Puerto Rican competition with other beneficiaries of this initiative in the Caribbean. He called for new initiatives by the Reagan administration and Congress to remedy the potentially devastating consequences which certain ill-conceived aspects of the Caribbean Basin initiative could have on Puerto Rico.

I commend this excellent statement to the thoughtful attention of my colleagues and ask that it be printed in the RECORD at this point in its entirety.

The statement referred to is as follows:

STATEMENT BY RAFAEL HERNANDEZ-COLON ON THE IMPACT ON PUERTO RICO OF THE CARIBBEAN BASIN INITIATIVE

Before addressing the topic of my presentation this evening, I want to express my gratitude to the Carnegie Endowment and the American Foreign Service Association for providing me with this unique opportunity to exchange views with prominent individuals who, within their respective fields, can influence decision-making that affects Puerto Rico.

President Reagan has proposed a Caribbean Basin Initiative (CBI) with the objective of aiding the "well-being and security" of the Caribbean and Central American nations.

In the Commonwealth of Puerto Rico, we are well aware of the need for a politically stable Caribbean, and aware also that political stability requires economic vitality and growth. We warmly support efforts to aid our Caribbean neighbors to develop their economies. But, as much as we agree with the Plan's intentions, the fact is that Puerto Rico will not be a beneficiary, but a victim.

From the outset of the CBI idea, the Puerto Rican political leadership expected measures to be taken to promote the economic development of the Commonwealth under the umbrella of the Initiative. House Speaker Thomas P. ("Tip") O'Neill indicated that this was the intent of Congress also. During his recent trip to Puerto Rico, he said:

"We want to help the Caribbean. But let's help our own first, and then see where we go from there. We want to help our own, more than we help the others, even though we want to help the others for the peace of the world."

The Commonwealth relationship between the United States and Puerto Rico possesses sufficient flexibility to allow adjustments to be made, not only to face up to the problems which the CBI would present to Puerto Rico, but also to provide Puerto Rico with the necessary tools to re-establish strong economic growth. Since it mutually benefits Puerto Rico and the regional nations to build strong trade and investment relations, it seems clear that the Initiative should not pit the Commonwealth against its neighbors; nor is it necessary that their progress be built on Puerto Rico's decline.

In order to ascertain the necessity of adjustments in the statutory laws of the United States that constrain Puerto Rico, it is necessary first to examine the relationship between Puerto Rico's present economic condition and the consequences of the CBI. It is also necessary to examine the Reagan Administration's reaction to the recommendations submitted by the political sectors of Puerto Rico.

The Puerto Rican economy is increasingly plagued with alarming signals: Factories are closing continuously, the most dramatic example being the closing of the Commonwealth Oil Refining Corporation. The attraction of new industries is being outpaced by the departure of old ones, thereby creating a new loss of jobs and a 5% decline in real investment per year. Unemployment figures have reached depression levels. Our construction sector is virtually paralyzed. The government, facing a budget deficit, has had to resort to higher taxes. As a result, all local economists are predicting negative growth over the next few years. As we entered the 1980's, regression replaced stagnation.

In light of this adversity, Puerto Rico must restructure its economy to overcome the loss of federal aid, and to provide new jobs. The Caribbean Basin Initiative makes this task virtually impossible.

The keystone of the Caribbean Basin Initiative is a preferential trading arrangement under which Caribbean and Central American countries can export products to the United States duty-free for 12 years. The other components of the Initiative are complementary to the concept of a free trade arrangement. They include measures similar to those which Puerto Rico currently enjoys to encourage private investment, technical and marketing aid, export credit guarantees, political risk insurance, and direct U.S. aid for public projects.

If we exclude sugar, Puerto Rico's internal market will be the immediate target for the exports of agricultural products of the Caribbean. This is due to (1) our geographic size and location and (2) the nature of the Caribbean food products and similarity of our food consumption patterns. This includes meat exports, since the quality of meat from Caribbean countries is similar to that used in Puerto Rico. Thus, in the short run, the principal market that the United States is offering is not its own but Puerto Rico's.

Once investment for manufacturing begins to flow into Caribbean countries, another problem will besiege us. Many of the manufactured products these countries will be shipping to the United States are the same as those which now provide Puerto Rico with income and employment. Both in the attraction of American investment and in competition for markets for existing products, Puerto Rico is competitively disadvantaged by the CBI.

Because Puerto Rico operates within U.S. economic regulations, its economy is hobbled with many restrictions that beneficiaries of the CBI do not bear. As sovereign nations, these countries are free to set their own minimum wages and environmental regulations. We are not, because federal minimum wages and environmental laws apply to Puerto Rico. The CBI nations are free to eliminate duties on imported materials for manufactured goods. We are not. They are free to use the cheapest means of ocean-shipping—foreign flags. We are not. They are free to buy oil from Venezuela and Mexico at reduced prices. We are not. They are free to lure tourists through duty-free shops. We are not. They are free to protect their agriculture from food imports. We are not. I could go on and on citing the resulting inequities that will plunge the Puerto Rican economy into a regressive tailspin.

President Reagan has included several measures allegedly to insure that Puerto Rico will benefit and prosper. But these measures are totally inadequate either to prevent injury to Puerto Rico or to compensate us for injury. More importantly, by ignoring the bulk of Puerto Rican proposals, they reveal this Administration's gross insensitivity to our economic malaise. These measures demonstrate a lack of understanding of the strategies we need to pursue our development objectives. Due to our lack of resources and overpopulation, and due to our lower stage of economic development, we must manage our economy with a different strategy than that pursued on the mainland.

The Reagan Administration should face the obvious fact that exacerbating our economic conditions means that our people have fewer job opportunities and will be forced to rely on federal funds which, as we all know, are being severely reduced. Eventually, as the rug is pulled out from our economy, Puerto Rico will become a tropical South Bronx, a welfare ghetto in the Caribbean.

But it will be even worse than that. This treatment of Puerto Rico defies the most generous interpretation of fairness to a country which has agreed by compact to grant to the United States the conduct of our foreign affairs. It is indeed paradoxical that the United States should put forward a Plan to stabilize the Caribbean Basin which, by undermining Puerto Rico's economic development programs, will destabilize Puerto Rico: the foremost example of democratic

values and solidarity with the United States in the Caribbean.

In light of the Reagan Administration's contentions regarding Cuban aid, comfort, or control of the Nicaraguan Junta or the Salvadorean guerrillas, one finds the Administration's cavalier handling of the effects of the CBI on Puerto Rico rather incongruous. Independence for Puerto Rico is a stated fundamental objective of Cuban foreign policy. A Marxist-Leninist party with proclaimed ties to Fidel Castro operates overtly on the island, committed to achieving independence for Puerto Rico by whatever means. In 1981, nine combat aircraft assigned to the Puerto Rican National Guard were blown up by the "Army for Puerto Rican National Liberation" (Macheteros), and no responsibility has yet been determined by the authorities. In 1980, a U.S. Navy bus was ambushed by the same group near the Sabana Seca Naval Base; two Navy persons were killed, and no responsibility has been determined for this incident either. The U.S. mainland—in particular Wall Street—has been subjected to various terrorist bombings, most still unresolved.

Now violence is not new to the Puerto Rican/mainland relationship due to our sometimes strained historical relationship. In the thirties, forties, and very early fifties, it was noncommunist and less sophisticated, but more widespread, intense, and fanatical than it is now—as shown in the uprising of 1950, or the Truman assassination attempt, or the armed attack of the U.S. Congress.

It took years of laborious economic, social, and political development under the enlightened democratic leadership of Munoz Martin to mute these upheavals and usher in a period of stability under the Commonwealth structure established in 1952. Local programs based on our fiscal and common market relationships with the United States gradually achieved one of the most spectacular rates of growth in the Caribbean. In the 1970's, however, changes well-known in the world economy undermined our growth; and misguided policies of current local administrators have compounded the problems of economic stagnation and thrown us into the regressive tailspin noted earlier.

Now, if on top of this you add the disconcerting effects of the CBI; it becomes clear that Puerto Rico will be headed towards social upheaval and tensions which will make it fertile ground for Marxist-Leninist operations of the sort that so far have had minimal success within the island, given our previous economic stability and growth.

Senator Cranston put this concisely in a statement delivered on the floor of the United States Senate on April 2, 1981. Speaking on the proposed budget cuts for Puerto Rico, he stated:

". . . there is a foreign policy issue and, indeed, a national security issue involved in this matter. There is now great emphasis on our interest in stability and in maintaining and developing friendships in the Caribbean, in Central America where there is the conflict in El Salvador, and in Latin America generally.

"If we show total disregard for the people of Puerto Rico, if we permit many Puerto Ricans to slide into even deeper poverty than they presently suffer, and conceivably contribute to economic and social turmoil on that island, plainly this will be very damaging to our national security interests in the Caribbean, Central America and Latin America.

"We should do all that we can to make a showcase of democracy and the free enterprise system in Puerto Rico. We should do all we can to make a vivid contrast on that island as against the situation in Cuba and other nations where the people are under Marxist or other systems. It would be a great disservice to our national interest to not understand the needs of Puerto Rico, not take them into account, and not act in accordance with those needs."

It is disconcerting also that the Reagan Administration has chosen to work only with the pro-statehood faction in Puerto Rico, led by the present Governor, ignoring the Legislature which is controlled by the pro-Commonwealth party and ignoring the Puerto Rican community at large. Such an approach can only afford a skewed perception of Puerto Rican political realities, mounting political tensions upon a people in a rapidly deteriorating economic condition.

The Reagan Administration still has time to reconsider its policies and ways of dealing with Puerto Rico. The political leadership from the democratic sectors in the island which represent a majority of the people is open and willing to engage in meaningful discussions with the Administration, which should seriously—and not for the sake of window dressing—try to receive and accommodate inputs from all sectors, particularly on this CBI situation.

The Legislature of Puerto Rico has presented to the Administration and to Congress a set of proposals geared to counter the CBI effects on Puerto Rico and to regain our economic momentum. Such proposals, if adopted, will maintain the stability of Puerto Rico, which is, I repeat, essential to the stability of the Caribbean Basin.

These proposals are the following:

Allow Puerto Rico to set its own tariffs and import controls, especially on agricultural products and on materials imported from foreign countries for use in manufacturing;

Suspend duties on goods purchased by tourists in Puerto Rico;

Eliminate Jones Act restrictions on maritime transportation in order to place Puerto Rico in the same competitive position as other Caribbean Basin nations;

Promote the growth and modernization of ship construction and repair in Puerto Rico;

Adopt an open skies policy for Puerto Rico;

Assist Puerto Rico in participating in the petroleum purchasing facility created by Mexico and Venezuela and available to Caribbean Basin nations;

Promote Puerto Rico as the center of higher education, of professional training, and of vocational training in the Caribbean;

Restructure the present level of federal transfer payments under various grants and categorical programs into a single block grant for Puerto Rico and its municipalities. This would be geared to an economic development program formulated and implemented by its Puerto Rican Executive and Legislative authority.

Finally, the optimum conditions under which Puerto Rico can complement the economic objectives of the Initiative are (1) the revitalization of our island's economic development and (2) the ability of Puerto Rico to establish more fruitful contacts with the countries in the Caribbean Region. A necessary first step in this regard would be a recognition of the Commonwealth's capacity to enter into bilateral and multilateral commercial relations with our neighbors.

It should be clear from these proposals that we are not asking for a bailout, nor for a safety net; nor are we seeking to be treated as a handicapped ward of the United States. We are seeking the authority and the means to assume responsibility to face our problems and to be an effective participant in an Initiative whose goals we share and which we can foster effectively because of our unique experience in economic development.

What we ask can best be put in the words which Winston Churchill addressed to the United States at the outset of the Battle of Britain:

"Give us the tools and we will do the task."●

BURLINGTON NORTHERN HOLDING CO.

● Mr. BAUCUS. Mr. President, last Friday I was privileged to chair a hearing before the Senate Judiciary Committee on the subject of the recent decision by the Burlington Northern Co. to create a holding company. One of the witnesses appearing at the hearing was the Congressman from North Dakota, BYRON L. DORGAN. Congressman DORGAN's statement was so well prepared and so thoughtful on this important issue that I thought it might be of interest to my colleagues. Therefore, I ask that Congressman DORGAN's statement be printed in the RECORD.

The statement follows:

STATEMENT OF U.S. CONGRESSMAN BYRON L. DORGAN

"A holding company is something where you hand an accomplice the goods while the policeman searches you."—Will Rogers

Mr. Chairman and Members of the Committee, we are here today to talk about railroad mergers and holding companies.

This issue is of very great concern to my state, to yours, and to the entire nation.

As you well know, the nation's longest railroad system, and number one grain hauler, the Burlington Northern, which is an economic cornerstone of our region, is rearranging itself into such a holding company. Instead of managing its affairs under one corporate roof, the BN is splintering off its various assets and enterprises—timber, coal, oil, gas, real estate, farm land, railroading, and others—so that these reside under separate roofs, linked only to a "holding company" to which they all, on paper, will belong.

Although this step is essentially just a rearrangement of the legal paper which defines the BN's existence, it is cause for alarm to all those who depend upon the Burlington Northern railroad to carry their grain and other products to distant markets.

According to the BN, the reason for setting up this complicated holding company structure is to give it more flexibility in developing its real estate, timber and coal holdings, and other assets, present and future. Under its current arrangements, it cannot develop its non-railroad ventures as much as it would like, because the Interstate Commerce Commission must approve any stock issues or other financial steps which might affect the railroad.

The ICC's timid interpretation of the law, however, has led to the view that it does not have this authority over holding companies. This interpretation has turned the holding company into an escape hatch for railroad executives in search of greener pastures.

This is why the BN has turned to the holding company form. It will isolate the railroad in a separate subsidiary, and this subsidiary alone will fall under the ICC's review. The BN will then be able to issue stock, and engage in other financing ventures, to its heart's content. It will be able to develop coal, buy an oil company, or do virtually anything else without the ICC or anyone else asking bothersome—to it—questions of the impact of these financing moves upon the railroad and upon those the railroad serves.

HISTORY TEACHES CAUTION

History counsels us to have great caution regarding holding companies that preside over sprawling empires that encompass many lines of business.

In the nineteen thirties, the collapse of the mammoth utility holding companies showed how fragile such structures can be in the face of hard financial times.

More recently, and more to the point, there was the collapse of the Penn Central, another railroad which got a gleam in its eye for the seemingly greener pastures of land and real estate development.

We should not push the comparison between the BN and the Penn Central too far. Certainly, there are differences in the mergers which formed these two companies and in the strength of the enterprises which resulted.

But there is no way that the formation of a holding company can bode well for the BN railroad. At the very best, the railroad will not grow substantially weaker. But even that is doubtful.

We must recall that the great mergers which comprised what is now the Burlington Northern, were justified—both by the BN and the ICC—largely on the grounds that the BN's coal, oil, and other holdings would greatly strengthen the merged railroad. The ICC, in its 1977 "Railroad Conglomerates and Other Corporate Structures" report, asserted that "the financial strength of BN is due in large measure to the existence and development of its nonrailway assets."

A WEAKER RAILROAD

To now strip these asssets from the railroad, and leave it standing bare, can only weaken the railroad. It can do nothing else.

This is not just a question of assets and finances, moreover. It is also a question of management time and attention. A management that wants to spend less time maintaining and running a railroad. It's that simple.

This is apparent in the BN's reason for forming the holding company in the first place. If the BN does not want the ICC judging its financial moves on the basis of their impact on the railroad, then doesn't this suggest that the company might have in mind some actions which the ICC might question? Might it not be thinking of moves that, in the ICC's eyes, could weaken the railroad? Otherwise, why would the BN be jumping through all the legal hoops necessary to get out from under the ICC's jurisdiction?

These concerns are not hypothetical. The BN is heading in this direction already.

OILMEN IN SADDLE

Consider the recent changes in the BN's top management. The company has moved two individuals into top corporate slots who are not railroad men, but oil men. The BN's new Chairman Richard Bressler, is a former Atlantic Richfield Executive Vice President who, according to Business Week (March 8, 1982), "has made no secret of his intention to build up the company's nontransportation business."

The new President of the BN railroad, Walter A. Drexel, is a former ARCO tax accountant. Mr. Drexel's role, again according to Business Week, is to "give Bressler the cash flow he needs to grow the holding company's resource ventures."

This is happening now. Last year, the BN announced its intention to abandon hundreds of miles of branch lines in North Dakota and in other states. It made clear that it was going back on its long-standing commitment to the farmers of this region, so that it could redeploy these assets in more lucrative ventures.

We have stopped most of those abandonments, for the time being. But the BN can attempt them again, at any time. Its current course virtually guarantees that it will do so.

BN'S "CASH COW"

More important is the recent shift in the corporation's internal financing. With the railroad starting to produce a healthy profit, the BN's management is turning it into what Business Week called a "cash cow"—a source of cash to finance the BN's non-rail ventures.

The BN's goal, according to the magazine, is to reduce the railroad to at most only one half of the BN's total business. Business Week deduces—with good reason—that to reach this goal, the BN might do what U.S. Steel recently did—buy up an oil company.

What will happen to the Burlington Northern railroad when its role in the BN's corporate structure is so diminished? What will happen when the BN's new go-go management is spending more time on minerals and real estate then on railroading, and when it starts looking at the capital demands of the railroad and at the relatively conservative returns on this capital? Might it not conclude that railroading is a drag?

Might it not conclude that it should start getting out of railroading, or at least greatly reduce its commitment in that area?

The BN's attention to other ventures will lead it down this path of thought, if it hasn't already. And once there, who will stop the BN from phasing down its commitment to the railroad or shucking it off entirely?

WHOSE BUSINESS?

Is this of any concern to us?

The question is not rhetorical.

The BN argues that it is a private business, and that as such, it is entitled to run its affairs any way it wants. If it wants to shift away from railroading and into greener and more exciting pastures, then that's its own business, so the argument goes.

But the Burlington Northern is not just another private business. It is a public utility, serving a vital transportation need for the producers of the states which it serves. The health and soundness of this utility is the public's business.

That is just the beginning. The BN is vested with a much larger public trust—one of the most generous ever bestowed upon a private corporation in the history of this country and probably of the world.

Over one hundred years ago, the people of this Nation granted to what is now the Burlington Northern Railroad over 40 million acres of choice public lands in the great western domains of the United States. We bestowed this largesse upon the Burlington Northern for one purpose and one purpose only—to enable this corporation to build and operate a railroad for the benefit of all the people of this Nation.

The land grants were a form of endowment, vested in trust to the Burlington Northern to ensure that farmers and business people would have a healthy and reliable form of transportation, and that commerce in our part of the country could grow and thrive.

The public land grants have made the Burlington Northern wealthy to a degree that is almost beyond comprehension. It holds 14.7 billion tons of economically mineable coal, more than any other company in the United States. It has 7.5 million acres of oil and gas rights, over a million acres of grazing land, and enough timber holdings to make it the 12th largest private owner of forest land in the United States.

We did not lavish this beneficence upon the Burlington Northern so that it could become rich. We lavished it so that our Nation could have the kind of railroad system it needs to prosper. It is our responsibility in Congress to make certain that this purpose is served. Nobody else can.

OFF THE HOOK?

The BN and other land grant railroads dispute this.

They want to reduce the great and enduring public trust vested in them to a sort of cash-and-carry bargain. One provision of the original land grants required the BN and the others to provide reduced-rate rail service to the government. The railroads now contend, in advertisements appearing in magazines and newspapers throughout the country, that by providing such service they have paid for their land grants ten times over.

Therefore, we are led to believe, they have no further obigations to the public in connection with these grants.

The BN itself asserted, in papers filed in a recent lawsuit in Seattle, that it now "holds these lands in fee like any other private party." In other words, it says it can now do whatever it pleases with those land grants. End of matter.

But that is not the end of the matter. It is only the beginning of our inquiry. Their claim is dubious. More important, it is utterly irrelevant.

FULL OF HOLES

The BN must be hoping that the people who read the indignant ads do not go back and read the Congressional studies and hearings from which they derive their claims. These are nothing short of shocking. Far from proving the railroads' case, they shoot it full of holes.

Let me mention just a few of the points that the railroads omit in arguing that they have paid for their land grants ten times over.

First, they totally omit the value of the timber, coal, oil, gas, and other resources on and under their land grants. Instead, they assume that these lands are just scrub prairie, nothing more. The Rockefeller family might just as well omit its stock and bond holdings from the value of its estate.

Perhaps we should offer to buy back the land grants for the value the railroads use in claiming they have repaid their land grants ten times over. I suspect that the railroads would quickly come forth with a somewhat higher appraisal.

Second, there is evidence that the allegedly "cut rates" the government received were not really cut rates at all. House testimony in 1944 by Mr. C. E. Childe, a member of the

Board of Investigation and Research which investigated the "discount" rates provided by land grant railroads, suggested that instead, the railroads jacked up their "regular" rates and played other games with their rate structures, so that they could offer the government "discounts" and still turn a profit.

In any case, the alleged discounts couldn't have been too unprofitable. Why would the non-land grant railroads have been so eager for this government traffic, if it was really as unprofitable as they say?

Third, the land grant railroads didn't even provide all the service that they attribute to themselves in calculating that they paid for their land grants ten times over. Instead, they lump into their side of the ledger the allegedly reduced rates provided voluntarily by their non-land grant counterparts. In fact, according to Mr. Robert E. Webb, Chairman of the Board of Investigation and Review, these primarily-Eastern railroads contributed more cut rate service, than the land grant railroads did.

In short, it appears that the land grant railroads are taking credit for service provided by others.

Fourth, an investigation in 1948 found that the railroads had overcharged the federal government by 10–12% of their billings during the Second World War. This amounted to approximately $650 million for the three years '43, '44, and '45. I have found no evidence that the railroads ever paid back these overcharges in any meaningful way, or that they included it in their calculation that they have paid for the land grants ten times over.

OUR LAST OPPORTUNITY

It is clear that Congress has never gotten to the bottom of this matter. The finding in the 1940s that the railroads had paid off the grants rested on evidence that is less than convincing. As I have suggested above, very important questions remain.

We should answer these questions. The Burlington Northern is about to march off with a sizable portion of this nation's patrimony, on the basis of a claim that may well be false. If we do not investigate this question now, we may never have an opportunity to do so again.

There is a more important point. The claim that the railroads have paid back their land grants, is utterly irrelevant.

The railroad land grants were not a cash-and-carry deal. They were an enduring public trust, an endowment for the continuing support of railroad service. The requirement of cut rates for the government was but one provision of the grants. It was not the entire bargain.

Congress provided in Section Twenty of the BN's original land grant that it intended for this grant to help in "keeping (the railroad) in working order."

A Congressional Research Service study of this question, undertaken at the request of myself and other members of Congress, concluded that ". . . it appears both from the language of the Northern Pacific grants and the legislative history surrounding their enactment that Congress did envision a constructed and operating railroad as the purpose and result of the land grants."

This is the standard which we must hold the recipients of these land grants, including the Burlington Northern.

TAXPAYERS WILL PAY—TWICE

And this is why the Burlington Northern's move to set up a holding company is the business of every taxpayer in this country, as well as of every person who relies on the Burlington Northern railroad.

If the Burlington Northern retreats from railroad service, then the burden will fall on our taxpayers. They will be asked to subsidize rail service, to buy or maintain branch lines, or even to take over some rail operations entirely. They will be forced to pay for the highways and other facilities necessary to replace service that the Burlington Northern no longer offers.

Our nation needs this transportation service and someone will have to provide it.

American taxpayers have already payed for this service once. They have already bestowed upon the Burlington Northern an endowment so generous as to defy the imagination, to enable it to provide transportation that our nation needs. It simply is not fair to expect our taxpayers to pay a second time, while the Burlington Northern or any other railroad walks away with this endowment and converts it to its own private gain.

The Burlington Northern's holding company will lead us down that path.

We must act now.

Here are a few of the steps that we should take.

1. INVESTIGATION OF LAND GRANTS

It is time for a complete Congressional investigation of the land grant question. We need to know what the railroads have, how they are using those grants, and whether the original purpose of those grants is being served.

We also need to get to the bottom of the railroads' claim that they have repaid their land grants ten times over. We need to ask why the many questions surrounding this claim have been swept under the rug for so long.

2. REAFFIRM INTERSTATE COMMERCE COMMISSION JURISDICTION

True to form, the ICC has gone to great lengths to find reasons why it can't do anything about railroad holding companies.

It seems plain that existing law gives the ICC at least some authority in this area. Even the Commission's 1977 report on railroad holding companies suggested as much.

Given the Commission's recalcitrance, however, we should enact legislation that explicitly affirms the ICC's jurisdiction. The holding company device should not be an escape hatch by which the Burlington Northern and others can avoid their responsibility to keep the financial health of their railroads as their top corporate priority.

3. REVIEW TAX PROVISIONS THAT JEOPARDIZE RAIL SERVICE

Tax loopholes are one of the primary engines driving the wave of mergers and acquisitions in railroading and other businesses. We must eliminate these loopholes both to protect rail service and to promote competition and individual initiative in our entire economy.

We must look in particular at the way the railroads are using the billions of dollars in new tax breaks we gave them in last year's tax bill. The new reductions were so generous that the Burlington Northern is expected to pay no federal income tax at all this year. The purpose of those tax breaks was to promote investment in railroad operations. Instead, the Burlington Northern and others seem inclined to use their hundreds of millions in new breaks to help provide cash for other ventures.

In other words, the railroads are using their tax breaks just as they have used their land grants—to enlarge their empires, as much as to serve the public.

This is nothing new. After examining the records of at least seven railroad holding companies, the 1977 ICC Report concluded that "since there is no evidence that the holding companies have reinvested these tax savings in the carriers, the savings have been employed to finance diversification and other noncarrier activities of the holding companies."

We should make certain that the railroads use their tax breaks for the purpose for which they were intended.

FORFEITURE OF LAND GRANTS FOR RAIL LINE ABANDONMENTS

The purpose of the rail land grants was to support rail service. If the railroads are not going to provide that service, then they should give back a portion of the land grants that we gave them.

I have introduced a bill that would accomplish this. My bill, The Railroad Accountability Act of 1981, (H.R. 5114, 5115) would require the railroads to forfeit their land grants to a state, in the proportion that they abandon service in a state.

This Act would also require the railroads to include land grant income in their branch line balance sheets when trying to justify a branch line abandonment to the ICC. This would prevent the railroads from wearing a tattered cloth coat before the ICC when actually they are rolling in land grant cash.●

PHOSPHATE MINING IN THE OSCEOLA NATIONAL FOREST

● Mr. CHILES. Mr. President, today I was pleased to present testimony before the Senate Energy and Natural Resources Subcommittee on Public Lands and Reserved Water on the issue of prohibiting phosphate mining in the Osceola National Forest in Florida. I have brought this matter to the attention of my colleagues in the Senate on several occasions and would like to share with the Senate the remarks I made during this morning's hearings.

I thank the chairman of the Senate Energy Committee (Mr. McCLURE), and the chairman of the subcommittee (Mr. WALLOP) for scheduling this hearing. I feel this morning's session provided an excellent opportunity for the State of Florida, members of the Florida Congressional Delegation, and representatives of our State's environmental organizations to present a convincing case for why legislation needs to be enacted. I hope we will see favorable and expeditious action by the subcommittee on appropriate legislation in the near future.

The testimony referred to is as follows:

STATEMENT OF SENATOR LAWTON CHILES

I appreciate having the opportunity to be here today to testify in support of legislation to prohibit phosphate mining in the Osceola National Forest in Florida. During my years in the U.S. Senate, I can't recall a single Florida issue that has so unified our State as the question of possible strip-mining in the Osceola National Forest. When the issue of phosphate mining first surfaced back in the early 1970's, the public outcry was loud and strong. That clear,

strong voice of opposition from the people of Florida has not diminished over the years. Newspapers throughout the State of Florida continue to carry editorials fiercely denouncing the Administration's plan to lease the Osceola for phosphate mining. The Governor and Cabinet of the State of Florida strongly oppose the mining. The State Legislature has passed legislation in opposition to the mining. The State's regulatory agencies have worked vigorously to oppose the mining as have local and regional governments, and public interest groups. And finally, Mr. Chairman, the entire Florida Congressional Delegation has worked together in unified support of Federal legislation to resolve this long-standing controversy. Today your Subcommittee will have an opportunity to hear from these parties, and I am especially pleased to lend my voice to these who seek to protect this Forest from being permanently changed by possible strip-mining activity.

Mr. Chairman, permit me to put the present situation in an historical perspective.

Most of the Osceola National Forest is "acquired land", purchased with Federal funds rather than set aside from the public domain. These lands were approved for purchase under the authority of the Weeks Law of 1911, as amended, which directed the Secretary of Agriculture to recommend for purchase "lands (which) . . . may be necessary to the regulation of the flow of navigable streams or for the production of timber." According to a Congressional Report on the Osceola acquisition, the purchase of these lands was designed to promote timber managements as well as to protect the swamplands.

Since the Osceola National Forest was first set aside, the use of the Forest has grown to include such popular activities as hunting, fishing, camping and other recreational opportunities. In addition, the Forest has fostered a rich wildlife community. In all instances the opportunities afforded by the Osceola National Forest have been totally compatible with the Forest's primary purposes of timber management and wetland protection.

Now, Mr. Chairman, the Department of Interior is reviewing 41 preference right lease applications for phosphate mining covering 52,000 acres of the forest. If approved, mining could take place on almost one-third of the Forest's acreage. The possibility of strip mining in the Osceola National Forest is drastically inconsistent with the purposes for which these lands were originally acquired. Environmental studies have pointed to the adverse impact of strip mining on water resources, timber production, and swampland protection.

In addition, phosphate mining would significantly impact existing uses of the forest for recreation activities and would pose serious threats to wildlife habitats and populations found in the forest. Past studies, agency reports, and public testimony have provided a clear record of the adverse impact of strip mining on the forest and have, in my view, presented a convincing case that the exclusive use of these lands for intensive phosphate mining would be contrary to multiple-use management objectives of the Osceola National Forest.

I certainly recognize the critical importance of providing adequate phosphate supplies for our country, but I see no reason to destroy a national forest when alternative undeveloped phosphate deposits exist. Surely we should put the question of mining the Osceola aside at least until such a time when the supply of phosphate becomes critical, and the supply of recoverable phosphate has been exhausted on private or Federal lands on which the mining would have a lesser environmental impact, or which can be more effectively reclaimed. For the time being, Congress has a responsibility to recognize and protect the multiple uses and rich natural values associated with this forest resource.

For these reasons, I join with others in opposing the issuance of phosphate mining leases in the Osceola. At the present time none of the Osceola National Forest lease applicants have demonstrated they are "entitled" to a lease. This is a significant point, Mr. Chairman, that no rights to leases yet exist. However, what has taken place within the Department of Interior and the Department of Agriculture in conjunction with the processing of these lease applications will play a crucial role in the future determination of lease rights. For this reason, I want to outline, for the benefit of the Committee, the procedures taking place concerning these lease applications and the determination of lease rights.

The Mineral Leasing Act does allow the Department of Interior to lease phosphate and other mineral deposits located on acquired Forest lands. However, important provisions in the law clearly grant the Secretary of Agriculture, as the head of the executive department having jurisdiction over those lands certain authorities to "ensure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered."

Under existing regulations, after a company demonstrates that a discovery of a minable reserve has been made, then a final showing must be made to prove the current profitability of the mining operation. This final showing, the so-called "valuable deposit" test takes into account, among other things, the costs of operating the mining, of complying with existing governmental regulations, and of meeting reclamation requirements. Forest Service stipulations, and environmental standards. Meeting the valuable deposit test is a condition precedent to issuance of preference right leases.

It is important to point out that, because the Forest Service can impose surface resource protection and reclamation stipulations, and because the costs for complying with these stipulations must be accounted for in determining whether or not a valuable deposit discovery has been made, there is some possibility that, if all environmental costs are taken into account, the deposits covered by the 41 lease applicants cannot be profitably worked.

On this point, I want to quote a portion of the letter sent to me by former Secretary of Agriculture Bob Bergland in December 1978. He said, "There are serious doubts that the deposits can be profitably worked when all environmental costs are taken into account. If this proves to be the case, then, the applicants will have failed to meet the valuable deposit test, and the Secretary of Interior will refuse to issue the leases."

Later in his tenure as Secretary of Agriculture, Secretary Bergland wrote to Interior Secretary Cecil Andrus requesting the Secretary to withhold leasing on the Osceola National Forest for the immediate future. In this May 1980 letter he said that technology is presently unavailable or unproven to assure mining could be carried out under conditions that would insure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered.

Soon after the Reagan Administration entered office, I contacted the Secretary of Agriculture, Mr. Block, concerning the Department's position on the Osceola phosphate mining leasing question. In an April 1981 response to me Secretary Block indicated that the Department position was the same as that expressed by Secretary Bergland to Secretary Andrus in the previous Administration.

I was encouraged by this response. Then, a few months later, I began hearing reports about intense industry pressure on Interior regarding the pending lease applications. I knew efforts were underway in the Department of Interior to move forward quickly with processing the applications, but I was clearly distressed to learn that in trying to "speed up" the process, the Department was also trying to remove so-called "obstacles" to leasing, meaning past objections and concerns about projected mining activity.

One such incident involved a letter to Anne Gorsuch, Administrator of the Environmental Protection Agency, from the Assistant Secretary of Interior for Land and Water Resources. This June, 1981 letter was an apparent effort on the part of the Department of Interior to secure EPA's approval for the issuance of mining leases in spite of the strong reservations voiced by EPA in the past.

A position previously expressed by the Environmental Protection Agency stated that the issuance of the leases would lead to irreparable destruction of some 28,000 acres of the Osceola. A January, 1980 report to the Bureau of Land Management from the Agency recommended that no leases for phosphate mining be issued for the forest and that alternative approaches be explored to resolve the matter of the pending lease applications.

Another distressing incident occurred on October 22 when hearings were held on H.R. 9 before the House of Representatives Interior Subcommittee on Public Land and National parks. It was at this time the Department of Agriculture first announced its drastic departure from a previously stated position on the phosphate leasing question. During this hearing the Assistant Secretary for Natural Resources and Environment reported that the Administration believes the Osceola can be adequately reclaimed if strip-mining for phosphate. The Administration's testimony, as well as supportive industry testimony, has since been refuted by a comprehensive technical report prepared by Florida State officials. In addition, in its Committee Report on H.R. 9, the House Interior of Insular Affairs Committee has agreed that restoration of the Osceola National Forest after strip-mining is highly questionable. In spite of this rebuttal, however, the Administration insists on holding firm to its position on mining the Osceola and this philosphy has colored the Department's action on the pending lease applications.

On February 3, I was notified by the Chief of the Forest Service that work had been completed on the stipulations which will be used to determine of a valuable deposit has been discovered and if lease rights exist.

I strongly question these stipulations. I feel the DOA failed to develop strong and protective lease terms to adequately protect the Forest, disregarding recommendations of the EPA & USFWS. Among other things the stipulations allow for the creation of slime ponds on National Forest land. They

allow for a proliferation of an unlimited number of permanent lakes. In addition, the stipulations permit mining operations to begin in wetland and hardwood swamp areas even though reclamation technology for restoring these types of lands has not yet been successfully proven.

For these and other reasons I wrote to Secretary of Agriculture, John Block, to request his review and reconsideration of these stipulations. He responded that he found these stipulations to be adequate. I appealed to Secretary of the Interior James Watt to suspend action on the lease applications until a review of the stipulations could be made. He also turned me down. I still feel these stipulations need review, now more than ever. These stipulations will allow significant alteration and damage to the Forest if phosphate mining ever takes place, and it will contribute to larger costs to the government if and when any lease rights are purchased.

The frustration remains, however, in that the Deparment of Interior is agressively processing the lease applications using the Forest Service stipulations in spite of voiced concerns by myself and others. Let me just say, Mr. Chairman, that I intend to continue monitoring the administration process of determining what, if any, rights exist to mine phosphate in the Osceola National Forest.

In any event, I feel Congress has a responsibility to reject outright the notion of strip-mining this small, productive, and popular forest resource. We need to ask, and then answer, several basic questions concerning phosphate mining in this Forest:

Can we today say for sure that if strip-mining is allowed to take place, then eventually these lands will be restored back to the Forest we know and appreciate today? Osceola? The answer is No, We Can't.

Can we say that the projected mining will not pose possible threats to wildlife populations and habitats found in the Osceola? The answer is No, We Can't.

Can we say that this mining won't run any risk of damaging the valuable Suwanee River system located immediately downstream from the lease areas? The answer is No, We Can't.

And, Mr. Chairman, is there today a critical need to develop the particular phosphate reserve underlying the Osceola National Forest. The answer is No, There Is Not.

Therefore, Mr. Chairman, the final question should be do the short-run benefits associated with mining this phosphate outweigh the long-range costs in terms of loss of these forest land resources? Clearly, the answer is No, They Do Not.

For this reason, legislation needs to be enacted to prohibit phosphate mining in the forest and set forth a procedure for dealing equitably with those lease applicants who may prove to have an entitlement to a mining lease. We are running a race against time to save the Osceola. For this reason, quick action by the Senate is necessary if we are to insure the continued use and protection of this forest resource.

In May of last year I introduced legislation in the Senate to accomplish the goal of protecting the Osceola National Forest from strip mining. This bill, S. 1138, is one of the proposals before the subcommittee today. In the fall of last year, the House subcommittee held a hearing on the leasing question and explored a variety of proposals designed to prevent strip mining in the Forest. As a result of this study, the House subcommittee reported legislation to the House of Representatives which represented a consensus on a number of issues. I was pleased that the subcommittee bill incorporated some of the provisions of my bill, S. 1138.

Under the provisions of the House subcommittee bill, the Secretary of the Interior is authorized to determine which of the lease applicants are entitled to a lease. Those lease applicants who are found to have a lease right could then exercise a number of options in lieu of being issued the phosphate mining lease. The company could exchange lease rights to lands in the Osceola for leases on other public lands. Or, the company could ask that the lease application be suspended until such time as Congress agrees to open up the Forest for mining. Or, the company could receive a monetary credit in the amount determined to the value of the lease right which could be used for bidding rights, bonus rental or royalty payments on other mineral leases. In addition, in lieu of the options outlined above, the Secretary of the Interior may also offer to purchase the lease right from the applicant.

When the House Subcommittee reported their proposal, I introduced a companion measure in the Senate, S. 1873, so that the Senate could begin to work hand in hand with the House on this important matter.

When H.R. 9 was considered by the full House Interior Committee, an amendment was offered which proposed a change in the procedure used to open up the Osceola to mining in the future if its phosphate deposits would be needed in the interest of the United States (Section 4(a)(4) of H.R. 9). The original proposals recommended that no leases be issued unless and until the Congress enacted legislation to allow mining to take place. The amendment adopted by the House Committee (and subsequently agreed to by the full House) proposes that no mining take place unless and until the President recommends to Congress that such mining is in the national interest. Under the provisions of H.R. 9 leasing could take place in the Osceola unless Congress disapproves of the recommendation by concurrent resolution within 90 days. Quite frankly, I would prefer that Congress reserve the power to determine if and when mining the Osceola is necessary. If, however, the Senate Committee agrees to give the President the authority to make this recommendation, I would hope this proposal could be changed.

Since it is Congress that will hopefully take the necessary step to protect this forest, I feel Congress should play a positive role in affirming a reversal of this decision and allowing mining to take place someday in the future. For these reasons, I would recommend that the Committee adopt language contained in section 1502 of the Alaska Lands Act (P.L. 96-487). This language would require Congress to approve the Presidential recommendation by enacting a joint resolution within 120 calendar days.

Mr. Chairman. The Committee is considering a number of proposals all aimed at achieving the same goal—the protection of the Osceola National Forest. While I am dedicated to saving the Forest, I am nonetheless, open to suggestions on how we go about achieving this protection. I want to be fair to the companies involved, and I want to be fair to the Nation's taxpayers. I am certainly not locked into any particular approach, and I will not object to any sound and sensible solution that can be worked out to resolve this problem. I want to commend Congressman Fuqua for his diligent and successful efforts in getting the House to pass H.R. 9. I hope the Members of this Committee will act quickly and favorably on similar legislation to ensure the continued use and protection of the Osceola National Forest.

Let me just mention, too, the wilderness areas in the other Florida National Forests being considerd by the Committee. These areas were studied and recommended by President Carter and the Forest Service in April, 1979 as a result of the RSRE II process. These areas have been approved three times by the House of Representatives and are non-controversial. It was unfortunate the Senate was unable to pass this legislation during the last Congress, and I hope the Committee will act on these wilderness proposals.

Thank you again for letting me testify on these public land issues which are so important to the people of Florida.●

HELENE MONBERG'S ACHIEVEMENT SCHOLARSHIP PROGRAM

● Mr. HART. Mr. President, I would like to call the Senate's attention to a local organization called the achievement scholarship program (ASP) and its founder and director, Helene C. Monberg. The story of this organization is one which, in many ways, exemplifies some of the finest qualities of the American spirit.

ASP provides "second chance seed-money" scholarships of $900 apiece to ex-offenders in the Washington area to help them move back into the community as productive citizens by giving them alternatives to prison in the form of education and job training. It is a tax-exempt organization which has been financed entirely by private contributions since its formation in 1973.

As of March 1, ASP had awarded 142 scholarships to 141 persons, of whom about 20 are still in college or special school or will be at the beginning of the next term. It expects to award 30 more scholarships this year to qualified applicants.

Although all ASP awardees are ex-offenders, their completion rate—those who graduate from college or complete their course requirements at special or trade schools—is about 20 percent, equal to that of the general population. More important, their recidivism rate is extremely low.

Among the practical programs carried on by ASP are:

Regularly scheduled "how to study" seminars to help the awardees succeed in school. The most recent seminar was held on February 27 under the direction of ASP Student Counselor Delavago Scruggs and ASP Awardee William Biggs.

A proposed pilot on-the-job training program. The Achievement Scholarship Committee, ASP's policymaking arm, unanimously voted on January 8 to establish this pilot program in con-

junction with outside partners, including one probation officer and local business firms. The program will be launched later this spring.

An in-house on-the-job training program, which has been in practice since 1975. ASP always offers its own administrative jobs first to ASP awardees, and the organization usually has had at least one awardee on its staff since 1975. Achievement Scholarship Committee Chairman Bill Butler has set a goal for ASP to have its awardees ultimately take over the operation of the program.

The committee has expanded in recent months to obtain more input from local business and from awardees. It now includes four businessmen and women, and four awardees, and the expansion is continuing.

Mr. President, funding for ASP increasingly comes from foundations. Last year, about 40 percent of the organization's funding came from three foundations: the Mary King Estill Foundation of Corpus Christi, Tex.; the Louis Boehm Foundation of New York; and the Weyerhaeuser Foundation of Tacoma, Wash. Continued commitments from foundations and individuals will be vital, as the organization plans to increase its basic seed-money scholarship amount to $1,000 per awardee this fall—up from $520 at ASP's inception in 1973 and the present $900 amount.

ASP awardees and "graduates" are enjoying success in many fields today. Here are a few examples:

Edward Hill Jr., is a stringer for the Washington Post and has served as a student counselor for the University of the District of Columbia. He also coaches his son in many of his numerous sports activities.

Ronald D. Malcolm works for the National Center on Institutions and Alternatives in the Washington area.

Garland E. Reed is an assistant engineer for the Washington Suburban Sanitary Commission. He is also a registered real estate broker in the State of Maryland.

Shirley Thomas, who made the response for ASP when it was honored recently by the Big Sisters of the Washington Metropolitan Area, presently is attending the Columbia School of Broadcasting on an ASP scholarship, in addition to being a working wife and mother.

Several other former and present awardees, including ASP student counselor Scruggs and ASP awardee Biggs, work for the Federal and District of Columbia governments.

ASP works only through established parole and probation offices in the Washington area. Its scholarship awards are for education and training in college, trade, and special schools. Applicants must have completed high school or have passed their GED and must be recommended by their parole officers. They are screened by their parole officers and then by ASP to determine whether they are viable candidates for rehabilitation. They must keep up their grades to maintain their ASP awards. The money is paid by ASP directly to the college or school of the awardee's choice, solely for tuition and books.

Mr. President, I am sure my colleagues agree that ASP is a truly remarkable organization. I would be truly remiss if I did not make some mention of the fact that its existence was conceived and nurtured and is still sustained by its volunteer executive director, Helene C. Monberg. Helene is a constituent of mine—a native of Leadville, Colo., and Washington correspondent for several Colorado newspapers—with whom, I am sure, many of us in this Chamber are familiar.

As an example of her dedication to ASP, Helene has willed her Washington residence to the program on her death so that it may ultimately reach its goal of being operated and administered by its former awardees.

Helene undertook quite a challenge in 1973 when she started ASP, and she has spent countless hours on it—promoting, raising money, and tracking the progress of "her kids." Thus, I am most pleased to note that she has been honored recently for her work with ASP.

She was named a Washingtonian of the Year by Washingtonian magazine, duly honored in its January edition this year and at a banquet. Shortly thereafter, she was named a Woman of the Year by the Big Sisters of the Washington Metropolitan Area for her work on ASP. These awards, and previous one—it received a community service award in 1980 from the U.S. probation office of the U.S. District Court for the District of Columbia, and was cited in 1978 by the Committee on Economic Development of New York as one of 60 programs nationally that effectively work on training and employing the hard-to-employ, namely, the ex-offender—are a small token of thanks for the effort Helene has put into her work.

I take this opportunity, Mr. President, to offer my own congratulations to Helene Monberg for the excellent work she continues to do for the city of Washington. I urge my colleagues to join me in thanking her for her efforts, and to wish the achievement scholarship program continued improvement and success.●

THE SOLAR ENERGY RESEARCH INSTITUTE

● Mr. ARMSTRONG. Mr. President, the lifeline of our industrial economy is energy. Unfortunately, much of our energy supply is in the grasp of a foreign cartel which has raised oil prices to breathtaking levels. In the meantime, the Soviet Union is seeking to gain a stranglehold on the energy resources vital to Western survival, and has placed a ring of steel around the Persian Gulf, and at strategic points along the routes oil tankers must follow to get to our ports.

For these and other reasons, serious thinkers are deeply concerned about the energy future of our Nation.

But, as we struggle through these problems, the 688 men and women of SERI, working out of temporary facilities in the Denver West complex in Golden, are working on projects that have the potential to:

Provide Americans with abundant supplies of cheaper energy, enough to restore our energy independence, and perhaps even enough to make America once again, as it was in the first half of this century, the world's leading exporter of energy;

Reduce our dependence on Persian Gulf oil to the point where the Middle East no longer will be a tinderbox that could ignite World War III;

Provide the seed corn for new industries and technologies that could help restore America's economic preeminence; and

Provide us with sources of energy without the noxious byproducts of earlier forms which foul our air and water, or must be buried in caves deep underground or on the ocean floor. Indeed, the work that is being done now at SERI and at private research labs throughout the country could lead to an industrial world in which the very idea of a waste product is passé.

Much of the work being done now at SERI has about it a Buck Rogers flavor that those who assume the laws of the present must govern the future may have difficulty comprehending. Imagine a world in which:

Farmers who own land unsuitable for any other purpose will be able to "grow" oil to heat homes and fuel our automobiles, and derive from that land earnings many times greater than the profits presently being generated from our richest agricultural land;

Electricity is being generated directly from the sun in quantities sufficient to meet all the needs of entire communities, and

There is an alternative to gasoline, limitless in supply, with no danger of fire or explosion in the event of an accident, whose byproduct in combustion is water.

All this sounds wondrous and impossible, and it is hard not to think those who fantasize about such things have been sipping the wine of the dreamers. But what I have just described is no more miraculous or impossible than the telephone, the telegraph, the radio, and the phonograph were before dedicated men applied their genius to the bountiful prospects

nature has laid before us. In fact, if I have a proper understanding of the progress that already has been made at SERI and elsewhere, we may be closer to all of these things than Thomas Edison was to the electric light on his 100th try to find a filament that could burn.

I had the privilege of spending some time at the Solar Energy Research Institute on a recent trip to Colorado. I was impressed by what I saw and heard, and I came away from SERI more optimistic about our Nation's energy future than have been in a long time.

SERI was authorized by the Solar Energy Research, Development and Demonstration Act of 1974, and opened its doors in July 1977 as the foremost national center for federally-sponsored solar research and development. SERI is managed by the Midwest Research Institute under contract from the Department of Energy. The SERI staff and contract personnel ballooned from 86 that first year to 996 by October 1980, and has now leveled off to 688 full- and part-time personnel, a level consistent with the maximum staff goal of 600 to 800 set by Paul Rappaport, the first SERI director.

SERI's mandate covered not just direct applications of solar technology, but the whole host of related, "soft" energy technologies such as biomass conversion, wind and hydroelectric technologies, ocean thermal and geothermal applications, and the institute suffered somewhat from a scattershot approach. In addition, although the core staff at SERI always has been composed of serious scientists and researchers, the institute in its early years had spent a sizable portion of its budget on programs designed to inform and educate the general public about the entire range of alternative technologies.

In 1981 SERI entered into the second, and what I expect to be the most productive phase of its young existence. SERI's mission is to conduct long-term, high-risk research of renewable energy technologies, and leave to the burgeoning solar industry in the private sector the responsibility for bringing to market those which have attained, or are approaching, commercial feasibility.

This is an appropriate division of labor. Experience has shown us that private efforts in applied research tend to be far more productive than Government efforts, when a payoff in the near term is in sight. But when the payoff is farther in the future, or when massive resources are required to get the R. & D. effort off the ground, then Government involvement is proper and desirable.

Present research and development activities at SERI focus upon four primary areas: Direct conversion of sunlight into electricity; direct production of fuels and chemicals from sunlight; applied heat transfer and indirect thermal conversion systems such as wind and ocean energy systems, and the research and development of materials and engineering required to support these activities.

I was especially intrigued with three SERI projects which, if any one of them proves commercially feasible, could revolutionize our economy.

SERI researchers have found that microalgae, very small aquatic plants that are relatives of the green film you can see on the top of stagnant ponds in summer, are able to synthesize oils directly. The oils the microalgae synthesize are either the kinds of oils used in food or in the manufacture of drugs, dyes and plastics, or hydrocarbons, the kind of oil we burn in our cars.

These microalgae grow best in saltwater and in saline basins like those that are slowly poisoning the Colorado River basin. SERI researchers think we can take what is now a major liability—these saline water sources—and turn them into a major economic asset. Once the best species of oil-producing algae are isloated, they could in effect be "planted" in useless saline water on what is now considered wasteland, and then harvested to produce valuable oils. The SERI researchers have identified some 86 million acres of low value land in the West that potentially would be suitable for this type of oil "farming." They think up to 60 tons per acre per year of algae could be harvested from those 86 million acres, and 90 percent of that weight would be usable oil. Would it not be great, at some future time when the OPEC sheiks gather together to jack up the price of their product, to be able to say to them: "No thanks, fellas, we'll grow our own."

Another SERI project could make it possible for us to dispense altogether with oil as an automobile fuel. SERI researchers have put into a Chevrolet Citation an engine that produces hydrogen from methanol alcohol, the kind of alcohol that can be produced from the byproducts of harvesting grain. The methanol/hydrogen engine is more efficient—by a factor of 20 percent—than the gasoline internal combustion engine it may replace, and does not emit noxious fumes into the atomosphere. SERI reseachers believe we shall able to produce methanol fuel more cheaply than we can buy gasoline, and get more miles per gallon of methanol than we get from conventional fuel.

An engine as fuel-efficient as this would revolutionize our automobile industry and cut deeply into oil imports. Before it can become a commerical reality, however, several problems will need to be solved. The prototype engine is very heavy and still has some bugs in it; it will need to be lightened and made consistently reliable, so it can be more cost-effective and competitive. Also, we will need to have a large and stable supply of methanol before prospective car buyers will take a look at this alternatives.

Still, automobile manufacturers are already seriously interested in this dynamic new engine. Japanese companies are developing the same idea and are very enthusiastic about its potential. Closer to home, General Motors has expressed a strong interest in SERI's new engine and will be taking it to Detroit for extensive testing in April. If those tests are encouraging, this revolutionary automobile could be cheaply available on the open market within 2 to 5 years, making the internal combustion engine a historical curiosity.

Perhaps even more exciting than the projects I have just described is the work SERI is doing on generating electricity directly from sunlight. Photovoltaic cells already provide electric power for spacecraft and for some homes and office buildings, and SERI researchers think we may be only a few years away from being able to provide electric power for entire communities directly from the Sun.

Photovoltaic cells are simple devices with a lifetime of 20 years and possibly more. The cells are made from silicon, which is the most abundant mineral on the planet. When sunlight falls on a single crystal silicon solar cell, some of that sunlight is converted into a minute charge of electric energy. Repeated constantly, this energy can be collected and stored to produce electricity like a battery.

In fact, a solar cell really is a kind of crude battery. A cell consists of two microthin silicon wafers, of slightly different textures, fused face to face. One slice represents a positive pole, the other a negative pole. When sunlight passes through the solar cell "sandwich" and reaches the area where the two silicon slices meet, chemical bonds are broken, and electrons freed. The electrons on the one hand, and the broken bonds on the other, are attracted to the opposite charges of the two wafers, and an electric current is formed.

If photovoltaic cells are such simple devices, and the silicon to make them is so abundant, why are they not already sprouting on rooftops throughout the country?

There are basically three reasons:

First, the Sun's energy is not concentrated the way energy in fossil fuels is. So it takes a lot of solar cells, spread over a large area, to produce as much electricity as could be produced from a pail of coal or a barrel of oil.

Second, photovoltaic cells are not very efficient, in that they cannot produce electricity around the clock

the way fossil fuel systems can. Solar cells do not work at all at night, and work very poorly when the sun is behind a cloud. Also, solar cells produce energy in the daytime when the demand for electricity is less, and do not produce any electricity at night, when the demand is greater.

Third and most important, although the solar cell is a simple device, built with materials that are abundant and cheap, the process of manufacturing solar cells is, at present, very time consuming and expensive. The cells in use today have to be sawed carefully from silicon ingots. This requires expensive precision tools and a lot of time from skilled technicians, and about half of the silicon in each ingot is wasted as "sawdust" when the cells are ground down to the necessary thinness.

As a result of these and related factors, it costs about 10 times as much today to produce electricity from solar cells than from conventional systems. That is why you do not see photovoltaic cells on the shelf of the hardware store.

But SERI researchers think they are well on the road to finding a solution to all of these problems.

In order to solve the problem of diffused sunlight, SERI is working on multijunction solar cells that have the potential of converting 30/40 percent of the sunlight they receive into electricity—about double what we now get from conventional solar cells. In the multijunction system, semiconductors that respond to different parts of the solar spectrum are stacked one on top of the other to make a collector that is more efficient than conventional cells.

In order to solve the problem of where to get electricity when the sun is down, SERI is studying ways of storing electricity when the sun is shining so it can be used later when it is needed. One concept for storage would have homes and businesses equipped with solar cells sell their excess capacity to an electric utility, and buy it back when sunlight alone is not sufficient to meet their electrical needs. Would it not be nice to get a check from the power company for a change?

Finally, SERI is developing a means of "growing" wafer-thin sheets of silicon in thin filaments, each the proper thickness for a solar cell. All that would have to be done to make solar cells by this process would be to cut the filaments into lengths required for the cells and fuse them together. This would save considerable time over the conventional sawing and grinding process, and the waste of valuable silicon as "sawdust" would be eliminated.

If all three of these technologies prove out—and there is a reasonable chance that they will—it will not be long before it will be cheaper to generate electricity from the Sun than from any other means, and there is nothing the Arabs or the Russians can do to block our access to the Sun.●

CONTINUE THE PRESENT EDUCATION AID PROGRAMS

● Mr. JEPSEN. Mr. President, historically, Iowa has placed great emphasis on education. Iowans have traditionally had one of the highest literacy rates in the Nation. Our public and private education programs are second to none, offering a wide diversity of character and choice. The University of Iowa has produced many nationally renowned writers through its writers workshop; Graceland College in Lamoni offered opportunity to future Olympic decathlon champion Bruce Jenner.

President Reagan recently proposed major changes in educational assistance for students in his fiscal year 1983 budget. His educational program calls for drastic reductions in funding for basic educational opportunity grants (BEOG) or Pell grants and guaranteed student loans (GSL), and for the elimination of supplemental educational opportunity grants (SEOG), national direct student loans (NDSL), and assistance for graduate and preprofessional students in the form of GSL's.

I strongly disagree with these proposed changes and shall cast my vote in favor of maintaining funding for the majority of these essential programs at current levels.

Iowans are also deeply concerned with the future of vocational and adult education. I intend to thoroughly study the administration's proposals in this vital area to see that vocational and adult education will remain open and available to all. Our vocational program has greatly benefited Iowans and is one of the strongest in the Nation. At a time in the economic life of our country when programs of proven benefit such as these are greatly needed, I question the wisdom of substantial cutbacks and drastic reorganization.

Providing our Nation's students with accessible educational opportunity is a priority which must be maintained.

Let me briefly delineate the steps an average student goes through in applying for financial aid:

First. Students fill out a standardized financial aid form which includes detailed information on the student's and parents' incomes, assets, liabilities, et cetera, taken from their respective income tax forms. A private agency, the College Scholarship Service (CSS), analyzes this information and computes the estimated family contribution, in dollar terms that the student and family should be able to pay toward the student's education.

Second. The college or university receives this information and compares the estimated family contribution with the estimated total cost of education. The difference between the two is the student's need. This need the school then tries to make up in scholarships, work study—part-time jobs on campus—GSL referrals, and other Government funds such as BEOG, SEOG, NDSL, et cetera, if the student is deemed eligible for those funds.

Third. The school presents the student with the package.

This is the system all students who receive financial aid work under. It is expected that all students will work during the summer and estimated earnings from this employment are included in the estimated family contribution. Also, if a student is eligible for a guaranteed student loan he/she must secure those funds from a private lending institution.

This needs analysis is a very detailed process. It is tailored to each individual student according to his/her ability to pay. Students who receive BEOG, SEOG, and NDSL funds must show an actual need for those funds.

When we examine the proposed cuts in these programs that the administration is proposing, a frightening scenario develops. In Iowa, 30,000 students—nearly 30 percent of the total student population—go to college with the help of a Pell grant. The administration's cuts would eliminate educational opportunity for 12,000 of these students, or 40 percent of those receiving this aid.

This is a significant drop, expecially when considering that Pell grants are the fundamental source or foundation of higher educational assistance. They represent the first step in constructing the financial aid package for the needy student.

Loss of the institution-based supplemenetal educational opportunity grants and the national direct student loan program would further widen the gaping hope left by reduced Pell grants. Private colleges, in particular, have relied on these programs to help students meet the spiraling costs of higher education.

The outright elimination of graduate and professional students from the guaranteed student loan program, as advocated by the administration, would truly be devastating to some of our most talented and advanced students. This alone would affect 77 percent of the Drake University Law School and 78 percent of the college of veterinary medicine at Iowa State University. Clearly, this is not the direction to go at a time when we are looking for ways to advance and strengthen our economic health and maintain our leadership in the areas of technology and science.

While we must work to maintain the integrity of our educational assistance programs, that certainly does not mean they are immune to the hard re-

ality of our current economic times. On the contrary, abuse does exist in the present system, and some tightening up is going to be done. I intend to introduce legislation in three areas which will help strengthen these programs by curtailing abuse.

First, all students requesting aid should meet standard needs criteria. Currently only those with family incomes above $30,000 a year must meet these criteria. The system would be tightened to provide that all students be subject to these requirements.

Second, I will introduce legislation proposing that stronger collection powers be given to the Justice Department to collect outstanding or delinquent accounts in the guaranteed student loan program. While the Department of Education has made commendable progress in reducing the number of delinquent accounts, more progress can be made in this area.

The current default rate for guaranteed student loans is 12 percent. The President, in his fiscal year 1983 budget, predicts that defaulted GSL's will grow by $546,300,000 for that year alone. This is simply too much.

Finally, I will propose that persons eligible for tax refunds from the Federal Government be denied those refunds if they are delinquent on payments for their guaranteed student loans. While I firmly believe that the only proper function of the Internal Revenue Service is the collection of taxes, I also find it unconscionable to refund money for assistance which they are under contract to pay back. Several States have adopted this measure on the State level, with some apparent success.

Those who have skipped out on paying back the Government for their student loans are the very people who have helped to give this worthy program a bad name. We should take no pity upon them. Neither should we condemn the future education of our worthy young people for this conscious and unforgivable action by a past generation. The past must not be permitted to rob the future. Rather, we must be prepared, as teachers and administrators over the years have done, to rap the knuckles of those who will not honor their obligations.

Concern has been expressed—and rightfully so—about the cost of these programs, especially when the Government is trying to tighten its belt. It is estimated that, on the average, $200 million a year in defaulted guaranteed student loans go uncollected. As I pointed out earlier, the estimate for 1983 is $546,300,000. The Department of Education estimates that $1.7 billion in loans have gone uncollected since the program's inception. This money could go a long way toward keeping the costs of these vital programs down.

I believe by putting our priorities in proper perspective, by providing a balanced program of aid and by belt tightening, we can insure our economic health and technological leadership. As Plato said, "The direction in which education starts a man will determine his future." Let us continue in the direction of the past 25 years and help those who truly need help to achieve their education, and thus determine a bright, strong future for our country.●

RECESS UNTIL 1:50 P.M.

Mr. THURMOND. Mr. President. I move that the Senate be in recess until 1:50 p.m.

The motion was agreed to and, at 1:35 p.m., the Senate recessed until 1:50 p.m.; thereupon, the Senate reconvened when called to order by the Presiding Officer (Mr. GORTON).

The PRESIDING OFFICER. In his capacity as a Senator from the State of Washington, the Chair suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. 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. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until not later than 2:30 p.m., under the same terms and conditions as heretofore ordered.

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

Mr. BAKER. 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. BAKER. 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. BAKER. Mr. President, I am advised now that some Members may wish to speak as in morning business and cannot do so for the next little while. In order to accommodate the maximum convenience of Senators, I ask unanimous consent that the time for the transaction of routine morning business be extended until not later than 3:30 p.m., under the same terms and conditions as heretofore ordered.

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

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

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

THE NUCLEAR FREEZE

Mr. GLENN. Mr. President, in recent days we have had numerous resolutions introduced in Congress regarding the nuclear freeze. President Reagan addressed us last night in his evening news conference. I must say, Mr. President, that I was surprised by at least part of the statement the President made with regard to the situation in which we find ourselves vis-a-vis the Soviet Union concerning strategic nuclear weapons.

While in the President's opening statement he addressed us only in a general way, I was very surprised at his answer to one of the first questions that was put to him. I read from a transcript of the President's press conference last evening.

Q. Mr. President, the experts say the Russians are far ahead of us in some nuclear weaponry and we are far ahead of them in terms of Polaris missiles and so forth. And we also have the capability of swift massive retaliation against the Soviets. Under those circumstances, why don't we seek negotiations for now and carry on to reduction. That way we can halt the making of doomsday weapons and save billions to help poor people?

A. Helen, I know that there are people that have tried to figure this out. But the truth of the matter is that on balance the Soviet Union does have a definite margin of superiority—enough so that there is risk and there is what I have called, as you all know several times, a window of vulnerability. And I think that a freeze would not only be disadvantageous—in fact even dangerous—to us with them in that position, but I believe that it would also militate against any negotiations for reduction. There would be no incentive for them then to meet with us and reduce.

That is the end of the quote, although the President's statement went on into intermediate force negotiations, some figures on that, and the rest of the statement. But I would stress that in the middle of the President's response he made the following statement, which I will repeat again: "But the truth of the matter is that, on balance, the Soviet Union does have a definite margin of superiority."

Mr. President, I think this deserves considerable comment. I think it needs to be clarified for the American people. In fact, I think it needs to be clarified for various capitals around the world, for I am absolutely certain that that statement will be singled out and will be well noted by those in capitals around the world that do worry about whether we have strategic superiority or whether the Soviets have strategic superiority. I think the American people and all these capitals

around the world need to remember that there are different bases on which you make judgments of who may or may not be ahead with regard to the strategic arms balance.

The President, as I see it, is making a narrow judgment based on one set of figures which can certainly be disputed by another set of figures. And let me go into that for just a moment.

If we look solely at strategic weaponry throw weight capabilities, or we look solely at strategic weapon megatonnage, then the President may be on firm ground in making his statement that the Soviets have a margin of superiority over us.

But I think the President should also consider the fact that numbers of warheads and accuracy are very major factors with regard to who is or who is not ahead in strategic nuclear weaponry. That was certainly not mentioned. In fact the basis for his judgment, as stated last night, was not given.

I would submit that the number of warheads and the accuracy of those warheads are to me a balancing factor, that more than outweighs the megatonnage or the throw weight advantage that the Soviets may have.

Now let me go into that just a little bit. Our estimate of the number of warheads, is that we have a grand total of around 10,000, without getting into classified figures. We have about 10,000 warheads on our strategic weapons systems.

The Soviets have some 7,000 warheads available. That means we have about a 3,000 warhead superiority, some 42 percent more warheads than the Soviet Union. And this does not even count the numbers of warheads that our allies, the British and the French, may also have. All of our estimates and our observations are that we have better accuracy with these 42 percent more warheads that we possess.

What this means then, Mr. President, is that it is my opinion that the United States of America is not second best to the Soviet Union in the strategic arms race. I do not want our allies to think so and I do not want the American people to think so. To substantiate the President's statement that the Soviet Union does have a definite margin of superiority, you need to base your comparison only on a megatonnage or throw weight criteria. But if you base it on numbers of warheads, which I think is a legitimate basis and one that I would rather rely on than just megatonnage or throw weight—then our 10,000 to the Soviet's 7,000, and the fact that we have better accuracy, leaves us far from being a second-rate nation.

I do not want our allies or any nations around the world to get the wrong impression that we have somehow let ourselves drift into second-rate status. In fact, I do not want to encourage the Soviet Union to think that they are the superior nuclear power in the world, which might even further tempt them to some stupid and irrational first strike.

Mr. President, in recent days numerous arms control resolutions have been introduced in Congress. There is the Kennedy-Hatfield, the Jackson-Warner, the Mathias-Eagleton, Hart, and Percy in the Senate, and Markey-Conte in the House. Over the next few months, the pros and cons of these resolutions will be fully aired and weighed by the appropriate congressional committees. Although each of them differs from the others, all of the resolutions have certain elements that are highly attractive.

The notion of a "nuclear freeze," for example, is simple, very neat, and appeals to nearly everyone. Do we not wish it were that simple? Many people also want the President to initiate talks immediately with the Soviet Union so that the process of limiting and reducing the nuclear arsenals of both sides can be undertaken with dispatch. Still others recognize the close connection between controlling and reducing the nuclear arsenals of the superpowers—vertical proliferation, as it is called—and halting the global spread of nuclear weapons—or horizontal proliferation, as that is called. In this respect, the Mathias-Eagleton resolution—which includes a concern for horizontal proliferation—can be viewed as complementing the Kennedy-Hatfield resolution, which focuses on the problems of vertical proliferation.

In large part, Mr. President, these resolutions all are responding to the concerns expressed by the "nuclear freeze" movement currently sweeping this country and, indeed, the world. From Great Britain to New England, Japan to California, and every place in between, the people are speaking out. They realize what monstrous consequences would flow from a nuclear exchange and fear that the chance—of stumbling into such a war is greater today than at any time since the Cuban missile crisis. People are also questioning the need for a continuing arms race at a time when both sides already possess enough bombs to literally obliterate each other several times over. The public wants these arsenals reduced, and they want them reduced now.

The Reagan administration's initial response emphasized that a "freeze" would put the United States at a disadvantage. But now, as of last night, the administration has signaled its support for the freeze resolution sponsored by Senators JACKSON and WARNER. The President also says that he wants to proceed with the so-called "START" negotiations for nuclear reductions.

Frankly, I am worried that some elements within the administration are still seemingly bound to "linkage," hoping to link the commencement of these talks with charged Soviet behavior in Poland, Afghanistan, or Central America.

If that view of linkage prevails within the administration, then we might legitimately question whether by START, the administration does not really mean "stop."

Mr. President, I think at least a part of the momentum behind the freeze movement springs from perceptions by many people, both in our own Nation and abroad, that the administration overemphasizes a Soviet plot behind nearly every foreign policy problem we face, making them very, very nervous about what we might do. These assumptions have caused the administration to talk, perhaps too casually about military solutions to such dilemmas as El Salvador, about the possibility of demonstration nuclear weapons explosions, or about winnable nuclear wars.

So it is no wonder not only Americans but others have become dismayed and have taken to the streets and the ballot boxes to express their concern.

Tough talk cannot take the place of a sound, coherent, and consistent foreign policy. It is one thing to recognize the danger of Soviet adventurism and to take action to reduce our vulnerabilities and those of our friends, but it is quite another thing to appear to much of the world to be overwilling for confrontation.

Mr. President, in my view, the nuclear freeze movement offers not only a challenge but also an opportunity. Americans are weary of promises that meaningful arms reduction talks are just around the corner.

They have become weary of it not only in this administration but were weary of it in the last administration.

This administration has been in office for 15 months or so, and our people want action, not promises; they want answers, not excuses. We dare not miss this opportunity to forge a bipartisan consensus on arms control and nuclear nonproliferation policies.

Again I say that the American people are speaking loud and clear, and people around the world are expressing their interest in the same subject. Congress must show that it is listening. But the challenge is to translate the call for a nuclear freeze into a comprehensive, a possible, and a doable arms control program.

In my view, a verifiable and mutual United States-Soviet nuclear freeze that does not sacrifice U.S. national security would be a very useful point from which to enter into negotiations on longer term arms control issues. How long such a freeze would be useful depends, of course, on how

much progress is made in U.S.-U.S.S.R. arms limitation and arms reduction talks.

The nuclear freeze between the superpowers might also assist our efforts to resist the spread of nuclear weapons to smaller and smaller nations around the world, something I have been involved with for many years. The Nuclear Nonproliferation Act was put through several years ago in the hopes that we could prevent some of this horizontal proliferation.

The freeze would be a dramatic "affirmation by the superpowers that they are committed to article VI of the Nuclear Nonproliferation Treaty, NPT. That would help shore up support for the treaty at a time when many of the 112 nonweapon signatory states have openly questioned the value of their participation or their even remaining in NPT.

My concern about verification of arms control agreements, Mr. President, is well known. I believe that confidence in Soviet compliance is an essential ingredient in any comprehensive arms control program. Although the American people want to reduce the risk of war, they know that we cannot lower the danger merely by lowering our guard. We must have reasonable assurances that limits or reductions are mutual, that they are balanced, and that they are verifiable.

Needless to say, we can never achieve 100-percent certainty of Soviet compliance, so reasonable precautions must be taken. But we should not allow an overly restrict requirement for verfication or an insistence on foolproof cooperative measures to delay or stall consideration of prudent arms control.

Mr. President, paper proposals to express concern about this international problem are one thing, but if we are truly serious about the problem, then it seems to me that it is up to us to make very substantive proposals on which we can act. Any substantive proposal, it seems to me, has to have several very basic elements, a couple of which have not been addressed by any of the freeze proposals that I have seen so far.

Any proposal that tries to go through a step-by-step process by which we not only get control now but proceed into the future with a lessening of the nuclear weapons danger around the world must include, first, limits.

Second, it must provide a process for reductions.

It must provide, third, for nonproliferation, halting the spread of nuclear weapons to more and more nations while we try to get big weapons stockpiles under control.

Fourth, it must involve all the nuclear weapons states.

Thus, I call upon the administration to adopt a serious and a comprehensive arms control package that includes the following goals and means to those goals:

No. 1. to limit nuclear weapons expansion: A freeze through 1985 of testing, production, and deployment of strategic weapons at the SALT II levels, something both we and the Soviets are living with now. The only part lacking is the requirement for them to dismantle some 250 to 300 of their launchers. Otherwise both sides are living with that kind of limitation now.

So that is a doable thing and it is something we can start with now.

No. 2, to reduce existing weapons stockpiles: We must attempt at the earliest possible time to negotiate an agreement on balanced incremental reductions in strategic weaponry. Such reductions should both preserve deterrence and be adequately verifiable. This is a step which the administration has hoped to jump over, going to reduced weaponry in one fell swoop.

I would think it is much more logical to start with limitations and then proceed to reductions.

No. 3, while we are doing that, we want to prevent the spread of nuclear weapons. We must pursue the establishment of additional measures by nuclear supplier nations designed to halt the worldwide proliferation of nuclear weapons.

I would say that last year just before the Ottawa summit, this body passed, 88 to zero, a resolution asking the President to bring up this problem at the summit. That was shortly after the Israeli raid on the nuclear facility at Baghdad and the world's attention had been focused on the problem. It received short shrift in the considerations at Ottawa.

But we have another summit coming up, and I hope the President avails himself of that opportunity, at Versailles early this summer; to talk to the nuclear supplier nations not only about not sending reprocessing equipment, but not sending uranium enriching equipment to these nations around the world. Those kinds of transfers represent the primary two means of establishment of additional nuclear weapons states, something we have been trying very hard to prevent.

No. 4. To involve all nuclear weapons states in the process: A commitment to bring all nations possessing nuclear weapons into the negotiations and related activities at the earliest appropriate time.

Mr. President, it will do little good if we go through the first three steps of limiting, of reducing, and of preventing the spread if additional nuclear weapons states besides the United States and the Soviet Union embark on new weapons-building programs of their own which would, in effect, destabilize what we are trying to establish between ourselves and the Soviet Union. Those four things are very basic, it seems to me: To limit, to reduce, to prevent the spread, and to involve all nuclear weapons states in the process.

I might say the nuclear weapons states verified as of now are not only the United States and the Soviet Union but Great Britain, France, China, and you can also count in India which has set off a nuclear explosion. Whether you wish to call it a bomb, or a bomb capability is debatable, but they have shown the capability of setting off nuclear weaponry.

Mr. President, in Newsweek magazine last summer, there was an article on the nuclear threat. In that were listed those possessing nuclear weapons now as the United States, Soviet Union, Great Britain, France, China, and India. They also listed those believed capable of building a nuclear bomb to be Canada, West Germany, Italy, Israel, Japan, Pakistan, South Africa, and Switzerland. Those who could have the bomb within 6 years are Argentina, Australia, Austria, Belgium, Brazil, Denmark, Iraq, South Korea, the Netherlands, Spain, and Taiwan.

Those who could have the bomb in 7 to 10 years are listed as Egypt, Finland, Libya, and Yugoslavia.

I hope that last part with Libya involved does not come true in 7 to 10 years or 70 years, unless their policies change.

Mr. President, that list indicates the nature of the problem. Those four goals I mentioned—limiting, reducing, preventing the spread, and involving all nuclear weapons states in the process—are primary and fundamental. Beyond that, there are some other things I think should be approached in the longer run.

I think we must address the question of arms control in its totality, not just nuclear arms. The initiation of United States-Soviet negotiations to reduce conventional armaments, the mutual and balanced force reduction talks, should be run on a dual track with our negotiations on nuclear weapons. And on a more philosophic note, to ameliorate the major causes of global instability, we should have, as the Jackson-Warner proposal points out, a dialog with the Soviet Union aimed at focusing the genius, energy, and resources of our two peoples on the ancient enemies of mankind—poverty, hunger, and disease.

Additionally, I would automatically presume that to reduce the threat to our allies in Europe, a continuation of good faith efforts to negotiate limitations on intermediate-range nuclear weapons deployed on the European Continent must continue so that our European allies need have no concern that we are neglecting their interests and concerns.

Mr. President, back to my starting point at the beginning of this discussion, I was surprised at the President's statement last evening, reading it once again:

> The truth of the matter is that on balance the Soviet Union does have a definite margin of superiority.

The President was referring to strategic nuclear weapons in response to a question after his formal opening statement.

Mr. President, I think that needs to be clarified. As I said, I think it needs to be clarified not only for the American people, lest they lose confidence in our own strategic arms capabilities, it needs to be clarified for the rest of the world community and for the Soviet Union. I can only presume that the President based his judgment on the sole analysis of megatonnage and throw weight capability.

To me, a far more realistic method of judging our capability is the number of warheads and the accuracy of those warheads. In that department, we alone, not counting our allies, have some 10,000 deliverable nuclear warheads. The Soviets have some 7,000. So we have about 42 percent more warheads, and those warheads have greater accuracy than do the Soviets. I do not think, Mr. President, that we are a second-rate strategic arms power. I do not want our people to think so, the Soviet Union to think so, nor our allies to think we are any less than the best. That is not just American bravado or braggadocio, I think it is a cold analysis of numbers of warheads and accuracy.

I think the four basic goals I have outlined should go into any nuclear freeze or arms control program and should be given careful consideration.

It seems to me they establish a one-, two-, three-, four-type process leading to real and true nuclear arms control some time in the future. Just to call for a freeze without a process to back it up might work, but it is going to require more than we have indicated a willingness to negotiate so far. I hope the administration will move, first, to go with limiting nuclear weapons expansion; a freeze through 1985 of testing, production, and deployment of strategic weapons at SALT II levels.

Second, to reduce existing weapons stockpiles; an agreement on balanced, incremental reductions in strategic weaponry, such reductions being those that would assure deterrence and be adequately verifiable;

Third, to prevent spread of additional weapons; the establishment of additional measures by nuclear supplier nations designed to halt the worldwide proliferation of nuclear weapons;

And fourth, to involve all nuclear weapons states in the process; a commitment to bring all nations possessing nuclear weapons into the negotiations and related activity at the earliest appropriate time.

I yield the floor.

Mr. EAGLETON. Mr. President, I shall address another subject matter but before my distinguished colleague from Ohio leaves the floor, I commend him for his very cogent remarks. I have listened here, on the floor, and from the Speaker's box in the cloakroom. I know of no Member of the Senate who has devoted more of his time and talent to this question of nuclear arms control than the distinguished Senator from Ohio (Mr. GLENN). I think the four points he has laid out constitute a very rational, very sensible, measured approach to what is perhaps mankind's most agonizing problem. I salute him for his remarks.

REAGAN AGAIN MAKES SWEEPING ERRORS AT NEWS CONFERENCE

Mr. EAGLETON. Mr. President, along with millions of other Americans, I watched President Reagan's press conference last night. Once again, as in so many previous press conferences, the President either misstated or misleadingly stated the facts.

On the special supplemental feeding program for women, infants, and children—sometimes known by the acronym WIC—he said:

> In the same editorial they criticized the women, infant and children nutrition program. And I am sure at first glance they must have thought something had happened. It's been merged with another program and is in there at much greater money than it has ever had before.

The President was referring to a New York Times editorial published on March 31, 1982.

The facts are, that in fiscal 1982, the WIC program will operate at a level of $955.5 million and the maternal and child health block grant will operate at a level of $347.5 million, for a total of $1.3 billion. That is $1.3 billion for WIC and the maternal and child health block grant combined.

In fiscal 1983, however, the President recommends the merger of these two programs and a total of $1 billion to be spent on both.

So the President's statement last night in his press conference is flatout wrong.

On food stamp fraud, last night the President said as follows:

> And just recently we've been doing some investigating so that we can intelligently treat with a program of that kind, and we have found in the first investigation that 57 percent of the stores that were investigated are selling items for food stamps that are banned, that food stamps are—it's illegal to use food stamps to buy those things.

What the President didn't say was that this investigation was made in high risk grocery stores, that is stores with a previous track record of abusing the food stamp program. These are the Al Capone grocery stores. The President leaves the impression by his answer that nationwide there is a 57 percent error rate. The fact is that Al Capone stores have such a rate, not all stores.

Mr. President, I brought out these facts in a hearing this morning of the Senate Agriculture Appropriations Subcommittee and I hereby ask unanimous consent that an excerpt from the transcript of such hearing as it reflects on this matter be placed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. EAGLETON. Mr. President, a few weeks ago, President Reagan addressed the National Association of Manufacturers. Always the consummate performer, the President convulsed his audience by contrasting the few number of words in the Lord's Prayer and Gettysburg Address with the pages and pages contained in an Agriculture Department order setting the price of cabbage.

The President owned that he could not vouch for the accuracy of the figures, but he suggested that it was no matter, noting: "Possibly, the story is more folklore than fact. But, whichever, I think it's one case where a bit of folklore can convey a lot of wisdom."

I think there is insight in that remark, because I believe that President Reagan truly feels it is harmless to take a little banquet-circuit license with the facts if it helps to entertain his audience and to get his message across. But, when we are talking about programs to feed the hungry of this country, I think the President's responsibility goes a little further than giving his audience an after-dinner chuckle. His "bit of folklore" conveys not wisdom, but a deplorable prejudice against a program which is a lifeline for millions of Americans throughout this country. His apocryphal anecdotes, consistently repeated, betray an emnity for this crucial program and toward the people who are dependent on it. I am saddened to say this, but it is the only conclusion I can draw from the President's repeated flights of folklore and fantasy about this and other programs.

Just two more for the record, Mr. President.

The President makes so many misstatements in his press conferences that it is hard to keep up with them, but there are two more I wish to add at this point that came out of last night's presentation.

Last night the President claimed, "We have not touched social security."

Again, the fact is that last year's budget cuts included a $20 billion cut in social security over the next 5 years.

Then, once again from last night's press conference, the President stated,

"We have in some of the hardest hit States extended the unemployment insurance."

The fact is, Mr. President, that the Reagan budget cut enacted last year actually ended extended unemployment benefits for most unemployed Americans.

For example, in Michigan, where unemployment is over 11 percent statewide and alarmingly higher than that in the Detroit area, extended unemployment benefits actually were terminated for a number of months because of the Reagan budget cuts.

So, once again, Mr. President, we have this usual Reagan cleavage, the cleavage between Reagan fiction and factual reality.

EXHIBIT 1

Excerpts from transcript of hearing before the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, April 1, 1982.

Witnesses appearing in the following transcript:

Mr. John V. Graziano, Inspector General, U.S. Department of Agriculture.

Mr. Robert Sherman, Deputy Budget Officer, U.S. Department of Agriculture.

Mr. Henry Eschwege, Director, Community and Economic Development Division, General Accounting Office.

Mr. John Bode, Deputy Assistant Secretary for Food and Consumer Services, U.S. Department of Agriculture.

Mr. Andy Hornsby, Deputy Administrator for Regional Operations, Food and Nutrition Service, U.S. Department of Agriculture.

Senator EAGLETON. Let me ask this question and then yield to Senator Chiles after I ask this question.

Would this be a fair statement, Mr. Inspector General? Suppose in the Department of Agriculture budget we put in a new line item and the new line item was called "waste, fraud and abuse." So after we got through with the food stamp section of the budget, we put in a new item "fraud, waste and abuse," reduce the food stamp program $1 billion, strike a total. That would be an overly simplistic way of approaching the problem, wouldn't you say?

Mr. GRAZIANO. Yes, sir. I do not believe by reducing the budget for the food stamp program we would see an automatic reduction in fraud, waste and abuse. We would still have to address the problems.

Senator EAGLETON. You are absolutely correct.

* * * * *

Senator EAGLETON. Here are the accurate figures. For fiscal 1982, the year we are in, appropriated for WIC was $955.5 million, just a shade under a billion dollars. For maternal and child health, et cetera, fiscal 1982 appropriated $347.5 million. That totals $1,303,000,000. The President's 1983 budget proposal folds those two together as a block grant and funds it at a billion dollars.

I will ask the Department of Agriculture folks is that a fair reflection of the figures?

Mr. SHERMAN. That is correct, Mr. Chairman.

Senator EAGLETON. The President last night in his press conference, talking about how much he cared for the poor and threw around a lot of figures showing that he cared, concluded his long answer with this: "Well, what they didn't see was that we actually have more money in for that program than we had for others. In the same editorial"—he was complaining I think about a New York Times editorial—"in the same editorial they critized the Women, Infants and Children program—WIC—and I am sure at first glance they must have thought something had happened. Well, it's been merged into another and is there at much greater money than it has ever had before."

Let my repeat that. "I am sure at first glance they must have thought something had happened. It's been merged with another program and is in there at much greater money than it has even had before."

That is just a bold, bald, total mistatement, inaccurate in the extreme, because when you merge 955 and 345 and then say that adds up to billion and a billion is more than $1,303,000,000, you are totally and inexcusably misstating identifiable facts.

Now that is not your fault. You weren't whispering into the President's ear last night, were you.

Mr. ESCHWEGE. I am part of the Legislative Branch, Mr. Chairman.

Senator EAGLETON. But for the life of me I don't know where the President is getting his figures. He had a long coaching session yesterday. The network news says it is the longest coaching session he has had to prepare for a national press conference, and he did rattle off a lot of figures in his answers, including those I read into the record. But even with a long coaching session the President continues to misstate the facts, and then he wonders why the New York Times writes an editorial critical of his policies on nutrition, then he wonders why people come to the conclusion that he is inattentive to and unconcerned for the plight of the poor. And for the life of me I first don't know why he does it, and (b) I don't know how he thinks he can get away with it. He must know the New York Times prints the transcript verbatim after every presidential news conference. He must know there are people from these departments, budget officers, what have you, that have the figures. He must know sooner or later Congress will find out what the figures are. But he insists on doing that. It is part of his pattern and practice of misstating identifiable facts.

So I don't know how many millions of people watched the press conference last night. I suspect a vast audience. It preempted all three networks, and it should. Sometime we will have a Democrat in the White House and we will preempt.

So millions of people if they heard that answer last night will say, "Gee, the President is putting more money in WIC." How many millions of people will find out today the President just misstated the situation in the extreme. Some people will. There will be another editorial in some major newspaper now. If I were Meg Greenfield of the Washington Post I would be cranking out an editorial right now on WIC. I would have the true figures in it and say, "Mr. President, we stand by our earlier editorial and now we are standing by this new one. You are decimating the nutrition programs of this country. You are not telling the country the truth about the moneys that are going into nutritional programs."

Well, that is over and beyond your presentation here today. All right, sir, you were on conservation.

* * * * *

Senator EAGLETON. We have the Food and Nutrition Service people here and I think we will hear from them before we go on to the Commodity Futures Trading Commission.

Sir, would you give us your name and title, indicating the scope of your duties, and also the name and title of the gentleman with you.

Mr. BODE. Senator, I am John Bode, B-o-d-e. I am Deputy Assistant Secretary for Food and Consumer Services. The Food and Nutrition Service reports to our office.

With me is Andy Hornsby, H-o-r-n-s-b-y. He is Deputy Administrator for Regional Operations in the Food and Nutrition Service.

Senator EAGLETON. Are both of you Schedule C or career?

Mr. BODE. I am a political appointee. Mr. Hornsby is career.

Senator EAGLETON. Did you come straight off the farm, Mr. Bode?

Mr. BODE. No, sir, I was previously a staff member of the Senate Agriculture Committee.

Senator EAGLETON. This one?

Mr. BODE. Senate Agriculture.

Senator EAGLETON. Oh, the big one.

Here is why we asked you to come down. I am sure it was described to you over the phone. The President in his press conference last night said the following: "And just recently we have been doing some investigating so we can intelligently deal with a program of that kind"—he is talking about food stamps—"with a program of that kind, and we have found in the first investigation that 57 percent of the stores that were investigated are selling items for food stamps that are banned, that food stamps are—it's illegal to use food stamps to buy those things."

Can you shed some light on this? First of all, has this investigation culminated in any kind of a report?

Mr. HORNSBY. Senator, it is a series of investigations.

Mr. BODE. Senator, there is a series of investigations that have been conducted. The President is absolutely right in his report that in calendar year 1981 our investigations by our compliance staff in Food and Nutrition Service, in cooperation with our field offices, found that 57 percent of the stores investigated were accepting food stamps for ineligible items. There were 5,000 stores investigated out of a total of about 240,000 stores.

Senator EAGLETON. How was this investigation conducted? What would be a typical way one of your folks went into a typical supermarket and investigated?

Mr. BODE. There are a number of ways that these investigations could be spurred. They are not a random sample, if that is the point you are driving at. Typically, some complaint may have been received or, as I think you know, Senator, we monitor food coupon redemptions made by all of our retailers, and if something out of the ordinary develops and shows up in that computer monitoring, an unusually high level of redemptions, for examples, or some dramatic fluctuation level up in redemptions, that spurs and investigation.

I think there is a point that should be made in addition here. Almost all of these stores received a letter of warning prior to the investigation.

Senator EAGLETON. So these were sort of high-risk stores. I mean either private consumer complaint or warning letter or something. This probably wasn't a Georgetown Safeway.

Mr. BODE. We had reason to conduct the investigations going on. So they were the high-risk stores.

Senator EAGLETON. This was not, by your own testimony, the random sample pollster; these are high-risk stores.

Mr. BODE. That is correct. They are relatively high-risk stores.

Senator EAGLETON. There are stores that trade in food stamps in a greater volume and with greater repetitiveness than, say, the Georgetown Safeway or Chevy Chase supermarkets out in posh Chevy Chase. There is nothing wrong with that.

Mr. BODE. And they have received a letter of warning they are suspect.

Senator EAGLETON. Okay, the investigator goes in. Does he sort of hover around one of the checkout counters and see what is going on?

Mr. BODE. I will ask Mr. Hornsby to comment.

Mr. HORNSBY. Let me explain that. The investigator will use one of two methods of investigating the store. He or she will either do it personally or they will hire local people or local ladies if they don't think they can fit with the normal clientele of the store, and will actually shop with food coupons through a series of transactions, generally give different transactions in the store, buying anything that can be purchased. And they are trained fairly well to avoid entrapment, to go in and purchase the item, let the merchant decide. We do not want any pressure.

Senator EAGLETON. So some of these purchasers were shills—it is used in law enforcment. The hired shill went in and pushed a cart around, put some hamburger in it, put some beans in it, and then put some Pepsodent toothpaste in it.

Mr. HORNSBY. Exactly right.

Senator EAGLETON. And Pepsodent is prohibited.

Mr. HORNSBY. Correct.

Senator EAGLETON. Not just Pepsodent, but toothpaste is not purchasable through food stamps.

Mr. HORNSBY. Correct.

Senator EAGLETON. Then wheeled the cart up to the checkout counter and they ring up on the register and pay for it in food stamps.

Mr. HORNSBY. Right.

Senator EAGLETON. How many of these investigations were done by the hired shill route vis-a-vis the observing, a citizen pushing his or her cart through the checkout counter?

Mr. HORNSBY. They were all done by either the investigators themselves or by a hired person to conduct the investigation. No citizens are involved.

Senator EAGLETON. I find that sort of interesting. So the whole investigation was done either by an investigator himself throwing things in the cart or a hired shill threw things in the cart.

Mr. HORNSBY. We call them investigative aides.

One Point. The investigative aids are supposed to be supervised, keeping them in observation at all times, make sure they don't have the opportunity to take any money with them in the store, they are only taking food stamps, and training them very carefully on what to shop for, and try to keep them under control and make sure they don't compromise the investigation by putting undue pressure on the store, such as "Please let me have the beer."

Senator EAGLETON. Do you know if any of the investigators in any cases put a bottle of vodka in?

Mr. HORNSBY. I would suspect in the course of 5,000 investigations vodka was purchased in some of them, but it would depend whether liquor is sold in grocery stores in that State. I would suspect some of our investigation reports disclosed vodka. I would bet on it. Liquor is an item that is a flagrant violation, and during the course of our investigations we escalate these purchase attempts into more flagrant violations if the store is willing to do so. The example you used of Pepsodent toothpaste, that is not a real serious violation. A bottle of vodka is a serious violation.

Senator EAGLETON. Are you aware that Mrs. Jarrett, Assistant Secretary of Agriculture, said that the President was talking through his hat when in the earlier off-the-cuff remark he talked about the vodka matter?

Mr. BODE. Sir, she is my boss. I was not aware of the fact she used the case you talked about. I think her point was in that testimony that purchases of a bottle of vodka, which one usually assumes sells for more than $1, are not proper under our regulations.

Senator EAGLETON. Well, we will get his exact quote. He had somebody buying an orange. We will let the quote speak for itself, and we will put Mrs. Jarrett's quotation in the record as well.

Let's get back to this investigation. Now Pepsodent is not a grievous violation.

Mr. BODE. It is not a violation we consider flagrant. In our investigations we are looking for flagrant violations,

Senator EAGLETON. How about a bar of soap, is that permissible under food stamps?

Mr. HORNSBY. We classify them into two groups of items, major items and minor items. The major items are items costing $5 or more—an item of alcoholic beverages or cartons of cigarettes, tobacco, alcoholic beverage and six-packs or more of beer, bottle of liquor. Minor items are non-food items costing less than $5, such as soap, washing powder, toothpaste.

Senator EAGLETON. Let me get some of these, not so fast. Such as toothpaste.

Mr. HORNSBY. Well, soap, hand soap.

Senator EAGLETON. Bars of soap, cleaning powder.

Mr. HORNSBY. Yes, any items that you buy in a grocery store that cost less than $5 we consider minor.

Senator EAGLETON. Now the 57 percent violation rate at these high-risk targeted stores, does that 57 percent include a lot of these minor violations?

Mr. BODE. It includes the minor violations. As I think the President indicated, those were unauthorized sales.

Senator EAGLETON. He didn't say major or minor, that is correct. He said unauthorized sales.

Now can you break down that 57 percent between major and minor and in so doing give us the error rate at these high-risk stores, highly targeted stores?

Mr. BODE. I am afraid we don't have that with us, but I am confident we can get it to you shortly for the record.

Senator EAGLETON. Would you?

Mr. BODE. Yes.

Senator EAGLETON. How soon is shortly?

Mr. BODE. Today.

Mr. HORNSBY. Say exactly what you want one more time.

Senator EAGLETON. Here is what I want. Five thousand stores were surveyed, not a random survey—and I am not quarreling with the methodology used. You picked high-risk stores, stores where you had a complaint, stores where the utilization of food stamps was very high, stores that had a warning letter, high-risk stores. And you found 57 percent——

Mr. HORSNBY. Twenty-seven hundred of them.

Senator EAGLETON. Twenty-seven hundred violations. And violations can be of two different types. For instance, in my religion we have venal sins and more significant ones. Sometimes the more significant ones are more fun than the venal ones. But this 57 percent error, my suspicion is the vast bulk of those were minor. My suspicion is the vast bulk of those were toothpaste, soap, cleansing powder, i.e., things under $5. What do you think about my suspicion?

Mr. HORNSBY. No, I don't think that is correct. Out of 2,700 that were found to be violations, 1,754 were violations serious enough to warrant disqualification, removal from the food stamp program. So more than half were violations—the difference in that figure would be those minor violations.

Senator EAGLETON. I stand corrected. That is what I am trying to get, some facts. So 1,754 out of the 2,700 were serious.

Mr. HORNSBY. Yes, sir, serious enough to warrant a disqualification for 30 days to three years, depending on circumstances.

Senator EAGLETON. How many of that 1,754 had previously received warning letters?

Mr. HORNSBY. All of them.

Senator EAGLETON. All of them?

Mr. HORNSBY. Yes, sir. We don't disqualify a store until they have been warned unless we get into a spin-off investigation where you are in a store and they say, well, I won't buy these food stamps from but the store down the street might, I understand. The investigator will do what we call a spin-off investigation, and if serious violations are occurring we may disqualify that store without a warning. It is generally our practice never to investigate—we say investigate for a cause—until the store has been warned both verbally and in writing and it has been monitored. With limited resources, and covering 240,000 stores, you have got to pick out the high potential violators. And you should warn them. It helps in court. They can take us to U.S. District Court.

Senator EAGLETON. These are the baddest of the bad guys?

Mr. HORNSBY. Yes, sir.

Senator EAGLETON. Now suppose out at the National Institutes of Health, the Cancer Institute, they have a hundred patients out there today with lung cancer and they wanted to ascertain the incidence of lung cancer related to smoking, and they surveyed those hundred people with lung cancer and found that 50 of them were heavy smokers. Would that be an accurate reflection, in your judgment, of the statistical incidence of smoking as it relates to lung cancer?

Mr. BODE. No, sir.

Senator EAGLETON. It most certainly won't.

Mr. BODE. No.

Senator EAGLETON. Now these 1754 baddest of the bad, all of whom have received warning letters, they are not 1754 typical supermarkets or typical grocery stores, are they?

Mr. BODE. No, sir.

Senator EAGLETON. These are the cancerous stores. So we are investigating the incidence of cancerous fraud at a pre-determined group of stores that already are declared to be cancerous.

Mr. BODE. If one would want to use that analogy.

Senator EAGLETON. And ergo, one comes up with a very high error rate, doesn't one?

Mr. BODE. Certainly, it's a nonrandom sample, as I think the President indicated, just one investigation.

Senator EAGLETON. Are you going to write this up, this investigation?

Mr. BODE. We can certainly submit a report.

Senator EAGLETON. Had you planned until your appearance here today to write this up?

Mr. HORNSBY. We submit this information on a routine basis annually to the various committees on the Hill.

Senator EAGLETON. But you didn't think enough of this to write it up in a report?

Mr. BODE. Well, it is regularly reported, sir.

Senator EAGLETON. But you didn't find this so significant as to write a special report or a special memorandum or to reduce indeed this entire incident to a printed document or typewritten document. Have you reduced this to a typewritten document?

Mr. HORNSBY. Yes, sir. We have reduced it.

Senator EAGLETON. Did you bring the document with you?

Mr. HORNSBY. We have previously submitted it to most of the committees.

Senator EAGLETON. As a document?

Mr. HORNSBY. As an answer to a question.

Senator EAGLETON. Did you bring the document with you?

Mr. HORNSBY. No, sir.

Senator EAGLETON. Didn't I request you to bring the report with you?

Mr. SHERMAN. Yes, sir, you did. The information in the phone calls must have gotten misdirected, sir.

Senator EAGLETON. Well, when we fininsh with you can you go to the phone and have a clerk or messenger bring down the document or the report?

Mr. HORNSBY. Yes, sir. We can provide that today.

Senator EAGLETON. I know you are out in——

Mr. BODE. Alexandria.

Mr. HORNSBY. They have that information. We can provide it in a couple of hours.

Senator EAGLETON. You ought to be able to provide it in 30 minutes. The report has been prepared, the document is prepared. It is just the transportation time.

Mr. HORNSBY. Just the xerox.

Senator EAGLETON. You won't go back and have a document written for me. I know you won't do that.

Mr. HORNSBY. We will submit the same thing that has prevously been submitted.

Senator EAGLETON. Did you put any kind of coding on it, had a red alert, important, vital? Did you flag this in some way?

Mr. BODE. No, sir, I am sure that that was not coded or flagged.

Senator EAGLETON. Who did that document go to?

Mrs. Jarrett?

Mr. HORNSBY. Sir, my term is questions and answers, that we submit on a regular basis and we do this annually. We have done it for years. We give our investigative results—and it will probably be a one-page question—the results of our retail investigations, and we give you the whole thing.

Senator EAGLETON. One page?

Mr. HORNSBY. I haven't seen it lately. More than one page.

Senator EAGLETON. You have been testifying now for I guess 40-some minutes. You got all this down in one page?

Mr. HORNSBY. More than one page.

Senator EAGLETON. Does the Department of Agriculture have on its staff professional statisticians? I believe it does?

Mr. BODE. Sure we do.

Senator EAGLETON. I guess practically no department in government issues more statistical document than the Department of Agriculture, so you have professional statisticians.

Mr. BODE. Yes, sir.

Senator EAGLETON. Did they help you prepare this sample?

Mr. BODE. No, sir; this was an investigation that was a targeted investigation. It was not a random sample, and, to my knowledge, it has never been held out to be.

Senator EAGLETON. The Inspector General left, didn't he? Did you consult the Inspector General in the preparation of this targeted sample?

Mr. BODE. The Inspector General is aware of and cooperates with the Food and Nutrition Service in this investigation.

Mr. HORNSBY. The Inspector General's office delegates the authority to the agency to conduct retail investigations. They are the investigative arm of Agriculture. They subdelegate the authority to the Agency because of the sheer magnitude of the number of retail investigations that have to be conducted in a year. We have had this authority in FNS for about five years, and it is delegated to us. And they are very aware of it.

We report serious cases to the Inspector General on a regular basis in which they will go in and conduct criminal investigations of those stores that we suspect are trafficking in food stamps, wholesale Federal criminal violation. There is very close coordination with the Inspector General's office.

Senator EAGLETON. Okay, if you would, please go to the phone and have them send down that memorandum or report.

Mr. HORNSBY. Yes, sir. What we were referring to is in the green sheets, is the breakdown by states on the total investigations done and the results of those investigations. This is what I was referring to.

Senator EAGLETON. Have you got a page that pertains to this specific subject matter about which we have been inquiring? I will put this entire page in the record. It is page 145 with a tiny little zero. I don't know what that means. But it is headed "Food Stamp Program," in caps. On the next line it is "Compliance Investigation, Violations and No Violations, Fiscal Year 1981."

And that lists the 50 states and it has positive cases (violations), negative (no violations). Then it has a column of totals.

Mr. HORNSBY. That other sheet is the previous sheet there that says what led to those investigations. This is how many you see, the column "Monitoring visits," that is how many total stores.

Senator EAGLETON. Number of monitoring visits.

Mr. HORNSBY. Right, that is how many stores we go in to check and determine if it is worth investigating the store or not, is there evidence of violations. Number of monitored. 66,732. That is the total.

Senator EAGLETON. Get me some xerox of this.

Mr. HORNSBY. Here is another sheet with a bit of narrative on monitoring.

Senator EAGLETON. And that is the only item that pertains to this?

Mr. HORNSBY. Yes, sir.

Senator EAGLETON. This is in the budget justification book, page 145e, and on this one page you discussed food stamp disaster assistance.

Mr. HORNSBY. Grocery monitor.

Senator EAGLETON. I am reading what is on the page. Then you have a paragraph automated quality control system and one paragraph on grocery monitoring. I will read that one.

"Food and Nutrition Service is continuing intensive monitoring of grocers and other redemption outlets to detect and penalize fraud and abuse. During Fiscal 81, FNS completed 166,732 monitoring visits. 29,141 compliance visits, and 4,727 compliance investigations of redemption outlets. More than 1,500 grocers were disqualified."

Mr. HORNSBY. These are fiscal figures. The figures we are quoting were in calendar year.

Senator EAGLETON. You didn't put attention, attention, we have a hot report on this?

Mr. BODE. No, sir.

Senator EAGLETON. Just a rather matter of fact statement printed in with a lot of other statements in the budget justification.

We will xerox that.

All right, it you would, sir, Mr. Bode, go to the phone and ask them to send down by messenger the report or the whatever we call it that we previously alluded to.

Mr. HORNSBY. This is what I was previously alluding to.

Senator EAGLETON. This is the report?

Mr. HORNSBY. Yes, sir.

Senator EAGLETON. Well, let us not waste gasoline. You mean this is what they are going to accept?

Mr. HORNSBY. Yes, sir, that was referring to what I said we previously submitted some information reporting the results of the investigations.

Senator EAGLETON. Oh, this is it. Ain't much, is it?

Mr. HORNSBY. We have other reports on this activity that are more detailed that we could provide this committee, and possibly has been provided earlier with a couple of pages.

Senator EAGLETON. Well, do me one favor then. Talk to your best statistical folks out there at Agriculture and ask them if based on the methodology used in this investigation that culminated in those three benign sentences in the green sheets, whether the methodology used in terms of stores investigated would lead one to believe that there is a 57 percent error rate nationwide in the Food Stamp Program so far as the purchase of prohibited items is concerned.

Ask your statistical people.

Mr. BODE. Sir, I will ask them to confirm my statement, that I am sure it is not.

Senator EAGLETON. Ask him to send me a letter on it.

So what the President should have said last night was that 57 percent of the most suspect stores in the country, the most grievous violating stores in the country, 57 percent of those stores were found to be in violation. It would be like saying that when Al Capone had a meeting at his house and he had Joe Bananas and Lucky Luciano and Killer Jones and Greasy Thumb Goozik, and they are all sitting around, they took a sample as to which amongst them was a daily communicant and found that none of them were daily communicants, therefore it was concluded there were no daily communicants in the United States any more.

But again the President with his great skill would leave the impression after last night's press conference, 57 percent error rate nationwide, that is the impression the President wanted to leave. That is the impression the President did leave. And the facts don't back that up.

Mr. BODE. With all due respect, Senator, I think the President's statement was that

that investigation yielded a 57 percent rate of unauthorized sales. There was nothing inaccurate in what the President said.

Senator EAGLETON. Of the most high risk, proven previous violator. It is an Al Capone situation. You will find a high crime rate in Al Capone's living room, you will find a lot of conspiracy taking place in Al Capone's living room, you will find a lot of prohibition violation in Al Capone's warehouse. But not every grocery store in the country is Al Capone and not every food stamp purchaser or utilizer is Al Capone.

Sure, you investigate the Al Capone's of this country and you will get some alarming statistics. I don't like Al Capone any more than the President or you, or his modern day successors.

But the President is the great communicator, and the great communicator mistakenly left the impression with the American people nationwide that 57 percent violation.

Okay, thank you very much. There is no need to send down a nonexistent report. I take as given these are the best documents you have on this subject matter and you have no other report or memo, no other study in your file over and above these three green sheets.

Mr. BODE. May I add several pages of our recently released, in early February, report on fraud, waste and abuse in the Nurtition Assistance Program includes a section on our compliance activities and we will send another copy of that to you.

Senator EAGLETON. Send that to me. Fine. Thank you very much.

FOOD STAMP PROGRAM

RETAILER–WHOLESALER ACTIVITY, FISCAL YEAR 1981

State	Number of store visits	Number of monitoring visits	Number of compliance visits
Alabama	918	234	684
Alaska	43	22	21
Arizona	559	493	66
Arkansas	1,925	1,587	338
California	6,614	4,881	1,733
Colorado	2,530	2,082	448
Connecticut	342	45	297
Delaware	374	341	33
District of Columbia	419	368	51
Florida	2,414	392	2,022
Georgia	1,234	117	1,117
Guam	87	55	32
Hawaii	426	292	134
Idaho	474	394	80
Illinois	3,911	2,756	1,155
Indiana	1,456	1,054	402
Iowa	1,650	1,455	195
Kansas	2,252	2,037	215
Kentucky	912	82	830
Louisiana	2,681	2,078	603
Maine	555	319	236
Maryland	1,218	1,037	181
Massachusetts	2,383	1,459	924
Michigan	2,550	2,048	502
Minnesota	1,094	654	440
Mississippi	1,081	616	465
Missouri	3,541	2,761	780
Montana	800	710	90
Nebraska	1,552	1,438	114
Nevada	176	134	42
New Hampshire	604	473	131
New Jersey	3,037	2,266	771
New Mexico	909	705	204
New York	4,462	3,071	1,391
North Carolina	744	269	475
North Dakota	446	381	65
Ohio	2,330	1,124	1,206
Oklahoma	1,022	819	203
Oregon	907	579	328
Pennsylvania	10,331	8,939	1,392
Puerto Rico	7,728	4,080	3,648
Rhode Island	288	162	126
South Carolina	491	252	239
South Dakota	154	112	42
Tennessee	2,754	1,313	1,441
Texas	4,992	3,327	1,665
Utah	1,598	1,255	343
Vermont	322	265	57
Virginia	2,045	1,745	300
Virgin Islands	84	42	42

FOOD STAMP PROGRAM—Continued

State	Number of store visits	Number of monitoring visits	Number of compliance visits
Washington	1,261	1,050	211
West Virginia	1,868	1,539	329
Wisconsin	918	645	273
Wyoming	407	378	29
Total	95,873	66,732	29,141

COMPLIANCE INVESTIGATIONS—VIOLATIONS AND NO VIOLATIONS, FISCAL YEAR 1981

State	Positive cases (violations)	Negative cases (no violations)	Total
Alabama	80	63	143
Alaska	4	4	8
Arizona	28	10	38
Arkansas	45	9	54
California	152	121	273
Colorado	10	23	33
Connecticut	22	10	32
Delaware	5	1	6
District of Columbia	7	7	14
Florida	114	71	185
Georgia	102	69	171
Guam	16	5	21
Hawaii	10	2	12
Idaho	9	3	12
Illinois	96	53	149
Indiana	36	17	53
Iowa	10	13	23
Kansas	15	17	32
Kentucky	79	55	134
Louisiana	98	70	168
Maine	8	5	13
Maryland	25	31	56
Massachusetts	94	43	137
Michigan	66	44	110
Minnesota	26	16	42
Mississippi	56	43	99
Missouri	44	38	82
Montana	5	17	22
Nebraska	10	3	13
Nevada	8	7	15
New Hampshire	9	3	12
New Jersey	91	37	128
New Mexico	20	17	37
New York	295	116	411
North Carolina	92	57	149
North Dakota	5	4	9
Ohio	108	103	211
Oklahoma	17	15	32
Oregon	31	27	58
Pennsylvania	131	74	205
Puerto Rico	251	180	431
Rhode Island	18	10	28
South Carolina	72	56	128
South Dakota	0	2	2
Tennessee	108	50	158
Texas	135	195	330
Utah	0	4	4
Vermont	6	7	13
Virginia	32	18	50
Virgin Islands	8	6	14
Washington	27	35	62
West Virginia	22	18	40
Wisconsin	20	33	53
Wyoming	4	8	12
Total	2,782	1,945	4,727

(Certain of the materials referred to in the hearing are as follows:)

Nearly three-quarters of food stamp recipients are children, the elderly and single parents who are heads of households.

Recent changes in food stamp law have reduced the number of persons eligible for the program by over 7 million.

The Food Stamp Act of 1977 reduced the number of eligible persons by 3.5 million.

The Food Stamp Act Amendments of 1979, 1980 and 1981 reduced the number of persons eligible for the program by another 4.2 million.

The number of students in the Food Stamp Program was reduced significantly as a result of the 1980 amendments to the law. Students now represent two-tenths of one percent of the food stamp caseload, or 47,000 persons.

FOOD STAMP DISASTER ASSISTANCE

The Food Stamp Act of 1977 provided for significant improvements in the control of food stamp issuance in disaster situations by authorizing the Department to establish eligibility requirements for use during disasters, rather than waiving such requirements as the previous law did. Although the emergency food stamp issuance procedures permit the suspension of normal program eligibility requirements, they provide for extensive screening of applicants. Income and assets limitations are to be applied and food stamps generally will not be issued to eligible households for periods of more than 30 days.

During Fiscal Year 1981, $13,849 in food stamps were issued on an emergency basis in a flood striken area in Ohio (June 19–26, 1981). Sixty-six households containing a total of 254 persons were assisted.

AUTOMATED QUALITY CONTROL SYSTEM

A nationwide automated quality control system is being implemented to enhance the responsiveness and consistency of the quality control review system. This system identifies certification and issuance errors, and determines a State's eligibility for enhanced Federal cost sharing or its liability for losses caused by administrative error.

The food stamp Automated Quality Control System will unify and streamline data reporting and processing, provide a monthly update of case review data in each State, support greater analytic use of all data, and significantly decrease the time between error detection and opportunity for correction. In short, the automation of the entire paperwork process will focus the attention of the quality control system where it belongs—error detection and correction of operating deficiencies in State program administrative processes. Time lag between error detection and error reporting will be diminished and reporting requirements will be streamlined.

Implementation of the new system will be completed during Fiscal Year 1982. At that time, State agencies will be able to enter Food Stamp Program quality control data, generate computerized reports, and use the various statistical analyses available in the system to detect errors and implement corrective action.

GROCER MONITORING

Food and Nutrition Service is continuing intensive monitoring of grocers and other redemption outlets to detect and penalize fraud and abuse. During Fiscal Year 1982, FNS staff conducted 66,732 monitoring visits, 29,141 compliance visits, and 4,727 compliance investigations of redemption outlets. More than 1,500 grocers were disqualified.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. HAWKINS). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, I believe that we are prepared to start the adjournment sequence in a moment that I am sure other Senators have looked forward to as I have. I observe a smile on the face of some of our pages, and I can assure them they are no more anxious for that than we are.

AUTHORITY FOR CERTAIN ACTIONS DURING THE ADJOURNMENT

Mr. BAKER. Madam President, I ask unanimous consent that during the adjournment of the Senate over until Tuesday, April 13, 1982, messages from the President of the United States and the House of Representatives may be received by the Secretary of the Senate and appropriately referred, and that the Vice President, President pro tempore, and acting President pro tempore may be authorized to sign duly enrolled bills and joint resolutions.

I further ask unanimous consent that during the adjournment of the Senate over until Tuesday, April 13, 1982, committees may be authorized to file reports on Thursday, April 8, between the hours of 9 a.m. and 3 p.m.

ORDER FOR CERTAIN ACTIONS WHEN SENATE RECONVENES

Finally, I ask unanimous consent that when the Senate reconvenes on Tuesday, April 13, 1982, the reading of the Journal be dispensed with, no resolutons come over under the rule, the call of the Calendar be dispensed with, and following the time allocated to the two leaders under the Standing Order, there be a period for the transaction of routine morning business not to exceed 30 minutes in length, with Senators permitted to speak therein for not more than 5 minutes each.

Mr. ROBERT C. BYRD. Madam President, reserving the right to object—I have no objection.

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

Mr. BAKER. I thank the Chair and I thank the minority leader for his consideration and cooperation in that request.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, there are a number of other items that must be dealt with now before we proceed under the provisions of the adjournment resolution, Senate Concurrent Resolution 78.

AMERICAN SALUTE TO CABANATUAN PRISONER OF WAR MEMORIAL DAY

Mr. BAKER. Madam President, first, I am prepared now to ask the Senate to proceed to the consideration of House Joint Resolution 435, which is a resolution providing for April 12, 1982, as "American Salute to Cabanatuan Prisoner of War Memorial Day." Is the minority leader prepared to do that? I would urge the minority leader to attempt to pronounce that name. [Laughter.]

Mr. ROBERT C. BYRD. There is no objection.

Mr. BAKER. I ask that the Senate proceed to the consideration of House Joint Resolution 435 at this time.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (H.J. Res. 435) providing for the designation of April 12, 1982, as "American Salute to Cabanatuan Prisoner of War Memorial Day."

The PRESIDING OFFICER. Without objection, the joint resolution will be considered to have been read twice by title.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The question is on the third reading of the joint resolution.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Madam President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HOSPICE WEEK

Mr. BAKER. I am prepared now to proceed to the consideration of Senate Joint Resolution 170 on page 19 of today's Calendar of General Orders, if that is cleared for action by unanimous consent by the minority leader.

Mr. ROBERT C. BYRD. Madam President, there is no objection.

Mr. BAKER. I thank the minority leader.

I ask the Chair to lay before the Senate Joint Resolution 170.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 170) to designate the week of November 7, 1982 through November 14, 1982, as "National Hospice Week."

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read a third time, and passed.

The preamble was agreed to.

The joint resolution with its preamble, as agreed to, reads as follows:

S.J. RES. 170

Whereas hospice care provided in the United States has demonstrated that it is possible for people who are nearing the end of life to have appropriate, competent, and compassionate care;

Whereas providers of hospice care are interdisciplinary teams of physicians, nurses, social workers, pharmacists, physical and occupational therapists, psychological and spiritual counselors, and other trained community volunteers;

Whereas hospice services are provided by volunteer teams on an unintermittent basis, tailored to the needs of each individual patient and patient family;

Whereas the hospice care concept has not had the national recognition necessary to cause general public awareness of an alternate care system for the terminally ill;

Whereas lack of national recognition has caused many hundreds of patients and patient families to suffer unnecessary physical, emotional, and spiritual pain and grief attendant on terminal illness; and

Whereas hospice care is a realistic alternative to unnecessary suffering that allows terminally ill patients and their families the opportunity to live and die in peace and comfort in an environment of personal individuality and integrity: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 7, 1982, through November 14, 1982, is designated as "National Hospice Week" and the President of the United States is authorized and requested to issue a proclamation calling upon all government agencies, the medical community, appropriate private organizations, and the people of the United States to observe the week with appropriate forums, programs, and activities designed to encourage national recognition and support for the hospice care concept as a realistic and humane response to the needs of the terminally ill.

Mr. BAKER. Madam President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

URGING THE SOVIET UNION TO ALLOW IDA NUDEL TO EMIGRATE TO ISRAEL

Mr. BAKER. Madam President, I am prepared now to ask the Senate to consider Senate Concurrent Resolution 69, if the same is cleared on the minority side.

Mr. ROBERT C. BYRD. Madam President, that has been cleared on this side.

Mr. BAKER. I thank the minority leader.

I ask the Chair now to lay before the Senate, Senate Concurrent Resolution 69, a resolution relating to Ida Nudel, a Soviet citizen.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 69) urging the Soviet Union to allow Ida Nudel to emigrate to Israel, and for other purposes.

The Senate proceeded to consider the concurrent resolution.

SENATE CONCURRENT RESOLUTION 69—URGING U.S.S.R. TO ALLOW IDA NUDEL TO EMIGRATE

Mr. PERCY. Madam President, I join in commending Senate Concurrent Resolution 69, urging the U.S.S.R. to allow Ida Nudel to emigrate, to my Senate colleagues.

Ida Nudel is one of the best known and best loved of Soviet refuseniks and prisoners of conscience. After years of attempting herself to emigrate to Israel, and working to help other longtime refusenicks and Soviet prisoners of conscience, Ida Nudel was arrested, tried, and convicted of hooliganism for hanging banners from her Moscow balcony calling attention to Soviet persecution of her.

She is now completing a sentence of internal exile in remote Siberia. Soviet authorities now have an opportunity finally allowing her to join her sister in Israel.

We in the Senate should take this opportunity to call to their attention the widespread concern in the West about her fate.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The resolution (S. Con. Res. 69) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 69

Whereas the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantee to all citizens the rights to freedom of religion, the right to hold opinions without interference, the right to freedom of expression, and the right to emigrate;

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits the signatory nations to respect individual rights and freedom, specifically the right to emigrate to the country of one's choice to rejoin their relatives;

Whereas the Soviet Union has signed the Final Act of the Conference on Security and Cooperation in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights;

Whereas Ida Nudel has devoted her life to the plight of Jewish Prisoners of Conscience;

Whereas Ida Nudel is known as the Guardian Angel for her activities on their behalf;

Whereas Ida Nudel first applied to emigrate from the Soviet Union to Israel in 1971 in order to rejoin her only living relatives; and

Whereas Ida Nudel thereafter endured seven years of harassment and interrogation by the Soviet authorities;

Whereas Ida Nudel developed a heart condition in 1973 which was intentionally misdiagnosed as alcoholism, and therefore never treated properly;

Whereas in June 1978, Ida Nudel was convicted by the Soviet Government of "malicious hooliganism" for hanging a banner on her balcony which said "KGB, give me my visa";

Whereas Ida Nudel was then sentenced to four years of exile in Siberia after a trial in which no witnesses were allowed to testify in her behalf;

Whereas Ida Nudel is in grave physical danger, not only from her failing health, but from citizens around her who have been incited by the Soviet Government to harass and threaten her;

Whereas Ida Nudel is scheduled to be released from internal exile on March 20, 1982; and

Whereas Ida Nudel will again apply for emigration visa upon being released from imprisonment: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Senate that the President, acting directly or through the Secretary of State, should—

(1) continue to express at every suitable opportunity and in the strongest possible terms the opposition of the United States Government to the forced exile of Ida Nudel;

(2) urge the Government of the Soviet Union to (A) provide her with adequate medical care, (B) accept Ida Nudel's visa application, and allow her to emigrate to Israel to join her relatives, in accordance with the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights; and

(3) inform the Government of the Soviet Union that the Government of the United States, in evaluating its relations with other countries, will take into account the extent to which such countries honor their commitments under international law, expecially commitments with respect to the protection of human rights.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President with the request that he further transmit such copy to the Ambassador of the Union of Soviet Socialist Republics to the United States.

Mr. BAKER. Madam President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATION OF THE SOUTHERN NEVADA WATER PROJECT THE "ROBERT B. GRIFFITH WATER PROJECT"

Mr. BAKER. Madam President, on behalf of Senators LAXALT and CANNON I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 1681, a bill to rename the southern Nevada water project, and I ask for its immediate consideration.

Mr. ROBERT C. BYRD. Madam President, there is no objection.

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

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 1681) to designate the southern Nevada water project the "Robert B. Griffith Water Project".

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time; and passed as follows:

S. 1681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the southern Nevada water project, in Clark County, Nevada, shall hereafter be known and designated as the "Robert B. Griffith Water Project". Any reference is a law, map, regulation, document, record or other paper of the United States to that water project shall be held and considered to be a reference to the "Robert B. Griffith Water Project".

Mr. BAKER. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Madam President, I am requested by the sponsoring Senators to note that when this bill was considered in the Energy Committee on yesterday that a full quorum of that committee was present and acted on this measure.

VETERANS' ADMINISTRATION AND DEPARTMENT OF DEFENSE MEDICAL SHARING ACT

Mr. BAKER. Madam President, I am prepared now to proceed to the consideration of the House message on S. 266, and if there is no objection from the minority, I will proceed to that at this time.

Mr. ROBERT C. BYRD. Madam President, there is no objection.

Mr. BAKER. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 266.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 266) entitled "An Act to foster greater coordination and sharing of health-care resources between the Veterans' Administration and the Department of Defense, and to amend title 38, United States Code, to authorize appropriate coordination and sharing of such health-care resources; and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Veterans' Administration and Department of Defense Medical Sharing Act".

SEC. 2. (a) Section 5011 of title 38, United States Code, is amended—

(1) by inserting "(a)" before "The Administrator";

(2) by striking out "or for the transfer" and all that follows through "care for veterans,";

(3) by striking out "and domiciliary beds below the number established or approved on June 22, 1944" and inserting in lieu thereof ", domiciliary, and nursing home beds below the number established or approved under section 5010 of this title"; and

(4) by adding at the end the following:

"(b)(1) It is the sense of the Congress that there are opportunities for greater sharing and coordination of the medical resources of the Veterans' Administration and the Department of Defense which, if achieved, would be beneficial to both veterans and to members of the Armed Forces on active duty and which could result in reduced costs to the Government. Accordingly, the Administrator and the Secretary of Defense shall direct that the Chief Medical Director of the Veterans' Administration and the Assistant Secretary of Defense for Health Affairs, respectively, form an interagency committee to maintain oversight of opportunities for sharing of medical resources of the Veterans' Administration and the Department of Defense and to make recommendations to the heads of their respective agencies with respect to the sharing of those medical resources.

"(2) In addition to such other duties as may be assigned to them in order to carry out this subsection, the Chief Medical Director and the Assistant Secretary of Defense for Health Affairs (hereinafter in this section referred to as the 'Assistant Secretary') shall regularly—

"(A) assess the opportunities for sharing of existing medical resources between the Veterans' Administration and the Department of Defense;

"(B) keep the other apprised of plans for any additional medical facilities planned by their respective agencies (including the location of new facilities and the acquisition of major new medical equipment) with regard to the impact of such plans on opportunities for interagency sharing;

"(C) review the existing capabilities of the Veterans' Administration and of the Department of Defense with respect to direct health care (including support and administrative services) in order to identify opportunities for sharing that will not adversely affect the quality of, or the established priority of, care provided by either the Veterans' Administration or the Department of Defense; and

"(D) recommend to the Administrator and the Secretary of Defense policies and procedures designed to maximize the sharing of the medical resources of the Veterans' Administration and the Department of Defense.

"(3) In carrying out the duties prescribed by this subsection, the Assistant Secretary shall consult regularly with the Surgeons General of the Army, Navy, and Air Force.

"(4) The Chief Medical Director and the Assistant Secretary may each carry out their respective functions under this subsection through any other official designated for such purpose.

"(c) Not later than one year after the date of the enactment of this subsection, and after considering the recommendations of the Chief Medical Director and the Assistant Secretary submitted under subsection (b) of this section, the Administrator of Veterans' Affairs and the Secretary of Defense shall jointly establish guidelines for the sharing of medical resources by health care facilities of the Veterans' Administration and the Department of Defense. Such guidelines shall include provisions for the following:

"(1) The director, in the case of a health care facility of the Veterans' Administration, or the medical or dental officer in charge, or the contract surgeon in charge, in the case of a health care facility under the jurisdiction of the Department of Defense may enter into cooperative sharing agreements with health care facilities of the other agency. Under any such agreement, an individual entitled to direct health care in a facility of one agency may be provided medical care at the facility of the other agency.

"(2) Each agreement entered into pursuant to paragraph (1) of this subsection between the head of a facility of the Veterans' Administration and the head of a facility of the Department of Defense shall explicitly define the health care to be provided pursuant to such agreement. Services to be shared may include any medical resource, but the resources to be shared shall be negotiated and agreed upon by the heads of the facilties entering into the agreement.

"(3) Each such agreement shall ensure that the availability of direct health care to individuals who are not primary beneficiaries of the providing agency shall be on a referral basis and shall not, as determined by the directors or commanding officers participating in such arrangements, adversely affect the range of services, quality of care, or priority access for services of the primary beneficiaries of the providing agency.

"(d)(1) Whenever a beneficiary receives medical services from a providing agency other than the providing agency for which such beneficiary is a primary beneficiary, the providing agency shall be reimbursed for the cost of services provided based on any costing methodology agreed upon by the Administrator and the Secretary of Defense that is based on the cost of the services provided.

"(2) Any reimbursement under paragraph (1) of this subsection shall be credited to the appropriation and to the facility that provided the services.

"(e) The Administrator and the Secretary of Defense shall submit an annual joint report to Congress, to be submitted at the time the President's Budget for the next fiscal year is transmitted, with regard to—

"(1) the guidelines prescribed pursuant to subsection (c) of this section;

"(2) the opportunities for interagency sharing determined under subsection (b)(2) of this section;

"(3) the interagency sharing agreements entered into by health-care facilities of the Veterans' Administration and the Department of Defense;

"(4) the activities of the Veterans' Administration and the Department of Defense under such interagency sharing agreements;

"(5) the other interagency activities directed toward maximizing the efficient use of Federal health resources during the preceding fiscal year;

"(6) the progress of Federal interagency medical resource sharing during the preceding fiscal year;

"(7) the interagency coordination of Federal health resoures planning;

"(8) other major Federal activities to increase interagency sharing of Federal medical resources; and

"(9) such legislative recommendations as they consider appropriate to facilitate interagency sharing of health care resources.

"(f) For the purpose of this section:

"(1) The term 'direct health care' means health care provided to a beneficiary in a facility operated by the United States Government.

"(2) The term 'beneficiary' means a veteran who is entitled under this title to health care in Veterans' Administration facilities or a member or former member of the Army, Navy, Air Force, or Marine Corps who is entitled to medical and dental care under section 1074 of title 10.

"(3) The term 'providing agency' means the Veterans' Administration or the Department of Defense.

"(4) The term 'primary beneficiary', with respect to the Veterans' Administration, means a veteran who is entitled under this title to health care in Veterans' Administration facilities, and, with respect to the Department of Defense, means a member or former member of the Army, Navy, Air Force, or Marine Corps who is entitled to medical and dental care under section 1074 of title 10.

"(5) The term 'medical resource' means medical care resources and medical care support resources.

"(g)(1) Notwithstanding any other provision of this title, during a period of war, or a period of national emergency declared by the President or the Congress which involves the use of the Armed Forces of the United States in armed conflict, the Administrator, when authorized to do so by the President, may give a higher priority to the furnishing of hospital care, nursing home care, and medical services under chapter 17 of this title to members of the Armed Forces on active duty, as authorized by this section, than to any other group of persons eligible for such care and services with the exception of veterans with service-connected disabilities.

"(2)(A) The Administrator may contract with private facilities for the provisions by such facilities of hospital care and medical service described in subparagraph (B) of this paragraph during a period described in paragraph (1) of this subsection in which the President has authorized the Veterans' Administration to furnish priority medical care and services to members of the Armed Forces on active duty.

"(B) Hospital care and medical services referred to in subparagraph (A) of this paragraph are—

"(i) hospital care needed to treat a condition for which a veteran is receiving medical services under subsection (f) or (g) of section 612 of this title, in any case in which delay in furnishing such hospital care would, in the judgment of the Administrator, be likely to result in deterioration of that condition; and

"(ii) hospital care or medical services for the treatment of a medical emergency which poses a serious threat to the life or health of a veteran eligible for such care or services under chapter 17 of this title, if Veterans' Administration facilities are not capable of furnishing the care or services required because of the furnishing of care and services to members of the Armed Forces under paragraph (1) of this subsection.

"(C) The Administrator shall prescribe regulations to govern contracting under this paragraph.

"(D) The authority of the Administrator to enter into contracts under this paragraph is subject to the availability of appropriations for that purpose.

"(3) The cost of any care or service provided by the Veterans' Administration under paragraph (1) of this subsection shall be reimbursed to the Veteran's Administration by the Department of Defense at such rates

as may be agreed upon by the Administrator and the Secretary of Defense and are based on the cost of the care or service provided. Amounts received under this paragraph shall be credited to appropriations available to the Veterans' Administration facility which provided the care or service.

"(4) Not later than the end of the 180-day period beginning on the date of the enactment of the Veterans' Administration and Department of Defense Medical Sharing Act, the Administrator and the Secretary of Defense shall enter into an agreement under which the Administrator and the Secretary shall agree to pursue planning activities and to establish procedures and guidelines under which this subsection shall be carried out. Not later than the end of the 365-day period beginning on the date of the enactment of such Act, the Administrator and the Secretary of Defense shall complete plans for the provision of hospital care and medical services under this subsection to members of the Armed Forces on active duty and shall submit such plans to the Committees on Veterans' Affairs and on Armed Services of the Senate and House of Representatives. Such plans shall be reviewed jointly by the Administrator and the Secretary of Defense not less often than annually, and any modification in such plans shall be reported to the Committees on Veterans' Affairs and on Armed Services of the Senate and House of Representatives within 30 days after such modification is agreed to.

"(5) Within 30 days after an authorization by the President under paragraph (1) of this subsection for the Veterans' Administration to provide priority hospital care and services to members of the Armed Forces on active duty (or as soon after the end of such thirty-day period as is reasonably practicable), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report of the Administrator's allocation of facilities and personnel in order to provide such care and services.".

(b)(1) The heading of such section is amended to read as follows:

"§ 5011. Sharing of Veterans' Administration and Armed Forces facilities".

(2) The item relating to such section in the table of sections at the beginning of chapter 81 is amended to read as follows:

"5011. Sharing of Veterans' Administration and Armed Forces facilities.".

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide for greater coordination and sharing of the medical facilities of the Veterans' Administration and the Department of Defense.".

UP AMENDMENT NO. 871

Mr. BAKER. Madam President, I move that the Senate concur in the House amendments with a further Senate amendment which I send to the desk on behalf of the Senator from Wyoming (Mr. SIMPSON) and the Senator from California (Mr. CRANSTON).

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. SIMPSON and Mr. CRANSTON, proposes an unprinted amendment numbered 871.

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

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

The amendment is as follows:

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

That this Act may be cited as the "Veterans' Administration and Department of Defense Health Resources Sharing and Emergency Operations Act".

SEC. 2. (a) The Congress makes the following findings:

(1) There are opportunities for greater sharing of the health-care resources of the Veterans' Administration and the Department of Defense which would, if achieved, be beneficial to both veterans and members of the Armed Forces and could result in reduced costs to the Government by minimizing duplication and underuse of health-care resources.

(2) Present incentives to encourage such sharing of health-care resources are inadequate.

(3) Such sharing of health-care resources can be achieved without a detrimental effect on the primary health-care beneficiaries of the Veterans' Administration and the Department of Defense.

(b) The Congress makes the following further findings:

(1) During and immediately after a period of war or national emergency involving the use of the Armed Forces of the United States in armed conflict, the Department of Defense might not have adequate health-care resources to care for military personnel wounded in combat and other active-duty military personnel.

(2) The Veterans' Administration has an extensive, comprehensive health-care system that could be used to assist the Department of Defense in caring for such personnel in such a situation.

SEC. 3. (a) Section 5011 of title 38, United States Code, is amended—

(1) by inserting "(a)" before "The Administrator" the first place it appears;

(2) by striking out "and material" and all that follows through "this title," and inserting in lieu thereof "material, and other resources as may be needed to operate such facilities properly, except that the Administrator may not enter into an agreement that would result (1) in a permanent reduction in the total number of authorized Veterans' Administration hospital beds and nursing home beds to a level below the minimum number of such beds required by section 5010(a)(1) of this title to be authorized, or (2) in a permanent reduction in the total number of such beds operated and maintained to a level below the minimum number of such beds required by such section to be operated and maintained"; and

(3) by adding at the end the following new subsections:

"(b)(1) In order to promote the sharing of health-care resources between the Veterans' Administration and the Department of Defense (hereinafter in this section referred to as the 'agencies'), there is established an interagency committee to be known as the Veterans' Administration/Department of Defense Health-Care Resources Sharing Committee (hereinafter in this subsection referred to as the 'Committee').

"(2) The Committee shall be composed of—

"(A) the Chief Medical Director and such other officers and employees of the Veterans' Administration as the Chief Medical Director may designate; and

"(B) the Assistant Secretary of Defense for Health Affairs (hereinafter in this section referred to as the 'Assistant Secretary') and such other officers and employees of the Department of Defense as the Assistant Secretary may designate,

except that the size of the Committee shall be mutually determined by the Chief Medical Director and the Assistant Secretary. During fiscal years 1982 and 1983, the Chief Medical Director shall be the chairman of the Committee. During fiscal year 1984, the Assistant Secretary shall be the chairman of the Committee. Thereafter, the chairmanship of the Committee shall alternate each fiscal year between the Chief Medical Director and the Assistant Secretary. The agencies shall provide administrative support services for the Committee at a level sufficient for the efficient operation of the Committee and shall share the responsibility for the provision of such services on an equitable basis.

"(3) in order to enable the Committee to make recommendations under paragraph (4) of this subsection, the Committee shall on a continuing basis—

"(A) review existing policies, procedures, and practices relating to the sharing of health-care resources between the agencies;

"(B) identify and assess further opportunities for the sharing of health-care resources between the agencies that would not, in the judgment of the Committee, adversely affect the range of services, the quality of care, or the established priorities for care provided by either agency;

"(C) identify changes in policies, procedures, and practices that would, in the judgment of the Committee, promote such sharing of health-care resources between the agencies;

"(D) monitor plans of the agencies for the acquisition of additional health-care resources, including the location of new facilities and the acquisition of major equipment, in order to assess the potential impact of such plans on further opportunities for such sharing of health-care resources; and

"(E) monitor the implementation of activities designed to promote the sharing of health-care resources between the agencies.

"(4) Within nine months of the date of the enactment of this subsection and at such times thereafter as the Committee considers appropriate, the Committee shall make recommendations to the Administrator or the Secretary of Defense, or both, with respect to (A) changes in policies, procedures, and practices that the Committee has identified under paragraph (3)(C) of this subsection pertaining to the sharing of health-care resources described in such paragraph, and (B) such other matters as the Committee considers appropriate in order to promote such sharing of health-care resources.

"(c)(1) After considering the recommendations made under subsection (b)(4) of this section, the Administrator and the Secretary of Defense shall jointly establish guidelines to promote the sharing of health-care resources between the agencies. Guidelines established under their subsection shall provide for such sharing consistent with the health-care responsibilities of the Veterans' Administration under this title and with the health-care responsibilities of the Department of Defense under chapter 55 of title 10 and so as not to adversely affect the range of services, the quality of care, or the estab-

lished priorities for care provided by either agency.

"(2) Guidelines established under paragraph (1) of this subsection shall authorize the heads of individual medical facilities of the agencies to enter into health-care resources sharing agreements in accordance with subsection (d) of this section and shall include guidelines for such agreements.

"(d)(1) The head of each medical facility of either agency is authorized to enter into sharing agreements with the heads of medical facilities of the other agency in accordance with guidelines established under subsection (c) of this section. Under any such agreement, an individual who is a primary beneficiary of one agency may be provided health care at a facility of the other agency that is a party to the sharing agreement.

"(2) Each such agreement shall identify the health-care resources to be shared.

"(3) Each such agreement shall provide, and shall specify procedures designed to ensure, that the availability of direct health care to individuals who are not primary beneficiaries of the providing agency (A) is on a referral basis from the facility of the other agency, and (B) does not (as determined by the head of the facility of the providing agency) adversely affect the range of services, the quality of care, or the established priorities for care provided to the primary beneficiaries of the providing agency.

"(4) Each such agreement shall provide that a providing agency shall be reimbursed for the cost of the health-care resources provided under the agreement and that the rate for such reimbursement shall be determined in accordance with the methodology agreed to pursuant to subsection (e) of this section.

"(5) Each proposal for an agreement under paragraph (1) of this subsection shall be submitted to the Chief Medical Director and the Assistant Secretary and shall be effective as an agreement in accordance with its terms (A) on the forty-sixth day after the receipt of such proposal by both such officials, unless earlier disapproved by either such official, or (B) if earlier approved by both such officials, on the date of such approval.

"(e) Reimbursement under any sharing agreement entered into under subsection (d) of this section shall be based upon a methodology that is agreed upon by the Chief Medical Director and the Assistant Secretary and that provides appropriate flexibility to the heads of the facilities concerned to take into account local conditions and needs and the actual costs to the providing agency's facility of the health-care resources provided. Any funds received through such a reimbursement shall be credited to funds that have been allotted to the facility that provided the care or services.

"(f) At the time the President's Budget is transmitted to Congress in any year pursuant to section 201(a) of the Budget and Accounting Act, 1921 (31, U.S.C. 11(a)), the Administrator and the Secretary of Defense shall submit a joint report to Congress on the implementation of this section during the fiscal year that ended during the previous calendar year. Each such report shall include—

"(1) the guidelines prescribed under subsection (c) of this section (and any revision of such guidelines);

"(2) the assessment of further opportunities identified under clause (B) of subsection (b)(3) of this section for sharing of health-care resources between the agencies;

"(3) any recommendation made under subsection (b)(4) of this section during such fiscal year;

"(4) a review of the sharing agreements entered into under subsection (d) of this section and a summary of activities under such agreements during such fiscal year;

"(5) a summary of other planning and activities involving either agency in connection with promoting the coordination and sharing of Federal health-care resources during the preceding fiscal year; and

"(6) such recommendations for legislation as the Administrator and the Secretary consider appropriate to facilitate the sharing of health-care resources between the agencies.

"(g) For the purposes of this section:

"(1) The term 'beneficiary' means a person who is a primary beneficiary of the Veterans' Administration or of the Department of Defense.

"(2) The term 'direct health care' means health care provided to a beneficiary in a medical facility operated by the Veterans' Administration or the Department of Defense.

"(3) The term 'head of a medical facility' (A) with respect to a medical facility of the Veterans' Administration, means the director of the facility, and (B) with respect to a medical facility of the Department of Defense, means the medical or dental officer in charge or the contract surgeon in charge.

"(4) The term 'health-care resource' includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 601 of this title, any other health-care service, and any health-care support or administrative resource.

"(5) The term 'primary beneficiary' (A) with respect to the Veterans' Administration means a person who is eligible under this title (other than under section 611(b) or 613 or subsection (d) of this section) or any other provision of law for care or services in Veteran's Administration medical facilities, and (B) with respect to the Department of Defense, means a member or former member of the Armed Forces who is eligible for care under section 1074 of title 10.

"(6) The term 'providing agency' means the Veterans' Administration, in the case of care or services furnished by a facility of the Veterans' Administration, and the Department of Defense, in the case of care or services furnished by a facility of the Department of Defense.".

(b)(1) The heading of such section is amended to read as follows:

"§ 5011. Sharing of Veterans' Administration and Department of Defense health-care resources".

(2) The item relating to such section in the table of sections at the beginning of chapter 81 of such title is amended to read as follows:

"5011. Sharing of Veterans' Administration and Department of Defense health-care resources.".

(c) The Assistant Secretary of Defense for Health Affairs shall consult regularly with the Surgeons General of the Army, Navy, and Air Force in carrying out the duties and functions assigned to the Assistant Secretary in section 5011 of title 38, United States Code, as amended by subsection (a) of this section.

(d) The guidelines required to be established under subsection (c) of section 5011 of title 38, United States Code, as added by subsection (a) of this section, shall initially be established not later than 12 months after the date of the enactment of this Act.

SEC. 4. (a) Chapter 81 of title 38, United States Code, is amended by inserting after section 5011 the following new section:

"§ 5011A. Furnishing of health-care services to members of the Armed Forces during a war or national emergency

"(a)(1) During and immediately following a period of war, or a period of national emergency declared by the President or the Congress that involves the use of the Armed Forces in armed conflict, the Administrator may furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty. The Administrator may give a higher priority to the furnishing of care and services under this section than to the furnishing of care and services to any other group of persons eligible for care and services in medical facilities of the Veterans' Administration with the exception of veterans with service-connected disabilities.

"(2) For the purposes of this section, the terms 'hospital care', 'nursing home care', and 'medical services' have the meanings given such terms by sections 601(5), 101(28), and 601(6) of this title, respectively.

"(b)(1) During a period in which the Administrator is authorized to furnish care and services to members of the Armed Forces under subsection (a) of this section, the Administrator, to the extent authorized by the President and subject to the availability of appropriations or reimbursements under subsection (c) of this section, may enter into contracts with private facilities for the provision during such period by such facilities of hospital care and medical services described in paragraph (2) of this subsection.

"(2) Hospital care and medical services referred to in paragraph (1) of this subsection are—

"(A) hospital care and medical services authorized under this title for a veteran and necessary for the care or treatment of a condition for which the veteran is receiving medical services at a Veterans' Administration facility under subsections (f) and (g) of section 612 of this title, in a case in which they delay involved in furnishing such care or services at such Veterans' Administration facility or at any other Veterans' Administration facility reasonably accessible to the veteran would, in the judgment of the Chief Medical Director, be likely to result in a deterioration of such condition; and

"(B) hospital care for a veteran who—

"(i) is receiving hospital care under section 610 of this title; or

"(ii) is eligible for hospital care under such section and requires such care in a medical emergency that poses a serious threat to the life of health of the veteran;

if Veterans' Administration facilities are not capable of furnishing or continuing to furnish the care required because of the furnishing of care and services to members of the Armed Forces under subsection (a) of this section.

"(c)(1) The cost of any care of services provided by the Veterans' Administration under subsection (a) of this section shall be reimbursed to the Veterans' Administration by the Department of Defense at such rates as may be agreed upon by the Administrator and the Secretary of Defense based on the cost of the care or services provided.

"(2) Amounts received under this subsection shall be credited to funds allotted to the Veterans' Administration facility that provided the care or services.

"(d)(1) Not later than six months after the date of the enactment of this section, the Administrator and the Secretary of Defense shall enter into an agreement to plan and establish procedures and guidelines for the implementation of this section. Not later than one year after the date of the enactment of this section, the Administrator and the Secretary shall complete plans for such implementation and shall submit such plans to the Committees on Veterans' Affairs and on Armed Services of the Senate and House of Representatives.

"(2) The Administrator and the Secretary of Defense shall jointly review such plans not less often than annually thereafter and shall report to such committees any modification in such plans within 30 days after the modification is agreed to.

"(e) The Administrator shall prescribe regulations to govern any exercise of the authority of the Administrator under subsections (a) and (b) of this section and of the Chief Medical Director under subsection (b)(2)(A) of this section.

"(f) Within 30 days after a declaration of a period of war or national emergency described in subsection (a) of this section (or as soon after the end of such 30-day period as is reasonably practicable), the Administrator shall submit to the Committee on Veterans' Affairs of the Senate and House of Representatives a report on the Administrator's allocation of facilities and personnel in order to provide priority hospital care, nursing home care, and medical services under this section to members of the Armed Forces. Thereafter, with respect to any fiscal year in which the authority in subsection (b) of this section to enter into contracts with private facilities has been used, the Administrator shall report within 90 days after the end of such fiscal year to those committees regarding the extent of, and the circumstances under which, such authority was used.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5011 the following new item:

"5011A. Furnishing of health-care services to members of the armed forces during a war or national emergency.".

SEC. 5. (a) Section 1786(a) of title 38, United States Code, is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, funds in the Veterans' Administration readjustment benefits account shall be available for payments under paragraph (1) of this subsection for pursuit of a program of education exclusively by correspondence in which the veteran or spouse or surviving spouse enrolls after September 30, 1981.".

(b) The amendment made by subsection (a) of this section shall take effect as of October 1, 1981.

SEC. 6. The Veterans' Administration medical center located at 1481 West 10th Street, Indianapolis, Indiana, shall after the date of the enactment of this Act be known and designated as the "Richard L. Roudebush Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, document, map, record, or other paper of the United States shall after such date be deemed to be a reference to the Richard L. Roudebush Veterans' Administration Medical Center.

In lieu of the amendment of the House to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to promote greater sharing of health-care resources between the Veterans' Administration and the Department of Defense and to direct the Secretary of Defense and the Administrator of Veterans' Affairs to plan for the provision of health care by the Veterans' Administration during periods of war or national emergency to members of the Armed Forces on active duty; and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The motion was agreed to.

Mr. SIMPSON. Madam President, this measure is before the Senate now as a privileged matter in lieu of the formal conference report.

SUMMARY

Madam President, I rise in strong support of S. 266, the proposed Veterans' Administration and Department of Defense Health Resources Sharing and Emergency Operations Act. The provisions of S. 266, the Senate substitute amendment to the amendments of the House to S. 266, embodies a compromise reached after extensive negotiations between the two Veterans' Affairs Committees. S. 266 is designed to promote the coordination and sharing of health-care resources between the Veterans' Administration and the Department of Defense in order to reduce costs while inproving access to health care for beneficiaries of each agency. In addition, it would establish the Veterans' Administration health-care system as a primary reserve to the Department of Defense for treatment of combat casualties.

Madam President, I am most pleased that this final version of S. 266, which I believe to be a most equitable compromise, is ready to be voted on by the Senate. My esteemed colleague, Senator CHARLES H. PERCY, has been involved in the compromise process. the bill was originally referred to the Committee on Governmental Affairs and then sequentially referred to the Senate Committee on Veterans' Affairs. Senator PERCY has retained a very active interest in this legislation and this chairman has shared Senator PERCY's desire to improve the efficiency and effectiveness of Government programs in general. However, the committee, in negotiations with the House did not retain the provision, supported by Senator PERCY, which would have provided medical care to DOD dependents in VA facilities. Both the House Veterans' Affairs and Armed Services Committees were unwilling to accept provisions providing such authority. The veterans' service organizations and the VA's Chief Medical Director objected to this provision on the grounds that VA facilities are not presently equipped to handle either children or women in any significant numbers. They felt that to include such a provision would indicate congressional intent to modify VA hospitals to care for nonveterans.

The main portion of the bill addresses the VA and DOD equally in providing a mandate for the coordination and sharing of their health-care resources. An interagency committee, under the direction of the senior medical officials of the two agencies, would be responsible for reviewing policies, assessing further opportunities for sharing, providing guidance and engaging in related activities to foster effective interagency planning for resource utilization.

The remainder of the bill, Madam President, would amend title 38 to authorize specific agency actions in support of the coordination and sharing of health-care resources. A more lengthy and detailed discussion of provisions of the bill can be seen in the House/Senate joint explanatory statement which follows this statement.

Madam President, an amendment was offered by myself and the distinguished ranking minority member of the Veterans' Affairs Committee, Mr. CRANSTON, when S. 266 first passed the Senate. This amendment, which was accepted by the House in our negotiations, would provide for the continuation of entitlement to GI bill benefits for correspondence training at the level agreed to in the Omnibus Reconciliation Act of 1981, Public Law 97-35. Both the House and Senate Veterans' Affairs Committees agreed to reduce from 70 to 55 percent the amount payable by the VA for correspondence training after September 30, 1981. This reduction was accomplished with legislative savings in mind, and we felt it was a fair and equitable response to both the needs of the veterans and the need for fiscal restraints. After this action the conferees on H.R. 4030, which was the HUD and Indpendent Agencies Appropriations Act for fiscal year 1982, eliminated all payments for correspondence training for those enrolled after September 1981. This issue is an important one which addresses the difference between programs funded as entitlements versus those funded through appropriations. Section 1661(a) of title 38 provides that a veteran "shall be entitled" to educational assistance under the GI bill. Therefore, this is not a discretionary program and falls within the area of VA entitlements which are not funded through annual appropriations. The restoration of this program through S. 266 provides an important distinction between entitlement and authorized programs. A September 30, 1981 general counsel's opinion states that correspondence courses are unquestionably an entitlement under title 38. However, the VA has suspended payments for correspondence courses pending a resolution of this issue. I believe that restoration of correspondence benefits

at the reduced rate in this bill would resolve the matter and allow the VA to continue payments to those eligible veterans who continue to enroll in correspondence training.

Madam President, in conclusion I wish to extend my sincere thanks to the distinguished ranking minority member from California, Senator CRANSTON, for his tireless and invaluable efforts in the compromise process as well as each and every committee member who supported the compromise unanimously.

Additionally, I would like to recall the efforts of Edward Kelty, no longer with the committee, who worked long and hard on this measure, staff director and chief counsel, Tom Harvey, Julie Susman, Laurie Altemose, and our editorial director, Harold Carter. Thank you as well to members of Senator CRANSTON's very competent staff, Jonathan Steinberg, Edward Scott, Bill Brew, Ingrid Post, and Katie Burdick for their major contributions in this matter.

Madam President, I strongly support the compromise as an equitable and practical resolution on the differences between the original House and Senate versions of S. 266 and endorse its final passage by the Senate. Thank you, Madam President.

A House/Senate explanatory statement follows in lieu of the joint statement which would accompany a formal conference report. I ask unanimous consent to print it in the RECORD.

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

EXPLANATORY STATEMENT OF SENATE BILL, HOUSE AMENDMENT (H.R. 3502), AND COMPROMISE AGREEMENT ON S. 266, THE "VETERANS' ADMINISTRATION AND DEPARTMENT OF DEFENSE HEALTH RESOURCES SHARING AND EMERGENCY OPERATIONS ACT"

CONGRESSIONAL FINDINGS

Both the Senate bill, in a freestanding provision, and the House amendment, in an amendment to title 38 of the United States Code, would express Congressional findings relating to the sharing of health-care resources between the Verterans' Administration and the Department of Defense (hereinafter generally referred to as "the agencies").

The compromise agreement would express such findings, the specifics of which are discussed below, in a freestanding provision.

The Senate bill would include a finding that there are opportunities for greater sharing between the agencies and that increased sharing would be beneficial to veterans, members of the Armed Forces on active duty, and other health-care beneficiaries of the agencies. The House amendment would include a finding in this regard limited to veterans and members of the Armed Forces on active duty.

The compromise agreement follows the House amendment, but the reference to member of the Armed Forces is not restricted to those on active duty.

The Senate bill, but not the House amendment, would include findings that greater sharing between the agencies would result in reduced costs by minimizing duplication and underutilization of health-care resources, that there are not adequate incentives to encourage such sharing, and that such sharing may be achieved without a detrimental effect on each agency's primary beneficiaries.

The compromise agreement contains these findings.

The Sentate bill, but not the House amendment, would include further Congressional findings relating to the role of the VA health-care system as a backup to the health-care resources of the Department of Defense in the time of war or national emergency.

The compromise agreement contains these provisions.

SHARING OF VA AND ARMED FORCES FACILITIES

Both the Senate bill and the House amendment would amend present section 5011 of title 38, relating to sharing of VA and Armed Forces health-care facilities, to make the provisions of the present section a new subsection (a). The Senate bill would add "other resources" to the list of items that may be subject to mutual-use or exchange-of-use agreements and would delete the prohibition against any such agreement that would result in a permanent reduction of the number of VA hospital and domiciliary beds to levels below the number established or approved on June 22, 1944, plus the estimated number required to meet the load of current eligibles, and replace that prohibition with one precluding any such agreement that would result in a permanent reduction of VA beds below any minimum number prescribed by law.

The House amendment would delete the above-mentioned reference to the June 22, 1944, VA hospital and domiciliary bed levels in the current-law prohibition and substitute a reference to VA hospital, domiciliary, and nursing home bed levels established or approved under section 5010 of title 38.

The compromise agreement contains the amendments proposed in the Senate bill with technical amendments to refer to section 5010(a)(1) of title 38 and reflect the amendments made in that section by section 108 of Public Law 97-72.

ESTABLISHMENT OF VA/DOD COMMITTEE

Both the Senate bill, in a freestanding provision, and the House amendment, in an amendment to present section 5011 of title 38, would establish a Veterans' Administration/Department of Defense Committee to promote the sharing of health-care resources between the agencies. The Senate bill would have as members of the Committee the VA's Chief Medical Director, the Assistant Secretary of Defense for Health Affairs (referred to as "the Assistant Secretary"), or their respective designees, and other employees mutually designated. The House amendment would have as members the Chief Medical Director and the Assistant Secretary or their respective designees.

The compromise agreement contains a provision, in an amendment to present section 5011 of title 38 (adding a new subsection (b) (1) and (2)), to establish, for the purpose of promoting health-care resources sharing, a "Veterans' Administration/Department of Defense Health-Care Resources Sharing Committee" (hereinafter referred to as the "VA/DoD Committee") with the Chief Medical Director, Assistant Secretary, and such other officers and employees of their respective agencies as they each designate as members. The size of the Committee would be mutually determined by the Chief Medical Director and the Assistant Secretary. The Chief Medical Director would chair the Committee in fiscal years 1982 and 1983, the Assistant Secretary would chair it in fiscal year 1984, and thereafter the chairmanship would alternate between them each subsequent fiscal year. Administrative support services for the Committee would be required to be provided by the VA and DoD on an equitable basis.

DUTIES OF VA/DOD COMMITTEE

The Senate bill would require the VA/DoD Committee to take certain actions, on a continuing basis, in order to promote coordination of health-care services between the agencies and to provide guidance to the agencies in regard to sharing health-care resources. The House amendment would require the Committee to take certain actions, regularly, to maintain oversight of opportunities for sharing medical resources between the two agencies and to make recommendations to the heads of the agencies with respect to such sharing.

The compromise agreement contains a provision that would require the Committee to take certain actions (described below), on a continuing basis, in order to enable it to make recommendations to the Administrator or the Secretary of Defense or both for promoting sharing of health-care resources between the agencies. (The term "health-care resources" would be broadly defined, as described below under the heading "Definitions".)

The Senate bill would require the Committee to take the following actions:

review existing policies and practices in regard to coordination and sharing of health-care resources between the agencies;

identify and assess further opportunities for the coordination and sharing of health-care resources between the agencies that would not adversely affect the quality of, or the established priorities for, care provided by either agency;

develop and recommend to the agency heads changes in existing policies and procedures to produce maximum feasible coordination and sharing of health-care resources between the agencies as authorized by title 38;

monitor plans of the agencies to acquire additional health-care resources and review the potential impact of such proposals on opportunities for such coordination and sharing as would not adversely affect the quality of, or the established priorities for, care provided by either agency; and

develop, in consultation with other agencies as directed by the President, a plan for the effective utilization of VA resources as a backup to DoD during a period of war or national emergency.

The House amendment would require the Committee to take the following actions:

assess the opportunities for sharing of existing medical resources between the agencies;

keep each agency apprised of the other's plans for any additional medical facilities and for the acquisition of major new medical equipment with regard to the impact of such plans on opportuities for sharing;

review the existing direct health-care capabilities of the two agencies in order to identify opportunities for sharing that will not adversely affect the quality, or the established priority, of care provided by either agency; and

recommend to the Administrator and the Secretary of Defense policies and proce-

dures designed to maximize the sharing of medical resources by the two agencies.

The compromise agreement (in new subsection (b)(3) of section 5011) would require the VA/DoD Committee—in order to enable the Committee to make recommendations to the Administrator or the Secretary of Defense, or both, with respect to changes in policies pertaining to the sharing of health-care resources between the agencies—to take the following actions:

review existing policies, procedures, and practices relating to the sharing of health-care resources between the agencies;

identify and assess further opportunities for the sharing of health-care resources between the agencies that would not, in the judgment of the VA/DoD Committee, adversely affect the range of services, the quality of care, or the established priorities for care provided by either agency;

identify changes in policies, procedures, and practices that would, in the judgment of the VA/DoD Committee, promote such sharing of health-care resources between the agencies ("such sharing" refers to sharing that would not adversely affect the range of services, the quality of care, or the established priorities for care provided by either agency);

monitor the plans of the agencies for acquiring additional health-care resources in order to assess the potential impact of such plans on further opportunities for such sharing of health-care resources between the agencies; and

monitor the implementation of activities by the agencies designed to promote the sharing of health-care resources between the agencies.

The compromise agreement also contains a provision (new subsection (b)(4) of section 5011) requiring the VA/DoD Committee, within nine months of the date of enactment of this measure and thereafter as the Committee determines appropriate, to make recommendations to the Administrator of Veterans' Affairs or the Secretary of Defense or both with respect to changes in policies, procedures, and practices and other matters that would promote such sharing of health-care resources between the agencies as would not adversely affect the range of services, the quality of care, or the established priorities for care provided by either agency.

GUIDELINES FOR SHARING VA/DOD HEALTH-CARE RESOURCES

Both the Senate bill and the House amendment would require the Administrator and the Secretary of Defense jointly to establish guidelines for the sharing of health-care resources between the agencies. The Senate bill would require that the guidelines be established not later than nine months after the date of enactment; the House amendment, not later than one year after the date of enactment. The Senate bill would specify that the guidelines are for sharing to the maximum extent feasible consistent with the health-care responsibilities of the two agencies under titles 38 and 10, respectively, of the United States Code.

The compromise agreement (in new subsection (c)(1) of section 5011) would require the Administrator and the Secretary of Defense, after considering the recommendations of the VA/DoD Committee, jointly to establish guidelines to promote such sharing of health-care resources as would be consistent with the health-care responsibilities of the two agencies under title 38 and chapter 5 of title 10, respectively, and that would not adversely affect the range of services, the quality of care, or the established priorities for care provided by either agency. Section 3(d) of the bill would require the guidelines initially to be established within 12 months after the date of enactment.

The Senate bill would require that the guidelines include provisions for the following:

the director or commanding officer of each health-care facility under the jurisdiction of either of the two agencies shall, to the maximum extent feasible, appropriate, and consistent with the responsbilities of the agencies, enter into sharing agreements with the head of each health-care facility of the other agency in the same geographic area, under which agreements the eligible beneficiaries of one agency identified in the agreement may be provided health care at the facility of the other agency;

each agreement shall explicity identify the health-care resources to be shared, the health care to be provided, and the beneficiaries to be treated;

each agreement shall ensure that the availability of direct health care to individuals who are not primary beneficiaries of the providing agency shall be on a referral basis and shall not adversely affect the range of services, quality of care, or priority for services provided to that agency's primary beneficiaries;

each agreement shall be submitted to the Chief Medical Director and the Assistant Secretary on the same day and shall become an interagency agreement on the forty-sixty day following receipt, unless earlier disapproved by either official or, if earlier approved by both officials, on the date of approval;

each agreement shall provide for reimbursement to the providing agency based on a methodology, agreed upon by the Chief Medical Director and the Assistant Secretary, which provides appropriate flexibility to the heads of local facilities to take into account local conditions and needs and the actual costs to the facility that provided the care; and

the reimbursement shall be credited to the appropriations available to the facility which provided the care or services.

The House amendment would require that the guidelines include provision for the following:

the director of a VA health-care facility or the officer in charge of a DoD facility may enter into cooperative sharing agreements with health-care facilities of the other agency under which an individual entitled to direct health care in a facility of one agency may be provided care at the facility of the other agency;

each agreement shall explicitly define the health care to be provided, and services to be shared may include any medical resource that is agreed upon; and

each agreement shall ensure that the availability of direct health care to individuals who are not primary beneficiaries of the providing agency shall be on a referral basis and shall not adversely affect the range of services, quality of care, or priority access for services provided to the agency's primary beneficiaries.

The House amendment would also require that whenever a beneficiary receives medical services from the agency of which the individual is not a primary beneficiary, that agency shall be reimbursed based upon a costing methodology that is agreed to by the Administrator and the Secretary and is based upon the cost of the services provided, and that the reimbursement shall be credited to the appropriation and to the facility that provided the services.

Both the Senate bill and the House amendment would define the terms "beneficiary" and "primary beneficiary" in a similar manner (the principal difference between the two bills being that the Senate definitions would include dependents). The definitions of these terms adopted in the compromise agreement are described below under the heading "Definitions".

The compromise agreement (in new subsection (c)(2) of section 5011) would require the guidelines to authorize the heads of individual medical facilities to enter into sharing agreements in accordance with provisions in new subsection (d) of section 5011, which provide as follows:

the head of each health-care facility of either agency is authorized to enter into sharing agreements with the heads of health-care facilities of the other agency under which primary beneficiaries of one agency may be provided care at a facility of the other agency that is a party to the agreement;

each agreement must identify the health-care resources to be shared;

each agreement must provide, and must specify procedures designed to ensure, that the availability of health care under sharing agreements to individuals who are not primary beneficiaries of an agency shall be on a referral basis and shall not (as determined by the head of the facility of the providing agency) adversely affect the range of services, the quality of care, or the established priorities for care provided by the facility of the providing agency to that agency's primary beneficiaries;

each agreement must specify that the providing agency shall be reimbursed by the other agency at a rate to be determined pursuant to the provisions of new subsection (e) of section 5011, discussed below; and

each proposal for an agreement shall be submitted to the Chief Medical Director and the Assistant Secretary, and each such proposal shall be effective as an agreement in accordance with its terms on the forty-sixth day after receipt by both officials, unless earlier disapproved by either official, or if earlier approved by both officials, on the date of such approval.

The Committees note that by not including in the compromise agreement the geographic limitation on sharing authority contained in the Senate bill ("in the same geographic area"), it is their intent that the head of a health-care facility of one agency should have maximum flexibility to enter into sharing agreements with heads of health-care facilities of the other agency and that, although the Committees anticipate that the vast preponderance of sharing agreements will be entered into by geographically proximate facilities, such a result will occur only because the access to care by the agencies' beneficiaries would be greatest in the case of such facilities. With further reference to the Committees' intent that the heads of health-care facilities have maximum flexibility when entering into sharing agreements, the Committees note that such agreements would not have to cover all of the beneficiaries of the health-care facility of one agency but rather could be limited in their coverage to specific categories of individuals (such as all beneficiaries in need of treatment for a heart disease) as agreed to by the heads of the health-care facilities entering into a sharing agreement.

With reference to the provision in the compromise agreement specifying that the availability of direct health care under sharing agreements shall not adversely affect the range of services, the quality of care, or the established priorities for care provided by either agency, the Committees note that this provision would require that before a VA facility that acquires additional in-house medical or dental care capacity proceeds to share any of that capacity, that new capacity should be applied to the care of veterans who were being treated on a fee basis by virtue of the VA's prior lack of capacity to treat them (as provided for in section 601(4)(C) of title 38).

The Committees note that the House amendment, in making reference to beneficiaries who could receive care under a sharing agreement, referred to individuals "entitled" to health care in VA or DoD facilities. By using the term "eligible" for care in the compromise agreement, the Committees are expressing no view about which beneficiaries of either agency's health-care system may have legal entitlements to care or services, since resolution of that issue is not necessary to provide the authorization, set forth in the compromise agreement, for the two agencies to enter into sharing agreements.

The compromise agreement contains a further provision (new subsection (e) of section 5011) requiring the reimbursement under a sharing agreement be based on a methodology agreed upon by the Chief Medical Director and the Assistant Secretary that provides appropriate flexibility to the heads of local facilities to take into account local conditions and needs and the actual costs to the providing facility. Reimbursements would be required to be credited to funds that have been alloted to the facility that provided the care or services.

The Committees note that, in adopting this approach to reimbursement between the agencies emphasizing local flexibility and the actual costs to the providing facility of the care or services provided, it is their intention that the agencies be allowed to reimburse one another without reference to any standard rate or rates established by the Office of Management and Budget. The inflexible application of OMB standard rates has been cited as one barrier to greater interagency sharing under current law, and the Committees do not believe that it should be permitted to continue. In this regard, the Committees note the provision in the compromise agreement (new section 5011A(c)(1) of title 38 as propsed to be added by section 4(a) of the bill, discussed below) relating to reimbursement of VA by DoD for the care or services provided by the VA to active duty members of the Armed Forces in time of war or national emergency. That provision requires reimbursement "based on the cost of the care or services provided". As noted below, the Committees believe that it would not be inappropriate under that formulation for the agencies to rely on an OMB-determined standard rate because the rate of reimbursement in that context is not expected to be a significant factor in the making of arrangements for the VA to provide care for combat casualties.

REPORT ON SHARING OF VA/DOD HEALTH-CARE RESOURCES

Both the Senate bill and the House amendment would require the Administrator and the Secretary to submit an annual joint report to the Congress, at the time the President's Budget is transmitted to the Congress, on the agencies' activities in carrying out the provisions of the compromise agreement relating to the guidelines for sharing.

The compromise agreement contains a provision (new subsection (f) of section 5011), derived from the provisions of the Senate bill and the House amendment, requiring that the joint annual report include information with respect to:

the guidelines (and any revisions thereof) prescribed by the agencies pursuant to the compromise agreement provisions described above relating to those guidelines;

the assessment of opportunities for further sharing identified by the VA/DoD Committee pursuant to the compromise agreement provisions described above relating to that Committee;

the recommendations to the Administrator and the Secretary made by the VA/DoD Committee pursuant to those same compromise agreement provisions for changes in the policies, procedures, and practices of the agencies in order to promote sharing of health-care resources;

a review of sharing agreements entered into by the agencies pursuant to the guidelines and a summary of the activities of the agencies under those sharing agreements;

a summary of other planning and activities involving either agency (but not necessarily the other) in connection with promoting the coordination and sharing of Federal health-care resources during the fiscal year covered by the report as well as activities involving the two agencies but not pursuant to a sharing agreement entered into under section 5001; and

recommendations for legislation that the Administrator and Secretary consider appropriate to facilitate the sharing of health-care resources between the agencies.

DEFINITIONS

Both the Senate bill and the House amendment would include definitions of terms used in the provisions relating to interagency sharing.

The compromise agreement (in new subsection (g) of section 5011) would define various terms used in such provisions as follows:

"Beneficiary"—a person who is a primary beneficiary (a term also defined, as described below) of the VA or DoD.

"Direct health care"—health care provided in a facility operated by the VA or DoD.

"Head of a medical facility"—(A) in the case of a facility under the jurisdiction of the VA, the director, and (B) in the case of a facility under the jurisdiction of DoD, the medical or dental officer in charge or the contract surgeon in charge.

"Health-care resource"—any health-care resource, including hospital care, medical services, and rehabilitative services as those terms are defined in paragraphs (5), (6), and (8), respectively, of present section 601 of title 38, any other health-care service, and any health-care support or administrative resource.

"Primary beneficiary"—(A) with respect to the VA, a person who is eligible, under the provisions of title 38 (other than present section 611(b) of title 38, relating to non-veterans' eligibility for care in emergencies, present section 613 of title 38, relating to eligibility for care for certain dependents and survivors of veterans, or the provision of law proposed to be added by the compromise agreement provision (new subsection (d) of section 5011) relating to interagency sharing agreements) or any other provision of law, for care or services in VA health-care facilities, and (B) with respect to DoD, a member or former member of the Armed Forces who is eligible for care under present section 1074 of title 10, relating to eligibility for medical and dental care for members and former members of the uniformed services. The difference between this definition and that of "beneficiary" (described above) is that "primary beneficiary" is defined with reference to each agency and is used in a provision (new subsection (d)(3) of section 5011) precluding a sharing agreement from having an adverse effect on either agency's services to its own beneficiaries.

"Providing agency"—either the VA or DoD, determined according to which agency's health-care facility actually furnishes the care or services in question.

Both the Senate bill and the House amendment would require the Assistant Secretary to consult regularly with the Surgeons General of the Army, Navy, and Air Force in carrying out the compromise agreement provisions described above.

The compromise agreement contains this provision in a freestanding provision in section 3(c) of the bill.

VA CONTINGENCY BACKUP TO DOD

Both the Senate bill and the House amendment would amend title 38 to authorize the Administrator, in time of war, or during a period of national emergency declared by the Congress or the President involving the use of the Armed Forces in armed conflict, to give a higher priority to the furnishing of care and services in VA facilities to members of the Armed Forces on active duty than to any other group of persons eligible for such care and services with the exception of veterans with service-connected disabilities.

The House amendment, but not the Senate bill, would require that, before this authority to provide priority VA care and services to active duty members of the Armed Forces could be exercised, the President would have to authorize such action. The Senate bill would require the Administrator to prescribe regulations prior to exercising this new authority; the House amendment would require the Administrator to prescribe regulations only with reference to the exercise of the new authority to contract with private facilities (described below).

The compromise agreement contains a provision (subsection (a) (1) of new section 5011A) authorizing such priority care—without a requirement of advance Presidential authorization, but with a requirement that the Administrator prescribe regulations governing the exercise of this authority—and would extend the period during which this authority could be exercised to the period immediately following a period of war or national emergency so as to ensure that the VA could continue, after the cessation of hostilities, to care for the casualties from the period of armed conflict for such period of time as the national interest required.

The compromise agreement contains a provision (subsection (a) (2) of new section 5011A) specifying that the terms "hospital care", "nursing home care", and "medical servies" as used in new section 5011A have the meanings given such terms by section 601(5), 101(28), and 601(6) of title 38, respectively.

VA CONTRACT AUTHORITY IN WAR OR NATIONAL EMERGENCY

Both the Senate bill and the House amendment would provide authority for the Administrator to contract with private fa-

cilities for the provision of hospital care and medical services to certain groups of veterans, as discussed below, during a period of war or national emergency. The Senate bill would limit the exercise of this contracting authority to the extent authorized by the President; as described under the preceding heading, the House amendment would make the entire exercise of the contingency care authority by the VA dependent upon advance Presidential authorization. The Senate bill also would make the exercise of this authority subject to the availability of appropriations or of reimbursements to the VA from DoD for the costs of care rendered by the VA to active duty personnel pursuant to provisions of the compromise agreement described under the preceding heading; the House amendment makes the exercise subject just to the availability of appropriations.

The compromise agreement (subsection (b) of new section 5011A) would authorize the Administrator, to the extent authorized by the President and subject to the availability of appropriations or reimbursements, to enter into contracts with private facilities for the provision of hospital care and medical services to certain groups of veterans, as discussed below, during and immediately following a period of war or national emergency.

Under the Senate bill, the authority to contract with private facilities for hospital care or medical services for a veteran would be available to provide care and treatment for a condition for which a veteran is receiving medical services under title 38 provisions authorizing outpatient care (present subsections (f) and (g) of section 612) if the delay in furnishing the care at the VA facility concerned would, in the judgment of the Chief Medical Director pursuant to regulations prescribed by the Administrator, be likely to result in a significant deterioration of the veteran's condition. Under the House amendment, the contract authority for treatment of a veteran receiving VA medical services under the outpatient treatment provisions would be limited to hospital care and would be available in cases in which, in the Administrator's judgment, delay in providing care would likely result in a deterioration of the veteran's condition.

Under the compromise agreement (subsection (b)(1) and (2)(A) of new section 5011A), the Administrator would be authorized to enter into contracts with private facilities for such hospital care and medical services as are authorized under title 38 for a veteran and are necessary for the care or treatment of a condition for which a veteran is receiving medical services (outpatient treatment) at a VA facility under present subsection (f) or (g) of section 612 in a case in which the delay involved in furnishing the care at that facility or any other VA facility reasonably accessible to the veteran would, in the judgment of the Chief Medical Director, be likely to result in a deterioration of the condition. It is the Committees' intent that the VA should, in determining whether or not any other VA facility that could provide the needed care or services is reasonably accessible to the veteran, utilize the standard now applied by the agency for determining eligibility for fee-basis care because of geographic inaccessibility under present section 601(4)(C) of title 38.

The Senate bill would authorize the Administrator to contract with private facilities for hospital care for the treatment of a medical emergency which poses a serious threat to the life or health of a veteran eligible for care under chapter 17 of title 38 if the Chief Medical Director, pursuant to regulations prescribed by the Administrator, finds that the VA facility concerned is utilizing a substantial portion of its hospital care capability for the furnishing of priority care to members of the Armed Forces. The House amendment would provide similar contract authority for hospital care, as well as for medical services, in cases in which VA facilities are not capable of furnishing the care or services required because of furnishing care and services to members of the Armed Forces.

Under the compromise agreement (subsection (b)(1) and (2)(B) of new section 5011A), the Administrator would be authorized to enter into contracts with private facilities for hospital care for a veteran who is receiving VA hospital care or who is eligible for such care and requires hospital care in a medical emergency that poses a serious threat to the life or health of the veteran, if VA facilities are not capable of furnishing or continuing to furnish the care or services required because of furnishing care and services to members of the Armed Forces. This authority is broader than that included in either the Senate bill or the House amendment so as to ensure that if, in the case of war or national emergency, any veterans receiving VA hospital care for nonservice-connected conditions or requiring hospital care on an emergency basis for such conditions are displaced by active-duty members of the Armed Forces pursuant to the new authority, the VA would have the authority to provide by contract for their continuing hospital care and, as generally authorized, necessary followup medical services.

Both the Senate bill and the House amendment would require that the cost of any care or services provided by the VA to members of the Armed Forces on active duty be reimbursed to the VA by DoD at rates as may be agreed upon by the Administrator and the Secretary of Defense based on the cost of the care and services provided, and that amounts received as reimbursements shall be credited to funds allotted to the VA facility that provided the care or services.

The compromise agreement contains this provision (subsection (c) of new section 5011A).

As noted above in the discussion of the compromise agreement provision relating to reimbursement between VA and DoD under sharing agreements, it does not seem inappropriate to the Committees for the reimbursement pursuant to this provision to be based on an OMB-determined standard rate since the rate of reimbursement in this context should not be a significant factor in the making of arrangements for the VA to provide care for combat casualties. Rather, the only significant purpose of the reimbursement formula in this context is to ensure that the VA is compensated fairly for the use of agency resources in support of DoD beneficiaries so that the costs of such care can be appropriately attributed and so that the VA will be able to continue to fulfill its primary mission of providing care to eligible veterans.

PLANNING FOR AND REPORTING ON CONTINGENCY BACKUP ROLE

The Senate bill, in a freestanding provision, and the House amendment, in a title 38 amendment, would require the Administrator and the Secretary of Defense, not later than 180 days after enactment, to enter into an agreement to pursue planning activities and establish procedures and guidelines for the VA to carry out the contingency backup function. The House amendment would further require that, not later than one year after the date of enactment, the Administrator and the Secretary complete the plans for the VA contingency backup function and submit them to the Committees on Veterans' Affairs and Armed Services of the Senate and the House of Representatives. The House amendment would also require a joint review of these plans not less often than annually and a report to the same committees within 30 days of any modification to the plans.

The compromise agreement in title 38 provision (subsection (d) of new section 5011A), would require the Administrator and the Secretary, not later than 6 months after the date of enactment, to enter into an agreement to plan and establish procedures and guidelines for the implementation of the VA's contingency backup role. This compromise agreement provision would also require that, not later than one year after the date of enactment, the Administrator and Secretary complete plans for the implementation of the VA's contingency backup role and submit them to the Committees on Veterans' Affairs and Armed Services of both Houses and would require joint reviews of the plans not less often than annually and a report to these committees on any modification of the plans, to be submitted within 30 days of the modification.

Both the Senate bill and the House amendment would require the Administrator, at a specified point following a declaration of war or national emergency, to report to the Committees on Veterans' Affairs on the Administrator's allocation of facilities and personnel to provide care and services to members of the Armed Forces on active duty. The Senate bill would require that this report be submitted within 90 days after the declaration of war or national emergency or as soon thereafter as reasonably practicable; the House amendment would require that this report be submitted within 30 days after the President authorizes the VA to provide care to members of the Armed Forces on active duty. The Senate bill, but not the House amendment, would also require the Administrator, after submitting the first report, to report periodically thereafter to the committees regarding the extent to which, and the circumstances under which, the Administrator has utilized the authority to contract with private facilities as would be provided in conjunction with the VA's assuming a contingency backup function.

The compromise agreement (in subsection (f) of new section 5011A) would require the Administrator to submit to the Committees on Veterans' Affairs, within 30 days after the declaration of a period of war or national emergency or as soon thereafter as reasonably practicable, a report on the allocation of facilities and personnel in order to provide priority care and services to members of the Armed Forces on active duty. The compromise agreement would also require that, not later than 90 days after the end of any fiscal year in which the authority to contract with private facilities to provide care and services to certain veterans during a period of war or national emergency has been used, the Administrator report to the Veterans' Affairs Committee regarding the extent of, and the circumstances surrounding, the use of this authority during that fiscal year.

CORRESPONDENCE TRAINING UNDER THE GI BILL

The Senate bill, but not the House amendment, would amend section 1768 of title 38, relating to VA educational benefits for correspondence course training, to provide for the continued payment of GI Bill benefits for correspondence course training.

The compromise agreement contains this provision with technical amendments designed to ensure that funds are available and payable in fiscal year 1982 for correspondence training benefits.

The Committees note that in a January 4, 1982, memorandum prepared in the VA General Counsel's office, the view was expressed that the Senate provision would not be effective in achieving its intended objective—ensuring that fiscal year 1982 Readjustment Benefits account funds, notwithstanding any provision of law limiting the availability of such funds, are available for correspondence benefits in accordance with the provisions of section 1786 of title 38 as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35). In light of that memorandum, technical changes have been made in this provision by the compromise agreement in order to make certain that the measure does achieve that objective.

VA MEDICAL CENTER INDIANAPOLIS NAMING

The Senate bill, but not the House amendment, would designate the VA Medical Center in Indianapolis, Indiana, as the "Richard L. Roudebush Veterans' Medical Center".

The compromise agreement contains this provision with a technical amendment to designate the center as the "Richard L. Roudebush Veterans' Administration Medical Center".

Mr. PERCY. Madam President, if this Congress is going to successfully trim the size of the Federal budget without jeopardizing vital services, we are going to have to scrutinize every Federal program to make sure it is being run with the utmost efficiency. This legislation, the Federal Interagency Medical Resources Sharing and Coordination Act, will promote such efficiency in the delivery of billions of dollars worth of medical care to Federal beneficiaries. It is not very often that we can pass legislation which will save millions of tax dollars while actually improving the quality of services provided Federal beneficiaries—yet that is precisely what S. 266 will do. I would like to express my deep appreciation to the distinguished chairman of the Senate Veterans' Affairs Committee, Senator CRANSTON, and the chairman of the House Veterans' Affairs Committee, Congressman MONTGOMERY, for their outstanding leadership on this issue.

In recent years, increasing concern has been expressed in the Congress over the spiraling costs of medical care in the Nation. As in the private sector, Federal agencies' costs to provide health care directly to beneficiaries have continued to rise, and substantial efforts have been made to find ways of holding down these costs without adversely affecting the quality of care.

Two years ago, I introduced the first legislation addressing the costly lack of sharing and coordination among the Veterans' Administration's and Defense Department's 308 hospitals. The introduction of this legislation followed a lengthy investigation by the General Accounting Office and the Governmental Affairs Committee. I am pleased to be the sponsor of S. 266 now before the Senate.

Examples of waste and inefficiency in the Federal Government's hospitals are plentiful. For instance:

In North Chicago, the VA and Navy operate hospitals less than a mile from each other. While the Navy's modern facility sits more than three-quarters empty because of a lack of doctors, forcing them to spend $3 million on private sector care, the VA nearby plans to spend $67 million in coming years on its crumbling 1905 era buildings. The VA enjoys a relative abundance of doctors. Current laws, regulations, and other problems have held up attempts to coordinate resources among the two Federal facilities.

For lack of a VA-Army agreement to share Boston VA orthopedic services, the Army flies dozens of patients from Boston to Walter Reed Hospital in Washington on its very expensive air evacuation system when more convenient and less costly treatment could be provided by the VA.

The purposes of this legislation are simple: To clear away the legal and administrative barriers to sharing, to create incentives at the local level, and to encourage the agencies to begin assessing money-saving opportunities for sharing and implement them expeditiously. The legislation also provides specific safeguards to prohibit sharing where it would adversely affect the quality of health care to Federal beneficiaries. Reaction to the bill has been nearly unanimous: This legislation is needed.

In moving this legislation through the House and Senate, several issues have been readied in which compromises have been worked out to the satisfaction of all sides. I am very pleased with the bipartisan support for the bill. There was one issue—whether military dependents should be allowed to be treated in VA hospitals under certain conditions—that we were unable to agree on. The final version of the bill would prohibit these patients from being treated under any conditions. I feel this is a mistake. Military dependents are now being treated in VA hospitals in many areas of the country on a space available, referral basis. While some have raised fears that these dependents would take beds needed by veterans, this simply would not be the case. There is absolutely no reason why a military dependent should not be able to have a CAT-scan or blood test—on an outpatient basis—at a VA hospital. VA doctors have said that such sharing could be continued without any adverse impact on the primary beneficiaries of the VA. I will ask the GAO to re-examine this issue over the next year as we implement the provisions of S. 266. Should this prohibition prove unworkable, I will move to amend S. 266.

We have a unique opportunity with this bill to save hundreds of millions of tax dollars while enhancing Federal direct health care. In view of the difficult decisions this Congress faces in trying to cut Federal spending, I urge that we pass this bill and others that can save tax dollars without creating hardships for Federal beneficiaries.

Before concluding my statement, I would like to extend my thanks to Mr. David Baine and his staff at the General Accounting Office for their outstanding work in this area. I also would like to thank the members and staff of the Federal Health Resources Sharing Committee, especially Mr. Steven Arnt, for their contributions to this legislation.

Mr. CRANSTON. Madam President, as the ranking minority member of the Committee on Veterans' Affairs, I am very pleased to join with the committee chairman, my good friend from Wyoming (Mr. SIMPSON), in offering and urging the Senate to support the pending substitute amendment to the House amendment to S. 266, this amendment being a compromise agreed to between the two Veterans' Affairs Committees, the distinguished Senator from Illinois (Mr. PERCY) on behalf of the Senate Governmental Affairs Committee, and the House Armed Services Committee, after extensive discussion and negotiations. This measure, which addresses the appropriate relationship between the health-care resources of the Veterans' Administration and the Department of Defense both in peacetime and in time of war or national emergency involving armed conflict, is an important measure and deserves our strong support.

Madam President, this legislation was first passed by the Senate on October 22, 1981, at which point I spoke at some length regarding the background of the legislation, focusing most specifically on the efforts of the Committee on Veterans' Affairs to meld together aspects of S. 266 as originally introducted on January 27, 1980, by Senator PERCY and an amendment—amendment No. 62 to S. 636—that I offered on June 9, 1981. I refer my colleagues and others with an interest in this background to my remarks during that debate which began on page S12252 of the RECORD for October 27, 1981. Following Senate action, the House took up H.R. 3502, legislation dealing with the same matters, substituted its provisions into S. 266, and returned S. 266, as so amended, to the Senate. As I noted a

moment ago, the legislation as it is now before the Senate represents a compromise agreement on the versions as passed by the two Houses.

Madam President, as with all compromises, the measure before the Senate today—which I will refer to as the compromise agreement—does not contain all of the provisions of either of the versions passed by the two Houses, nor does it reflect in every detail the result I would like to have achieved. Nevertheless, I believe that it does represent an equitable resolution of the differences between the two Houses and very substantially vindicates the basic position of the Senate. I am convinced it is a good bill and, in many individual respects and in general, a superior measure to what was passed in either House.

Madam President, the provisions of the compromise agreement are fully described in the "Explanatory Statement" that the chairman of the committee (Mr. SIMPSON) has inserted in the RECORD as part of his remarks and which will be inserted in identical form by the Chairman of the House Veterans' Affairs Committee (Mr. MONTGOMERY) when this measure is taken up in the other body in the next few days. I will, therefore, limit my remarks at this point to a brief discussion of some elements of the compromise agreement.

SHARING

Madam President, throughout committee consideration of this measure, I have been very supportive of the need for greater emphasis on the sharing of health-care resources between the VA and DOD. At the same time, however, I have been insistent that such sharing must not be permitted to have a detrimental impact on the ability of either of the two agencies to continue to provide quality health care to their respective beneficiaries under current law. I am very satisfied that this point of view has been recognized and is reflected in the provisions of the compromise agreement which relate to peacetime sharing. On this point, new subsection (d)(3) of section 5011 of title 38, United States Code, which would be added by section 3(a)(3) of the compromise agreement, provides, in relevant part, that each sharing agreement entered into by heads of health-care facilities of the two agencies—

shall provide, and shall specify procedures designed to ensure, that the availability of direct health care to individuals who are not primary beneficiaries of the providing agency . . . does not (as determined by the head of the facility of the providing agency) adversely affect the range of services, the quality of care, or the established priorities for care provided to the primary beneficiaries of the providing agency.

Madam President, I believe that this provision strikes the appropriate balance. This legislation is designed to promote sharing of health-care resources between the two agencies in a way that should yield improved access to health care for the beneficiaries of the two agencies while resulting in economies in the operation of the two health-care systems through more efficient utilization of their resources. At the same time, the compromise agreement reaffirms the continued importance of the VA's health-care system in providing timely, quality health care to beneficiaries eligible for care under the VA's basic health-care legislative authorities in title 38, United States Code, and other applicable law, such as section 2 of Public Law 95-126 regarding VA health care for certain veterans.

Madam President, the compromise agreement provides for the establishment of an interagency committee, the Veterans' Administration/Department of Defense Health-Care Resources Sharing Committee, which will have the VA's Chief Medical Director and the Assistant Secretary of Defense for Health Affairs as its principal members. This VA/DOD Committee will be responsible for developing information relating to the sharing of health-care resources between the two agencies and for promoting such sharing. Under provisions in the compromise agreement, the VA/DOD Committee will make recommendations to the administrator of Veterans' Affairs or the Secretary of Defense or both—initially, within 9 months of the date of enactment of the legislation and thereafter as appropriate—regarding steps that could be taken to promote sharing. After reviewing the initial recommendations, the Administrator and Secretary—within 12 months of the date of enactment—will jointly establish guidelines to promote sharing. Once the joint guidelines are issued, decisions regarding actual sharing, although subject to central guidance, will take place at the local level. This approach places the emphasis on sharing at the local, operational level where appropriate determinations regarding capacity to enter into sharing agreements can be made. This stress on local initiation and flexibility is one of the most important features of this portion of the bill.

Madam President, when this measure was before the Senate last October, I duscussed two issues relating to peacetime sharing that were of particular concern to the Senator from Illinois (Mr. PERCY)—namely, the treatment of dependents under sharing agreements and insuring local autonomy in developing reimbursement rates in conjunction with sharing agreements—and the Veterans' Affairs Committee's action on these issues in the bill as reported out of our committee.

During the development of the compromise agreement, it was not possible to prevail on the issue of treating dependents, although the emphasis on local autonomy was retained in the agreement. I know that Senator PERCY—as do Senator SIMPSON and I—would prefer that the result as to dependents would be as passed by the Senate but the opposition to that result from our colleagues in the House was very substantial. I wish to thank the Senator from Illinois (Mr. PERCY) for his understanding and cooperation in yielding on this point so that the compromise agreement, which we all agree addresses very important issues, could move forward today.

CARE FOR CASUALTIES OF ARMED CONFLICT

Madam President, in addition to providing a renewed emphasis on the sharing of health-care resources between the VA and DOD, the pending measure contains amendments to title 38 relating to the appropriate relationship of the health-care resources of the two agencies in time of war or national emergency involving the use of our Armed Forces in armed conflict when DOD facilities are unable to meet the increased demands resulting from combat casualties.

I consider the need to deal with that situation a very important matter and have urged that it be addressed in the context of the overall VA/DOD health-care resources relationship. I have long believed and stated that the VA should be the principal backup to the health-care resources of the Department of Defense in time of war or national emergency.

It has been very clear for a number of years that, in the event of major armed conflict, the Department of Defense would be unable to cope with more than a fraction of the anticipated casualties from such a conflict, and it is logical that the firstline backup to DOD in such a situation would be the VA health-care system. It is a large, comprehensive, nationwide system, and there is a natural linkage between the VA and DOD systems in that many beneficiaries of the DOD system become the beneficiaries of the VA at some point, a result that frequently occurs after a member of the Armed Forces is disabled in service and is then medically discharged.

Madam President, the compromise agreement would provide a basis for the VA to fulfill this contingency role by expressly authorizing the agency, during and immediately after a period of war or national emergency that involves the use of our Armed Forces in armed conflict, to provide hospital care, nursing home care, and medical services to members of the Armed Forces on a higher priority basis than to any other group of individuals other than veterans with service-connected conditions and by requiring the VA and DOD to plan for the VA to carry out this contingency role.

The specification of guidance for implementation of this new mission for the VA—which was established by section 108 of Public Law 97-72, a measure enacted last year that would require the VA to maintain a contingency capacity to assist the Department of Defense in time of war or national emergency—should remove any impediment to the VA's working closely with DOD to develop contingency plans and, in the tragic event that the agency's health-care resources are ever needed to support the DOD in time of war or national emergency, the mechanism should be in place to carry out such a supportive role.

Madam President, in conjunction with this new authority, the pending measure would also provide very specific and carefully drawn authority for the Administrator, in situations in which the VA is treating Armed Forces personnel under the new authority and with the approval of the President, to contract with private health-care facilities to provide health care under certain circumstances to specified categories of veterans. I believe that this is an important adjunct to the new contingency authority and demonstrates that, even in situations in which the agency is treating wartime casualties, it has continuing veteran-care obligations.

CORRESPONDENCE TRAINING

I am very grateful to my colleagues in the House of Representatives for agreeing to include in this measure the Senate provision that I proposed to restore the availability of GI bill payments to Vietnam-era veterans for correspondence training in the current fiscal year. I feel very strongly that it is both unfair and contrary to the purposes of the GI bill to terminate the opportunity for these veterans to use their GI bill benefits for this type of training. For certain Vietnam-era veterans—particularly those whose current employment situation or other circumstances pose scheduling conflicts with classroom attendance, those with disabilities that render regular classroom attendance infeasible, and those residing in areas where other forms of education or training are not available—correspondence courses represent the only practical alternative for using the GI bill for the training they have chosen to pursue.

Moreover, I believe that the modifications that the Congress made in this program in 1980 and 1981 (Public Laws 96-466 and 97-35), increasing from 10 percent to 30 percent and then to 45 percent the share of the cost of the courses that the veteran must pay, are sufficient to eliminate whatever abuses may have been present in this program that motivated the administration to recommend its termination. Thus, I am gratified that we have been able to sustain the Senate provision in S. 266 on this issue, with certain clarifying modifications, as noted in the above-referenced explanatory statement, in order to carry out more explicitly the purpose of the Senate provision.

Madam President, in anticipation of the enactment of this provision, which has an effective date retroactive to October 1, 1981, I urge the VA promptly to initiate the remedial and outreach efforts necessary to ensure—in light of the VA's earlier action, based on what I believe to have been an incorrect interpretation of Public Law 97-101, the HUD-Independent Agencies Appropriations Act, 1982, terminating the payment of correspondence training benefits for new enrollments after September 30, 1981—that all those who previously applied for these benefits this fiscal year and those who may wish to do so will be able to receive the benefits with respect to which this measure provides for clarification as to entitlement and availability of payment.

CONCLUSION

Madam President, as I noted earlier, I believe the compromise agreement represents a fair resolution of the differences between the two Houses. It gives full emphasis to peacetime sharing between the agencies while recognizing and respecting the separate missions and statutory authorities of the two agencies' health-care missions. Through the contingency authority provisions, it provides appropriate recognition of the fact that the relationship between the health-care resources of the two agencies should not be limited to peacetime efforts to reduce costs and eliminate duplication of effort but also must recognize the VA's vital role as the first backup to the DOD in time of armed conflict.

Including both the sharing and contingency provisions in the same measure recognizes that, although there may be a certain tension between the two facets of the relationship of VA and DOD health-care resources in terms of the capacities each agency maintains, they must be considered together and any efforts to reduce the capability or capacity of either agency must be undertaken with an awareness of the need to maintain the health-care resources of the two agencies to care for battle casualties in the event of armed conflict.

Madam President, I want to express my appreciation to my good friend from Wyoming (Mr. SIMPSON) for his cooperative spirit as we have worked to develop the compromise agreement as it is before the Senate today. I also want to note the fine efforts of the Senator from Illinois (Mr. PERCY) on the issue of the peacetime sharing of VA and DOD health-care resources. His great interest in and persistence on this issue have been instrumental in bringing this legislation to its culmination and he is to be congratulated. I also want to express my appreciation to my good friends on the House Veterans' Affairs Committee, the chairman (Mr. MONTGOMERY) and the ranking minority member (Mr. HAMMERSCHMIDT) for their fine work in developing this measure. It has been, as always, a pleasure to work with them.

Madam President, I also express my appreciation for their fine work on this bill to the staff members of the House Veterans' Affairs Committee, Mack Fleming, Rufus Wilson, Ralph Casteel, and Jack McDonell; to Bob Cover, assistant counsel, House Legislative Counsel's Office; and to members of our committee staff, Tom Harvey and Julie Susman on the majority staff, and Bill Brew, Ed Scott, Jon Steinberg, Babette Polzer, Katy Burdick, Ingrid Post, and Charlotte Hughes on the minority staff.

Madam President, the compromise agreement now before the Senate is a most worthy measure, and I urge my colleagues to support it.

AMENDING SECTION 235 OF THE NATIONAL HOUSING ACT

Mr. BAKER. Madam President, on behalf of the distinguished Senator from Indiana (Mr. LUGAR) and the distinguished Senator from California (Mr. CRANSTON) I send a bill to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2344) to amend section 235 of the National Housing Act.

The Senate proceeded to consider the bill.

Mr. GARN. Madam President, I send to the desk a bill to extend the deadline for the 235 program until April 30, 1982.

On Monday the Senate passed an amendment to the House passed bill, H.R. 5708, and asked the House to come to a conference. In this conference I was completely prepared to reach a compromise on how to redistribute uncommitted 235 program funds and on the Olympic Coin Act. The House, however, would not agree to begin a conference on H.R. 5708. The hearings in the House on the Olympic Coin Act are scheduled now for April 6 and this 30-day extension provides time to formulate views on these issues.

With regard to the 235 program, I understand from HUD that preliminary fund commitments technically expired last night. The Senate Banking Committee members expect HUD to extend these commitments to the builders and others who held them on March 31 until the new April 30, 1982 deadline this bill creates.

The PRESIDING OFFICER. The bill will be considered to have been read twice by title. Is there further debate? If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 2344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the fourth sentence of section 235(h)(1) of the National Housing Act is amended by striking out "March 31, 1982" each place it appears and inserting in lieu thereof "April 30, 1982".

Mr. BAKER. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. BAKER. Madam President, I ask unanimous consent that the Senate now go into executive session to consider a nomination.

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

NOMINATION OF J. J. SIMMONS III TO BE A MEMBER OF THE INTERSTATE COMMERCE COMMISSION

Mr. BAKER. Madam President, as in executive session, I ask unanimous consent that the Senate consider the nomination of J. J. Simmons III, of Oklahoma, to be a Member of the Interstate Commerce Commission.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will report.

The legislative clerk read the nomination of J. J. Simmons III, of Oklahoma, to be a Member of the Interstate Commerce Commission.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Madam President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

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

Mr. BAKER. Madam President, I move to reconsider the vote by which the nominee was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. BAKER. Madam President, I ask that the Senate now return to legislative session.

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

ORDER FOR RECORD TO REMAIN OPEN UNTIL 5 P.M. TODAY

Mr. BAKER. Madam President, I ask unanimous consent that the RECORD remain open until the hour of 5 p.m. today for the introduction of bills, resolutions, the submission of statements, and for committees to file reports.

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

EXPRESSIONS OF APPRECIATION

Mr. BAKER. Madam President, may I take this opportunity to express may appreciation to the distinguished minority leader for his unfailing cooperation in the matter of trying to arrange the schedule and proceedings of the Senate in these last several, sometimes hectic and often difficult, months. As he has said often—and as I totally agree—it would be, if not impossible, certainly very difficult to operate the Senate if there was not a high level of cooperation by the leadership of both sides. That has always been the practice of the Senator from West Virginia, who has served both as majority leader, of course, and now as minority leader.

I once again would take this opportunity to express to him my deep appreciation for the very considerable cooperation, the very excellent cooperation that he has extended so often. He has been a staunch defender of his adversary position from time to time, and we have been necessarily on opposite sides of issues, but he has been equally staunch in the defense of the prerogatives of the leadership. He has been a good friend as well as a good colleague. It has been a delight to work with him for these several months of this session this year.

Mr. ROBERT C. BYRD. Madam President, will the majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. ROBERT C. BYRD. Madam President, having been majority leader, I know precisely what it means to have cooperation from the other side of the aisle. I try to accord the kind of cooperation that I feel should be accorded by the minority to the majority because, after all, while both sides share the responsibility of moving the programs along and expediting the legislative process, the major responsibility rests on the shoulders of the majority. I very well know the value of having a minority leader who—while he must take adversary positions from time to time, and while he always must defend the interests of his colleagues on his side of the aisle—also recognizes the responsibility of the minority leader not to obstruct without good reason, not to delay unnecessarily, but rather to cooperate wherever he can.

The majority leader, Mr. BAKER, has been an outstanding majority leader. I say that without any equivocation. I say also that he has, in every instance—in every instance and without a single deviation that I can recall—been most considerate of the concerns and the rights and prerogatives of not only the minority leader but, more importantly than that, the rights and concerns and the prerogatives of the minority party in the Senate.

I congratulate him on his excellent leadership. I thank him for his consideration of the minority, which is characteristic of him. And I also thank him for referring to me as his friend. I am his friend; he is my friend. We, at times, and for reasons known to one another and to everyone associated with the Senate who knows anything about the operation of the Senate, from time to time we have to disagree without being disagreeable. But I could ask for no finer working relationship, and certainly as long as I cannot be majority leader—and may I say my burdens are much lighter as minority leader than they were as majority leader—but as long as the Republicans are in the majority here, I certainly rest well at night knowing that HOWARD BAKER is the majority leader.

(Mr. HATCH assumed the chair.)

Mr. BAKER. Mr. President, I cannot tell my friend, the minority leader, how much I appreciate the nature of his remarks. He knows that I reciprocate them and feel very keenly the sense of dual responsibility that we both hold.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS UNTIL 3:45 P.M.

Mr. BAKER. Mr. President, I see the distinguished Senator from California on the floor. I believe he wishes to address the Chair. Mr. President, I ask unanimous consent that the time for transaction of routine morning business be extended to not past 3:45 p.m., under the same terms and conditions.

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

The Senator from California.

THE DESIRE OF IMMIGRANTS TO LEARN ENGLISH

Mr. HAYAKAWA. Mr. President, the first responsibility of any immigrant is to learn the language of his

new homeland. This is necessary for that resident to become a participating and contributing member of his new society. In Los Angeles, I am pleased to report that an extraordinary adult education school is helping to accomplish this monumental task of educating non-English-speaking immigrants. Ten thousand adult students flow through E. Manford Evans Community School each day to learn English.

This school is an example of administrators, teachers, and a community who are willing to share the responsibility of indoctrinating immigrants to our language and culture. However, the tremendous enrollment and interest of the students in this school demonstrate an even more important principle—the desire of immigrants to learn English. Though more than half of the enrollment at Evans is Asian, its students span the globe. In one class 11 countries are represented, ranging from Cambodia to Columbia. But according to Mary Hurst, a teacher at Evans, the students have a common goal: "They want foremost to learn English, to speak and write it." Evans has a waiting list of 700 applicants which represent most of the recent immigrant groups, including those speaking Spanish and many Asian languages.

As you know, I have introduced Senate Joint Resolution 72, a proposed constitutional amendment to make English the official language of the United States. If the interest at Evans and other adult language schools around the country is any indication, our newly arrived immigrants share my belief that English is the language of our country, and they had better get busy learning it so that they can become contributing members of our society.

I hope my colleagues will take notice of this intense interest and awareness on the part of our immigrants of the need for a commonly spoken language in the United States. I commend E. Manford Evans Community Adult School in Los Angeles and other schools throughout the country which are meeting the language and socialization needs of our immigrants from around the world. I would like to call my colleagues' attention to an article that appeared in the March 7, 1982, edition of the Los Angeles Herald Examiner, written by Annie Nakao, which describes the excellent work of Evans and other adult language schools in the Los Angeles area. I ask unanimous consent that the article be printed in the RECORD.

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

ENGLISH TAUGHT HERE—TO 10,000 A DAY

(By Anne Nakao)

An unperturbed island in the mass of humanity oozing around him, a smiling Ed Morton conceded, "It's mobsville."

Morton is principal at E. Manford Evans Community Adult School in Los Angeles, where 10,000 immigrants flow through 31 classrooms each day to learn English.

At the 10:30 break on Monday morning, throngs of them and the cacophony of a dozen languages quickly filled the tiny courtyard nestled at Figueroa Street and Sunset Boulevard at the edge of Chinatown.

Pointing to an almost completed four-story annex, Morton said, "We could have filled that building at the beginning of this year . . . and still have this," gesturing at the one-story buildings now being used. "It should give you an idea of the need."

Evans is the single largest public educator of the newly arrived in Los Angeles, and the only one with a daylong English language program.

More than half of its enrollment is Asian—the vast majority being Indochinese refugees—but its students span the globe. In one class, 11 countries—from Cambodia to Colombia—were represented.

Counselor Angi Wong said for many the school is one of the few "non-threatening situations" a newly arrived immigrant faces.

"For many, this is the only source of information they have," Wong said. "In fact, some feel it's like their home."

Part of the Los Angeles Unified School District Adult Education Program, Evans is publicly supported. Students pay only for their books.

"On the public school basis—we are it," Morton said. "We're the only one that has a round-the-clock operation."

Those hours, which accommodate the schedules of its students, almost all of whom work full time, and a word-of-mouth reputation are the reasons Evans draws students from as far away as Long Beach and Lynwood, Morton said.

Many in the huge crowd that departed at 10:30 Monday morning were headed for restaurant and garment factory jobs in Chinatown.

Classes at Evans run from 6 a.m. to 10 p.m. in six time blocks. At the peak period from 8 a.m. to 1:30 p.m., 1,700 persons are matriculating through their studies.

"We just have a lot of bodies," Morton chuckled, peeping into an entry-level class, typically taught by bilingual teachers. There, the 49 students in Jenny Lew's bilingual Cantonese class were dutifully reciting, "Does Tom have a new shirt?"

In a Spanish bilingual class across the way, Argentine Margot Daniel was teaching students odd new words like "shoes" and "shirt."

In another building, Mary Hurst's advanced level five class was struggling with the infinitive form.

The average student takes about a year and a half to two years to gain sufficient English proficiency.

The program offers even levels of skills, but most students do not stay beyond level four, Wong said.

"They want enough basic English to get around and find work," Wong said.

The relentless pace of Evans' heavy schedule infects the school's 265 teachers.

That morning, Wong jauntily headed toward the teacher's lounge, where she bolted her tuna sandwich down for a quick lunch.

Beside Wong, a teacher munched on a salad while correcting papers. Another tried to conduct a staff meeting.

Ignoring the chaos around her, teacher Mary Hurst—whose darting eyes, gesticulating hands and exclamations like "Sensational!" and "Perfect!" are all teaching tools—says academic skills are what the students want most.

"They want foremost to learn English—to speak and write it," she said.

Wong feels the school offers more.

"Socialization skills—the nuances of living in American society," she said, adding that many students do not know "how to stand in line" or say "thank you" or "please."

"Little things like that will help them to blend into American culture."

For 21-year-old Vietnamese Hung Luong, school is "very nice," when he isn't struggling with the vagaries of sentence structure.

One of the boat people who drifted to Hong Kong from his city of Cantho, Luong is the sole member of his family to leave Vietnam.

For his friend, Then Tran, 24, pronunciation is a terror. Her plan after learning enough English is "to get a job, anything" so she can be on her own.

Luong and Tran are two of the lucky ones to be admitted to Evans, which, each year, is inundated with applicants.

Evans has a waiting list of about 700 applicants, and it isn't alone.

Long Beach City College officials report a waiting list of 1,200. When its English-as-a-second-language program began last October, all 500 slots were filled in a matter of hours.

MODERN WAY

Mr. HAYAKAWA. Mr. President, I am not pregnant, I have never been pregnant, and I will never be pregnant. I am among those who, because of gender, will never experience pregnancy and will never have to make the dreadful decision of whether or not to have an abortion.

Now, people in my condition make up only half of the national population, but we males occupy 97 of the 100 seats in this Chamber. As an overwhelmingly male body, we have the constitutional authority to collect taxes, regulate commerce, subsidize tobacco growers, and declare war, but we do not, I believe, have the moral authority or physical experience necessary to regulate the bodies of those who are differently constructed and so sadly underrepresented in this body.

Judy Mann had an interesting column in last Friday's Washington Post about Florida State Senator Pat Frank. "Pat" is short for "Patricia." I recommend the article to my colleagues and ask unanimous consent that it be printed in the RECORD.

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

MODERN WAY

(By Judy Mann)

Ancient female axiom: if men were the ones who had to give birth, there wouldn't be any babies. Modern feminist axiom: if

men were the ones who got pregnant, there wouldn't be any argument over abortion. It's probably fortunate for all concerned that there's been no opportunity to prove this one way or another. But Florida State Sen. Pat Frank has come as close as anybody to giving the gentlemen in her statehouse an idea of what it would be like to have the shoe, as it were, on the other foot.

The occasion arose recently when a senator tried to correct an unconstitutional law restricting abortions for adolescents. In the same section of the statute was a requirement that a woman who wanted an abortion must first give notice to her husband that she intended to abort.

Frank proposed excising the requirement, arguing that the husband might not be the father. "We do have a section in our constitution that individuals do have a right to privacy. I maintained that violated the right of privacy."

Her colleagues argued that the husband has the right to know of his wife's pregnancy, even if the child were not his, because there is a legal presumption that he is the father and he might want the child.

The Senate tried to cut off debate, but failed after Frank pointed out that she was appalled at the prospect of a male-dominated Senate limiting to five minutes a debate affecting women throughout the state. The debate continued but the amendment removing notification was defeated on a voice vote.

Then, Frank turned the tables. "I said, all right, if you want to maintain that one partner has the right to know, what's good for the goose is good for the gander. If a husband has gotten another woman pregnant and she intends to abort, the wife of that husband should be given notice of the intent of that woman to abort. If the husband has the right to the possibility of preventing the abortion because he wants to have a child, then a woman who has a fertility problem may want to have a child that is her husband's by another woman."

There was, she says, "almost a gasp that came from the senators. It was, 'How could you do this?'" One of her opponents, she says, just stood up and said, "That's not fair," which is something women have been saying about some of these rules all along. There was, says Frank, applause from the galleries.

Then, she announced she had the votes to obtain a recorded vote on her proposal. "Several members around me said, 'Don't do that, please don't do that.' I said, 'Yes, I am.' So, we have a recorded vote with several members scuttling out of the room."

Her measure lost by only two votes, and it gave her a splendid opportunity to make a point about the inequity of some laws.

There are 36 men in the 40-member Senate. She wanted them to recognize that if the same bills that are being passed governing the behavior of women were written to govern the behavior of men, those laws would not have a chance of passage. "I just felt it was necessary to show how much of our legislation that deals with the rights of the body is so one-sided," she says.

The abortion bill is now off the calendar.

Frank describes herself as a moderate Democrat who has strong feelings about individuals' rights to privacy.

An opponent of homosexual rights recently came up with a bill aimed at making fornication between members of the same sex a more severe crime. It was headed for a committee on which Frank serves. "The chairman of the committee asked me what I was going to do. I said I was going to vote for it and was going to tack an amendment on." She said she didn't believe in extra-marital relations and had an amendment providing for the removal from office of any state senator violating the fornication statute.

The bill was quickly withdrawn.

Frank was appointed to fill an unexpired term in the Senate and was later elected in 1980. She remembers when voters, including women, did not support women candidates and when she had to run for the school board using the name "Pat," with no campaign pictures. That has all changed, she says, and women are "the backbones of my campaigns."

In a move that showed a certain confidence on her part, Frank demonstrated that if men insist on making up rules for women, women legislators can make up rules for men. Its a ploy that left her open to ridicule. But by risking ridicule she neatly nullified the ridiculous.

Mr. BAKER. Mr. President, I congratulate the Senator from California on his statement, and on his condition. [Laughter.]

PENDING BUSINESS—SENATE RESOLUTION 20

Mr. BAKER. Mr. President, I am prepared to move shortly for the adjournment of the Senate. Before I do so, may I inquire what will be the pending business when the Senate reconvenes on April 13 after the recognition of the two leaders under the standing order, any special orders, and the transaction of routine morning business as just provided for?

The PRESIDING OFFICER. At that time, the pending business and the unfinished business will be Senate Resolution 20 concerning television coverage of the proceedings.

Mr. BAKER. I thank the Chair.

ADJOURNMENT UNTIL TUESDAY, APRIL 13, 1982

Mr. BAKER. Mr. President, I see no other Senators seeking recognition, and I believe the time has come.

Mr. President, I move, in accordance with the provisions of Senate Concurrent Resolution 78, that the Senate now stand in adjournment until 12 noon on Tuesday, April 13, 1982.

The motion was agreed to; and, at 3:39 p.m., the Senate adjourned until Tuesday, April 13, 1982, at 12 noon.

CONFIRMATION

Executive nomination confirmed by the Senate April 1, 1982:

INTERSTATE COMMERCE COMMISSION

J. J. Simmons III, of Oklahoma, to be a member of the Interstate Commerce Commission for the remainder of the term expiring December 31, 1985.

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.