SENATE—*Thursday, March 3, 1983*

(Legislative day of Wednesday, February 23, 1983)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Our opening prayer this morning will be offered by the Rev. Richard C. Halverson, Jr., son of the Senate Chaplain.

PRAYER

The Rev. Richard C. Halverson, Jr., Arlington, Va., offered the following prayer:

Our Father which art in Heaven, as the grateful son of one who serves this Senate and with the conviction that everything we accomplish here rests ultimately upon the foundation of the family, I pray You will turn the hearts of the parents in this place to their children and the hearts of the children to their parents. For You have taught that where our heart is, there will be our treasure also.

We ask this favor in the name of Jesus Christ who, far from making it on His own, chose rather to identify himself summarily as the Son of God, the Son of Man. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

THE JOURNAL

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

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

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, it is my understanding that at 12 noon, the Senate will go into executive session for the purpose of considering the Executive Calendar Order No. 3, the amendment to the 1972 protocol to the 1982 convention concerning international expositions and that treaty will be considered under a 20-minute time limitation. Is that correct?

The PRESIDENT pro tempore. The Senator is correct.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order and the special orders for Senators BYRD, SARBANES, PELL, BIDEN, and myself, there be a period for the transaction of routine morning business not to extend beyond the hour of 12 noon, in which Senators may make speeches therein for not more than 3 minutes each.

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

(Mr. WARNER assumed the chair).

SENATE SCHEDULE

Mr. STEVENS. Mr. President, after the disposition of the treaty that is already scheduled, the Senate will be asked to consider nominations on the calendar that have been cleared for floor action. We do expect rollcall votes today.

When the Senate adjourns today to reconvene Monday, March 7, by order of the Senate, debate will occur on the Montreal Protocol Aviation Treaty and the nomination of Lewis Arthur Tambs to be Ambassador to Colombia. Votes on these two items will occur on Tuesday.

The Senate may also be expected to take up the supplemental/jobs bill during the course of next week. It will be marked up in the Appropriations Committee starting tomorrow morning.

There are a number of other items that will need to receive consideration prior to the Easter recess. The majority leader has announced that he wishes to complete the supplemental jobs bill, the social security reform bill, and the budget resolution before recessing for Easter. I believe all Senators must be on notice that during consideration of any of those items, there may be a late night, and Saturday sessions are possible. There will be no normal schedule in the evenings.

Mr. President, there may be late nights each night that any of those three items is on the floor, because we are committed to ccmpleting action on those three if at all possible prior to the time for the Easter recess.

REOPENING ALASKA LANDS TO HUNTING

Mr. STEVENS. Mr. President, I would like to take just a moment to discuss a matter of great importance to Alaska. Senator MURKOWSKI and I have introduced Senate bill 49, which would reclassify 12 million acres of national park in Alaska to national park preserve. The only difference between national parks and national park preserves is that hunting under State law is permitted in national park preserves.

The purpose of this bill is to restore to hunting, lands that were closed by the Alaska National Interest Lands Conservation Act of 1980. There are those who do not understand the issues involved in this bill. I would like to take just a moment of the Senate to clarify the situation.

This bill is of great concern to a large number of Alaskans and to hunters all over the country. ANILCA closed over 24 million acres of Alaska land to sports hunting or hunting under Alaska law. Those areas had historically been prime hunting areas. When ANILCA was passed, however, subsistence hunting was allowed to continue in the new national parks in Alaska.

Subsistence hunting is not defined by need but rather by where a person lives. What this means is that the person in Glenallen may hunt in one of the new national parks, but a person residing in Anchorage or Fairbanks would be denied that same privilege. The inequity has understandably made many Alaskans extremely upset.

But the issue is also one of national concern. Many hunting organizations viewed the Alaska lands bill as a statement by Congress opposing hunting. Their reaction is understandable. We closed millions of acres of prime hunting grounds to hunting under Alaska law without any good reason.

I say without any good reason because, as I said before, hunting is taking place. Subsistence hunters are allowed to hunt on these park lands. They must hunt on these park lands, because there is no other meat supply. The areas that our bill would open are literally miles from any tourist spot. Use by hunters would not conflict with the use of the park by others.

Hunting does not pose a threat to the wildlife populations. To the contrary. The Alaska fishing and wildlife agencies keep a constant watch on wildlife populations to insure that they are able to maintain the species and to have the normal rate of reproduction. Hunting is required in many of the areas of our State to bring about proper wildlife management and balance.

It is not often that Congress is presented legislation in which it is clear that the benefits of the bill far out-

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

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weigh negative aspects of it. Our bill is such a bill. By reopening these lands to hunting, by recognizing the interests of sportsmen in Alaska and across the country, we literally will not harm anyone but will right a wrong that was done when ANILCA was passed.

Recently, a number of publications around the country have come out in support of our bill. I ask unanimous consent that these editorials that are representative of the support in the country be printed in the RECORD at this point. I call specific attention to an editorial in favor of our bill that appeared in the San Francisco Chronicle; another one that appeared in the American Hunter magazine; and another that was printed in the Dallas Morning News.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the San Francisco Chronicle, Feb. 14, 1983]

EDITORIAL: HUNTING IN ALASKA'S WILDS

Alaska's congressional delegation is pushing for enactment of legislation that will open up 12 million acres in the rugged remoteness of this spectacular state's national parks to hunting and trapping. At first impression, this is the kind of thing that invokes the indrawn breath of exasperation and displeasure that is standard reaction to any increased killing of wild animals. Closer inspection, however, demonstrates considerable validity to the Alaskans' action.

It is important to note that the change would affect only remote areas which were traditionally hunted until withdrawn by the Carter administration in 1978, and are still being hunted by natives of this wild region for subsistence purposes. The Alaska lands act, which became law in 1980, established more than 43 million acres of new national parks and monuments, 24 million of which were closed to sport hunting. Hunting is not permitted in national parks, but is allowed in park preserves. The legislation introduced by Senators Ted Stevens and Frank Murkowski and Representative Don Young would change the designation of the acreage in question to allow hunting.

Murkowski, a vigorous, articulate senator with clear devotion to the special qualities that his state has in abundance, emphasizes that the measure will allow Alaska to manage the wildlife resources there "for the benefit of the species and use by Alaska's hunters." How does it benefit a species to allow it to become possible prey to the hunter's rifle and the trapper's snare?

Well, pro-hunting groups maintain that hunters are active and dependable conservationists who practice their sport in compliance with state regulations and do not impair the wildlife resource. They are not like those dreadful ivory pirates who kill elephants in Africa for outlaw profits. The International Association of Fish and Wildlife Agencies, which is an association of state government wildlife agencies, maintains that hunting is "an absolute necessity for the proper management and well-being of many wildlife populations."

Sportsmen's license fees and excise taxes on sporting equipment provide the financial base for conservation programs, habitat acquisition, research and other wildlife programs throughout the United States—to the tune of $500 million a year.

What this legislation does is to preserve hunting patterns that have been traditional in Alaska. As Congressman Young put it: "We are doing nothing new here, only trying to put back in the rights of people to hunt where they have always."

In a state like Alaska, where it takes an accomplished and dedicated outdoorsman to get out to the hunting grounds, that can hardly be a great transgression. And because the hunting season does not begin until the fall, there will be little conflict between hunters and other recreational users like backpackers who tend to visit the areas in the summer.

This legislation will affect only 35 percent of the current national parklands in Alaska. The remaining 20 million acres will be closed to sport hunting. So this is no carte blanche for men and women with guns and traps. There will still be an outright ban in many sections of the state. And an important way of life that supports realistic conservation in this state will be preserved. That would seem solid reason to look on what the Alaskan delegation is doing with a sympathetic eye.

[From the American Hunter, February 1983]

EDITORIAL

Three years ago, American hunters and trappers suffered a major setback when Congress passed the Alaska National Interest Lands Conservation Act of 1980. This act designated some 25 million acres of federally owned game lands as national parks or monuments and closed them to hunting and trapping.

This year, American sportsmen could win back hunting rights on almost half the lands locked away back in 1980. Proposed legislation that would reopen nearly 12 million acres of prime big game habitat is to be introduced during the 98th Congress. Called the Alaska National Hunting Bill, the legislation will be introduced in the Senate by two Alaska Republicans—Assistant Majority Leader Ted Stevens and Sen. Frank Murkowski—and in the House by Rep. Don Young (R-Alaska). Committee action on the bill is expected in March and April.

If the bill is signed into law, hunting would again be allowed in some of the key big game regions in the state. Hunting is allowed in national park preserves but not in national parks or national monuments, so the single purpose of the Alaska National Hunting Bill is to reclassify these game-rich areas as national park preserves.

The Wildlife Legislative Fund of America (WLFA) is spearheading lobbying and media efforts in support of the bill, but the bill has won widespread backing from other important hunting and conservation organizations. Along with the NRA, the Foundation for North American Wild Sheep, Game Conservation International, The International Association of Fish and Wildlife Agencies, Fur Takers of America, and Mzuri Safari are working to win public and congressional support of the Alaska National Hunting Bill.

But even with the endorsement of these national lobbying groups, the bill probably won't pass unless it has *your* support. Many hunters may never be able to afford a big game hunt in Alaska and may believe, therefore, that this bill has no immediate effect on them or their hunting rights. But the consequences of this legislation extend well beyond the reopening of several Alaska game lands.

In effect, when a congressman votes on the Alaska National Hunting Bill, he will be saying "yes" or "no" to sport hunting in the United States. A "yes" vote will be an endorsement of sport hunting as a valuable recreational activity and wildlife management tool. A "no" vote will be a slap in the face to America's 20 million hunters and will set a dangerous precedent for the future.

As Daniel M. Galbreath, WLFA Board Chairman, has put it, "The outcome (of the bill) will determine the status of hunters in Congress for at least the next decade and will be a factor in every hunting-related bill that comes before Congress, and state legislatures, thereafter."

It's easy to see that the Alaska National Hunting Bill may be the most important hunting-related legislation in decades. A victory for the anti-hunters will no doubt strengthen their crusade to wipe out hunting and trapping.

But if sportsmen band together now, we can win back some of what has been lost to the anti-hunters, and we can ensure that in the future our voices will be heard above theirs.

You can help protect your right to continue to hunt by writing your senators and representatives. Urge them to vote "yes" on the Alaska National Hunting Bill. If you don't know your congressmen's names, just call or write NRA's Institute for Legislative Action. We'll let you know the outcome of the vote in a future issue.

[From Petersens' Hunting, December 1982]

EDITORIAL

Since many of our editorials seem to deal with "doom and gloom" subjects, once in a while it is nice to be able to relate a little good news. And such appears to be the case with legislation that has been introduced in the Senate and House of Representatives by the Alaska Congressional delegation.

The net effect of this legislation would be to open up approximately 12 million acres in remote areas of Alaska's national parks to sport hunting. This legislation would affect only remote areas, which traditionally were hunted until the Carter administration's infamous "land grab" of 1978. These lands are still hunted today, but only for subsistence purposes.

As we can all too well remember, the Alaska lands act became law in 1980, establishing more than 43 million acres of new national parks and monuments in Alaska, 24 million acres of which were closed to sport hunting. This, by the way was in addition to about 7.5 million acres of parks and monuments that existed prior to 1980. Sport hunting is not permitted in national parks and monuments, but is permitted in national park preserves.

The legislation introduced by Senators Ted Stevens and Frank Murkowski as S. 2836 and by Congressman Don Young as H.R. 6977 would change the designation of about 12 million acres from park to park preserve.

"We're not suggesting opening areas such as old McKinley Park, where hunting has not been permitted for years and the number of visitors is high," Stevens said. "We foresee little or no conflict between hunters and other recreational users. Most backpackers and other non-hunters visit these areas in the summer, whereas most hunting does not begin until the fall."

Murkowski said the bill would not allow any other use of the proposed park pre-

serves or make any changes in the protection granted to the remaining park lands. "Today's action affects 35 percent of the current national park lands in Alaska. The remaining 20 million acres will continue to be closed to sport hunting," he said. "This bill would enable the state of Alaska to manage the wildlife resources for the benefit of the species and use by Alaska's hunters."

A companion bill to both the House and Senate measures would compensate sport-hunting guides for loss of income as a result of hunting restrictions imposed in the Alaska lands act. At last count, nearly 100 guides were hurt by the federal designation of lands as non-hunting areas.

The limitations on hunting in Alaska, according to Senator Stevens, were motivated by two factors: "Anti-hunting sentiment, and a belief that park visitation and sport hunting are two uses which conflict." Stevens says very few backpackers and other non-hunting visitors ever venture into remote Alaska. "It is patently inequitable that a handful of visitors to these parks are effectively granted the exclusive right to use vast, multimillion-acre areas purportedly set aside for the benefit of all Americans."

While both the Senate and House bills have been referred to committee, the acreages to be reopened as specified in the present bills are: Katmai—brown bear, moose, caribou, lynx, beaver, wolf, and wolverine; Gate of the Arctic—Dall sheep, grizzly bear, moose, caribou, wolf, wolverine, marten, and lynx; Lake Clark—moose, caribou, Dall sheep, and brown (Kodiak) bear; Wrangell-Saint Elias—Dall sheep, moose, grizzly bear, mountain goat, bison, lynx, beaver, wolf, and wolverine; Denali—Dall sheep, grizzly bear, moose, black bear, caribou, beaver, wolverine, wolf, mink, marten, and lynx; Kenai Fjords—mountain goat, black bear, and brown bear; Glacier Bay—mountain goat and brown bear; Aniakchak—brown bear and moose.

While legislation such as this is certainly needed, we hunters are not assured of its passage unless all of us in the lower 48 states become active and get involved quickly. Congress will certainly be subject to a lot of heavy lobbying from the anti-hunting interests. We muct not continue to remain along the sidelines. We much let our Representatives and Senators know that we support the moving of these bills out of committee and passage by the full Congress. Thousands of letters are needed immediately! In addition, the Wildlife Legislative Fund of America (WLFA) is organizing a million-dollar national lobbying campaign in support of this legislation. Contributions should be sent to the WLFA National Headquarters, 50 W. Broad St., Columbus, OH 43215.

[From the Dallas Morning News, Feb. 14, 1983]

HUNTING BILL MORE THAN PERSONAL

(By Andy Anderson)

For some, the attempt to restore hunting privileges on millions of acres of Alaskan wilderness is very real and very personal.

But for the majority, the fight will be symbolic.

Those from the "lower 48" who hunt or would like to hunt Alaska, and those Alaskans who make their living from hunting, know that the bills being introduced in the U.S. House and Senate will affect them personally. Personally, for many, means in the pocketbook.

Others, who may never set foot in Alaska but hunt or have hunting and pro-firearms sympathies, realize that the anti-hunting forces consider the Carter administration's Alaska Lands Act of 1980 one of their greatest victories.

Thus, the 1983 "Alaska National Hunting Bill"—it is H.R. 900 but not yet introduced in the Senate—may be the most significant hunting issue since Daniel Boone's era. It is certainly one that hunters will want to watch and about which they'll want to communicate with their U.S. senators and representatives.

"I want to emphasize that this bill we are introducing provides for hunting and trapping only—no drilling, mining, timber cutting or access roads," said Senator Frank Murkowski, who with Senator Ted Stevens and Congressman Don Young (all of Alaska) is introducing the bill. "The bill must be clear. If it comes out with amendments on it, it is not going to go anywhere. We will advise our colleagues to kill it on the floor."

Murkowski, touring Dallas, Houston and other points drumming up support for the bill, is being accompanied by a representative of the Wildlife Legislative Fund of America, a strong sportsmen's lobbying organization. The bill, the senator points out, opens no new territory in Alaska, but would restore some 12 million acres of the 25 million declared off-limits to hunting and trapping by the sweeping act in 1980. Technically, it would convert the acreage from "parks," in which there is no hunting, to "park preserves," where hunting is permitted.

"At the time of the 1980 act, I was not in the Senate," Murkowski said. "But committee members (he is on the Energy and Natural Resources Committee) indicate to me that the intention was to restore hunting to much of the land that the D-2 bill (Carter administration) set aside as National Parks.

"But late in the session with the entire bill in danger (all of the land would have reverted to non-wilderness status had Congress adjourned without taking some action) and time running out, it was decided that more amendments would kill it.

"We came back with the bill to restore hunting on some of the land last year, but again time ran out. This is the very same bill.

As Murkowski points out, hunting and fishing have never ceased in the areas that the 1980 Act put into National Park sanctuaries. Subsistence hunting is allowed. Contrary to popular belief, subsistence recipients are certified by the size of the towns and villages in which they live, not by native origin.

"The point is that hunting is not being managed properly, if at all. These areas are under the National Park Service now, and they don't have the expertise or personnel to manage and regulate the hunting in them.

"The point we want to make," Murkowski continued, "is that by opening up 12 million acres of the 25 million that was open prior to 1980, we can better manage the fish and game. It will take some of the pressure from surrounding areas that are getting too much pressure and distribute it more equally. We think there are sound biological reasons for this type of legislation."

The senator points out that in an area one-fifth the size of the lower United States, there are 32 million acres exempt from any hunting. In all the rest of the United States, there are but 30 million acres exempt from hunting.

The sponsors, anticipating the attacks from environmentalists and the anti-hunting forces, are stressing that hunting in Alaska is not an environmental issue and conflicts only slightly with other outdoor activities, including backpacking. The sites designated in the bill are remote and many miles from visitor centers and hiking trails.

"And the major hunting seasons in Alaska do not begin until the fall, when the bulk of the tourist season is over," Murkowski said.

Alaskans, who with state forces have done a far better and more balanced job of game and fish management since statehood than the U.S. did before, generally approve the restoration of the hunting areas. Numerous outfitters, guides and resorters were put out of business by the 1980 ban.

The battle won't be easy. It is a symbolic issue with anti-hunters. Danial M. Galbreath, board chairman of the Wildlife Legislative Fund of America, has no doubt about what it all means.

"Closing some of the best hunting and trapping land in the world for no rational purpose stands as a permanent monument to the success of the antihunting movement. It bitterly rankles sportsmen in every corner of the country, most of whom will never set foot in Alaska. Reopening the areas to hunting and trapping is of interest to American sportsmen universally."

There are many in Dallas and North Texas who were properly rankled by the measure in 1980 and who have not rested in their efforts to repeal all or part of the measure.

They, as individuals and as members of hunting and conservation organizations, will be writing, calling and wiring their elected representatives in Washington.

Murkowski hopes many more Texans will join them.

Mr. STEVENS. Mr. President, I intend to offer similar comments about this bill at later times.

I yield to the distinguished President pro tempore.

Mr. THURMOND. Mr. President, I thank the distinguished Senator from Alaska.

THE INDEX OF LEADING ECONOMIC INDICATORS

Mr. THURMOND. Mr. President, there is some particularly good news circulating around Washington this morning about the economy: The long recession, which has robbed so many Americans of their jobs and dreams, is apparently over.

The "Index of Leading Economic Indicators," the gage most economists use in determining the health of our economy, showed its strongest 1-month gain in the last 33 years. Public and private economists hailed the new statistics as a firm indication that our economy is improving and that the recession is at an end.

Mr. President, this is undeniable evidence that President Reagan's economic recovery program is working. When we embarked on the project of strengthening the economy 2 years ago, we knew that real and lasting recovery would take time. Problems still remain, such as unemployment, but

the "Index of Leading Economic Indicators" shows that there is indeed light at the end of the tunnel.

I commend the President for hanging tough in his fight to turn the economy around. I know that he remains committed to further lowering of interest rates and the Federal deficit and insuring that the recovery is sustained.

An article in this morning's edition of the Washington Times provides more information about the recovery, and I ask unanimous consent that it be printed in the RECORD at this point.

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

[From the Washington Times, Mar. 3, 1983]

ECONOMIC RECOVERY SEEN STRONGER THAN EXPECTED

The recession is over, the government and analysts agree.

The Commerce Department's Index of Leading Economic Indicators surged 3.6 percent in January, the strongest one-month gain in nearly 33 years, spurring government officials and private economists to proclaim with an air of certainty that the economy is on the mend.

President Reagan called the news "a bright green light for recovery (and) compelling new evidence that the economy is rapidly gaining strength."

And Martin Feldstein, chairman of the President's Council of Economic Advisers, said that the report "confirms that January was the turning point."

In terms of overall economic performance, Feldstein called January one of the strongest months in the past decade.

In other favorable economic news:

The Dow Jones Average placed the stock market at a record high of 1,135.06.

Sales of new homes in January increased 10 percent from December (Story on page 4B).

Consumer confidence, a highly reliable indicator of future economic events registered a solid gain in February (Story on page 5B).

The value of new construction contracts, while declining slightly in January, remained close to the three-year high reported a month earlier (Story on page 4B).

The index of leading indicators, which tends to predict future movements in the economy, increased 3.6 percent to 146.3 percent of its 1967 average, the Commerce Department reported.

In addition, the coincident index, a measure of the current state of the economy, also turned upward, by 0.6 percent in January following a 0.2 percent decline in the December.

The index of leading indicators is an average of 10 separate economic reports including length of the average workweek, new manufacturing orders, money supply and stock prices.

In interpreting the report, Commerce Secretary Malcolm Baldrige cautioned that the size of the increase should not be taken "as a sign of a coming economic boom."

Nearly one fourth of the overall rise in the leading index was caused by M2—the money supply as measured by currency and checking account balances—which increased by 2.3 percent in January. Most of the M2 bulge was the result of recently introduced new money market accounts at banks and savings and loan associations.

Analysts also attributed much of the January increase to unusually mild weather that month.

Nevertheless, most economists were encouraged that improvement in the index was broad based with only one of the 10 components—orders for new plant and equipment—showing a decline.

Even if the numbers project a stronger signal than is actually justified, "still it is a healthy increase," said Donald Straszheim, senior vice president of Wharton Econometric Forecasting Associates in Philadelphia.

He added, "Any doubts that the economy will continue to turn upward have been erased by the prospect of lower oil prices."

David Ernst, vice president of Evans Economics Inc. in Washington, said, "The recession is over and recovery has definitely begun."

But he cautioned that the strength of the recovery had moderated in January and warned against expecting a "full-fledged boom."

Donald Maude, a senior economist for Merrill Lynch, Pierce, Fenner & Smith, the New York brokerage house, said the report gives no indication of the strength of the upturn now in progress.

Official government forecasts call for a weak-to-moderate economic recovery with unemployment remaining high throughout 1983. But lately, a number of economists in and out of government have said the economic expansion will be more robust than originally anticipated.

Mr. STEVENS. Mr. President, if there is any time remaining, we yield it back.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

The distinguished acting Republican leader characteristically offered me more time, and I am grateful to him. I think I will have sufficient time.

I have 15 minutes, I believe, do I not, as a special order?

The PRESIDING OFFICER. In addition to the leadership time, there is a special order for the Senator from West Virginia.

Mr. BYRD. Mr. President, I ask for recognition on my order. I reserve such time from my standing order as I may need in addition to the 15 minutes, and I shall yield back the remainder.

RECOGNITION OF SENATOR BYRD

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia (Mr. BYRD) is recognized.

ARMS SALES TO THIRD WORLD COUNTRIES

Mr. BYRD. Mr. President, fiscal year 1982 marked the first full year of the administration's conventional arms transfer policy. During this period, the United States sold 21.5 billion dollars' worth of arms abroad, of which $15 billion was sold to countries other than NATO, Japan, New Zealand, and Australia. The administration has established new records in arms sales abroad in terms of dollar volume, levels of sophistication of weapons being transferred, and the customers gaining access to high-technology arms. During the same period of time, the Soviet Union transferred an estimated $9 billion in arms to so-called developing nations.

Judging from the administration's preliminary estimates for arms sales during fiscal year 1984, it appears that next year also will set records for the transfer of U.S. arms abroad. The fiscal year 1984 request for foreign military sales credits and grant military aid will amount to $600 million more than current levels.

The staff of the Senate Democratic Policy Committee has completed a study of the administration's arms sale policy. Included in that analysis is a case study of the F-16 program. This case study of the F-16 discusses several serious problems associated with a policy which is aimed at transferring top-of-the-line U.S. military equipment to countries who may not share common security goals with our own Government.

The case study focuses particularly on the sale of 40 F-16's to Pakistan. The administration justified the sale of F-16's and a sophisticated air defense system to Pakistan on the gounds of the Soviet threat, particularly the threat emanating from Afghanistan. Yet, 80 percent of Pakistan's army is located at, or near the Indian border, where it also maintains its air bases. Continuing Pakistani research on nuclear weapons development contravenes official U.S. policy, and raises questions about the sale of an aircraft that can be used as a nuclear delivery platform, such as the F-16.

The security of U.S. equipment is a concern which should be shared by all in our Government. The Pentagon shares this security concern, particularly as it relates to the F-16 sales to Pakistan. Last November, a dispute erupted between the United States and Pakistani Governments over the avionics configuration of the F-16's Pakistan had purchased. The Pakistanis believed they were purchasing the standard U.S. Air Force F-16 and refused delivery of the first six when they found out they would not receive state-of-the-art electronic equipment for detecting enemy ground and airborne radar. The New York Times reported on November 30, 1982, that U.S. Air Force officials "did not want to provide the advanced equipment because of the need to protect its security."

However, the administration overruled these objections and agreed to provide the most sophisticated version of the F-16 to Pakistan. This turn of events precipitated concern on the part of the Congress that the original FMS notification submitted by the administration did not indicate that Pakistan would receive state-of-the-art U.S. avionics equipment.

In addition, the Congress approved the Pakistan sale on the basis that the bulk of the $1.1 billion in financing would be provided by Saudi Arabia. However, on November 30, 1982, the administration submitted a reprogramming notice to the Congress for FMS credits in the amount of $150 million for Pakistan. Of that amount, $120 million was to be used for payments on the six F-16's due in Pakistan in mid-December.

Because the Saudis were not forthcoming in financing the first six F-16's, their participation in the funding of the program has been called into question. Since it is apparent that Pakistan will not be able to repay the FMS loans made available for the F-16 program due to its already burgeoning debt, the burden may and will likely fall on the U.S. taxpayer.

Finally, the delivery of the first six F-16's on an accelerated basis resulted in a diversion from Dutch and Belgian inventories in order to repay the United States for the six delivered from our inventory. Since the administration has agreed to an accelerated delivery schedule for the entire Pakistan program, further diversions are likely.

The F-16 case study also discusses the fact that the sales require that uniformed armed services personnel and private American contractors be sent to recipient countries to provide technical support and assistance because the purchasers do not have the skilled manpower to service this equipment themselves. There is also reason to believe that private contractors are hiring technicians away from the U.S. Air Force to assist in supporting these overseas sales. Therefore, our own military is not recouping the cost of the extensive training these technicians must receive. This may impact upon the ability of the Air Force to maintain a sufficiently skilled manpower base to service our own defense requirements. The administration has not reported to the Congress the full impact of these practices on our own combat readiness.

Mr. President, before we approve the administration's request for arms sales during fiscal year 1984, I am convinced that it is time for Congress to devote close scrutiny to this program. We must ask ourselves whether the sales of our top-of-the-line equipment to developing countries serves to enhance or jeopardize basic U.S. defense and security interests. We must question seriously the effects of such major increases in taxpayer-financed lending for foreign government arms purchases on future liabilities being incurred by the U.S. Government, particularly as they relate to the already onerous debt burdens of many developing countries.

For these reasons, the distinguished ranking member of the Committee on Foreign Relations (Mr. PELL) and the distinguished Senators from Delaware (Mr. BIDEN) and Maryland (Mr. SARBANES) will be joining me to introduce a series of amendments to the Arms Export Control Act aimed at remedying these problems.

Mr. President, we urge our colleagues to give careful attention to this study. We believe it serves as a sound basis for a more intensive congressional scrutiny of our arms sale policy.

In conclusion, I want to express my personal appreciation to the three distinguished members of the Committee on Foreign Relations (Mr. PELL, Mr. BIDEN, and Mr. SARBANES) for their participation in the release of this study.

I ask unanimous consent that the F-16 case study be printed in the RECORD.

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

F-16 SALES ABROAD: A CASE STUDY

(By Kevin Nealer and Dick McCall)

The Reagan Administration's $21.5 billion foreign military sales program for FY 1982 is the largest arms transfer package in U.S. history. It sets new records for total dollar volumes, kinds of customers receiving weapons, and levels of sophistication of defense materials being sold. In light of the Falkland Islands War, even Great Britain is rethinking its arms sale practices, having sold Argentina $200 million in military hardware prior to the outbreak of the conflict.

Administration spokesmen continue to stress the commitment to a growing and aggressive U.S. arms sales policy. Despite the lessons of the Falklands and recent Mideast fighting, they still hold fast to the so-called Nixon (Guam) Doctrine: that U.S. surrogates with high technology weapons will police our interests in the developing world.

The centerpiece for the Administration's policy in the Third World appears to be the F-16, the ultimate stamp of approval for developing country customers. The U.S. Air Force's highly advanced fighter is one of the most maneuverable, versatile tactical aircraft in the world today. Its sophisticated fly-by-wire flight controls, high "g" cockpit, and powerful afterburning turbofan engine incorporate the latest electronic and engineering advances. It can carry nuclear or conventional air-to-surface ordnance, and can utilize the all-aspect AIM-9L "Sidewinder" missile for air-to-air combat superiority. The F-16 may soon be equipped with even more sophisticated conventional weapons and defense systems.

The Carter Administration first introduced the sale of F-16s abroad on a restrict basis, limited to select NATO countries, Israel, and Egypt. Now the Reagan Administration has added Pakistan, Venezuela, and South Korea to the list of buyers. Of these, only the Korean sale will follow a normal delivery schedule. The other sales are to be made on an accelerated basis, contrary to the timetable that USAF officials have described in testimony and planning documents as being necessary to avoid critical U.S. inventory shortages. Democratic Policy Committee staff review of unclassified Air Force internal documents reveals the following:

OVER-EXTENDED MARKETING

In June of 1981, the former Director of Political-Military Affairs of the State Department, Richard Burt, wrote to Richard Adams, Vice President of General Dynamics (GD), to solicit information on the availability of F-16s for increasing export marketing. Adams responded that aircraft could be provided on an accelerated basis of 24 months. This contradicted the USAF Master Plan projection of 42 months lead time. However, Adams emphasized the 24-month lead time delivery schedule could be met only if the government agreed "to accept pre-contract costs and obligations incurred by General Dynamics and its subcontractors." DOD memos verify that this General Dynamics proposal "allows [the] contractor to obligate U.S. funds in anticipation of an FMS agreement (which violates Public Law)." Under the Arms Export Control Act, major arms transfers and extension of FMS credits cannot occur until the Congress determines that a given sale should not be disapproved.

Moreover, Air Force readiness projections warn that "the historical record says there will be impacts" on U.S. forces, despite GD assurances to the contrary. Because "GD is competing with Northrop's F-5G [F-20] for a portion of the potential export market," DOD analysts caution that General Dynamics is getting ahead of itself in committing to an accelerated production schedule which it cannot sustain without cutbacks to the U.S. and NATO inventories. (Note: DOD and State Department officials have engaged in aggressive marketing of a plane never designed for general export. State's program has been undertaken without reference to established USAF inventory requirements, of the FX export program option.)

U.S. INVENTORY DEPLETION

General Dynamics and DOD delivery schedules document the draw-down on service inventories. From the second quarter of 1982 to the last quarter of 1984, 40 aircraft will be diverted from the USAF for Egypt alone. Six planes have already been diverted from NATO purchasers for Pakistan, and others must follow to fill that contract for a total of forty F-16s. Current projections do not take into account future sales proposals which may include Indonesia, the Philippines, Jordan, and others. Nor do they anticipate the effect of sales of the "J79" export model of the F-16. Those planes incorporate a less powerful engine, but will necessitate pulling standard F-16 fuselages off the production line and out of projected inventories. DOD planners report that FMS programs to date "have required the diversion of USAF production aircraft and logistic assets at the expense of USAF readiness." Continued acceleration of the F-16 sales program can only result in a further deterioration of USAF readiness.

The FMS-induced shortage goes beyond the problem of diversion of completed F-16s from our own inventories and those of our allies. The crucial areas of maintenance and

support also have been affected by the FMS program. Accelerated sales have reduced already low parts inventories, especially for systems with long lead times. The avionics packages, ejection seats, F-100 engine spares, and engine accessories cannot be acquired on an accelerated basis from subcontractors due to their complexity and the limited production capabilities. Air Force and DOD reports document the fact that "diversion of USAF spares will have a particularly dramatic impact on our F-16 support posture" leaving the Air Force "critically short of spare parts to support our own peacetime and wartime commitments."

USAF program reports describe the Venezuela sale as "a contractual and administrative nightmare." They note that the only source of spares will be USAF inventories, and that such "borrowing" will be "costly and difficult to manage". They also point out that the "drastic acceleration" of the Pakistan sale "has had, and will continue to have, significant impact on USAF management activity and support."

Only 67 percent of the nearly 470 USAF F-16s were operational during the first part of 1982. Air Force spokesmen acknowledge that 1983 readiness will be even lower as parts and maintenance support are spread thinner. The full impact has not been reported to Congress, as required by the Arms Export Control Act.

MANPOWER DRAIN

As costly and debilitating as aircraft and spare part diversions have been, a greater threat to U.S. force structure may result from the manpower drain caused by the need for technically trained personnel to support the FMS program abroad. Air Force staffing justifications describe the "extensive training" of some two years which is necessary to bring the skills of maintenance personnel to a competent level in the complex and essential jobs of providing logistical support for the F-16s. Advanced avionics such as communications, navigation, radar, and weapons systems require skilled electronic technicians with "comprehensive training plus operating experience" to assure combat readiness and absolute reliability. But Air Force officials acknowledge serious retention problems in these categories of specialists, placing the service in the position of being unable to comply with DOD Directive 1130.2 which requires "self sufficiency in maintaining and operating new systems" within twelve months of introduction. Former Air Force Secretary Hans Mark was blunt about this problem when he told the Wall Street Journal that "Airplanes don't fly because we don't have maintenance people."

Congressional action to provide special reenlistment bonuses for key technical positions within the armed services has improved the trend line, but 1981 figures reveal that only about one-third of the new technicians sign up for a second tour. Moreover, Air Force officials are concerned that General Dynamics incentive bonuses may be an attractive lure for Air Force-trained technicians, thereby undercutting the congressionally-initiated bonus system.

DOD officials point to the accelerating FMS program as the principle cause of this manpower drain. They warn that sales to developing countries that have little technical infrastructure create a demand for skilled personnel which private contractors satisfy by hiring away new USAF specialists. In fact, Air Force internal assessments of the foreign sales programs describe "heavy dependence" on private contractors. For the Egyptian sale alone, 130 technicians will be needed. General Dynamics has told DOD officials that part of that force will be made up of personnel acquired from Air Force ranks. One DOD report concludes that "GD will undoubtedly backfill the vacant flightline personnel positions with recruits from the USAF with F-16 experience. The faster the pace of the F-16 FMS case, the faster the F-16 base maintenance capability will be degraded."

As a result of the F-16 FMS sales program, the Air Force finds its manpower needs compromised in several ways. Most importantly, the USAF ability to maintain our own force capability is reduced because some Air Force technicians must be sent overseas to train and assist private contractors and locals in servicing foreign-owned aircraft: this at the expense of U.S. readiness. In addition, government investment in new trainees is not being recouped and attempts to build a corps of experienced personnel are frustrated when private contractors hire away recruits for services which the government must then rent back at the contractors' price, causing "turmoil in the USAF personnel system."

Finally, the service loses control over uniformed personnel. An independent study conducted for DOD warns that "continuing reliance on civilian technicians means that maintenance skills are not being successfully transferred from the producers to the ultimate users of the systems" i.e., the USAF. Moreover, the study points out that "the Military Departments do not have statutory authority to compel [contractors] to perform any function in support of forces engaged in conflict." This poses a danger to U.S. military capability during wartime.

Along with endangering U.S. readiness, F-16 sales to developing countries raise special problems. A recent Congressional Research Service White Paper characterized the sale of high-technology weapons systems as "increas(ing) the likelihood of the Soviet Union obtaining them, or information about them, and performing reverse engineering or developing counter-measures." This is especially true of the F-16s and the advanced missile systems which they will carry. Our experience in Iran where news reports allege that the Soviets gained access to F-14s and the U.S. air-to-air Phoenix missile is the most recent example of the compromise of U.S. technology vital to our ability to maintain a qualitative edge over the Soviets.

The security risk is particularly evident when the purchasers do not share U.S. goals or perceptions of the security threat. For example, the Administration has justified the sale of F-16s and a sophisticated air defense system to Pakistan on the grounds of the Soviet threat, particularly the threat emanating from Afghanistan. Yet 80 percent of Pakistan's army is located at, or near the Indian border, where it also maintains its air bases. Continuing Pakistani research on nuclear weapons development contravenes official U.S. policy, and raises questions about the sale of an aircraft that can be used as a nuclear delivery platform, such as the F-16.

The Pentagon shares the security concern associated with the F-16 sales to Pakistan. On November 29, 1982, a dispute erupted between the U.S. and Pakistani governments over the avionics configuration of the F-16s Pakistan had purchased. The Pakistanis believed they were purchasing the standard U.S. Air Force F-16, and refused delivery of the first six when they found out they would not receive state-of-the-art electronic equipment for detecting enemy ground and airborne radar. The New York Times reported on November 30, 1982, that U.S. Air Force officials "did not want to provide the advanced equipment because of the need to protect its security. The Pakistanis were being offered a less advanced system."

However, the Administration overruled these USAF objections and agreed to provide the most sophisticated version of the F-16 to Pakistan. This turn of events precipitated concern on the part of the Congress that the original FMS notification submitted by the Administration did not indicate that Pakistan would receive state-of-the-art U.S. avionics equipment.

Venezuela is another example of potential differences between the U.S. and a recipient as to perception of security threats. Venezuela is embroiled in border disputes with Colombia and Guyana. Its declaration of a role as "regional protector" following announcement of the purchase of F-16s represents a quantum leap in the regional arms race beyond the capabilities of the MiG-23s in Cuba which U.S. officials used to justify the sale. The net effect of sales such as these is a diminution of U.S. combat readiness in favor of building foreign arsenals over which we do not have control, and which may harm our own security and that of the region.

THE PAKISTAN SALE

In many ways, the sale of 40 F-16s to Pakistan is the classic example of an arms sale "gone wrong." The elements are as follows:

First, the Congress approved the sale on the basis that the bulk of the $1.1 billion in financing would be provided by Saudi Arabia. However, on November 30, 1982, the Administration submitted a reprogramming notice to the Congress for FMS credits in the amount of $150 million for Pakistan. Of that amount, $120 million was to be used for payments on the six F-16s due in Pakistan in mid-December. In the reprogramming request, the Administration did not state from what country, or countries, FMS credits would be reallocated.

Because the Saudis were not forthcoming in financing the first six F-16s, their participation in future funding of the program has been called into question. Since it is apparent that Pakistan will not be able to repay the FMS loans made available for the F-16 program due to its already burgeoning external debt, the burden may fall on the U.S. taxpayer. Potential U.S. taxpayer exposure for the Pakistan program could be $1.1 billion.

Second, the delivery of the first six F-16s on an accelerated basis resulted in a diversion from Dutch and Belgian inventories in order to repay the United States for the six delivered from our inventory. Since the Administration has agreed to an accelerated delivery schedule for the entire Pakistan program, further diversions are likely.

Third, in light of the growing manpower problems in the USAF to service our own F-16 requirements, the Congress should be concerned over the issue of U.S. technical support for the Pakistan program.

Fourth, despite the Administration's justification of the sale on the basis of the Soviet threat to Pakistan, it should be obvious that President Zia remains concerned primarily about the traditional rivalry with India. Recent news accounts alleging that the Indian military may be considering the option of a preemptive strike against Pakistan's nuclear facilities reinforces the view

that the long standing enmity dominates the perceptions of both countries.

Fifth, the fact that the USAF was concerned over providing state-of-the-art avionics equipment to Pakistan for fear it would be compromised, only to have these concerns brushed aside by the Administration, should not be taken lightly. Legitimate Pentagon concerns were overridden by an Administration which determined the necessity to make a "symbolic gesture" to Pakistan—a gesture which may prove to be contrary to U.S. interests.

And finally, from the very beginning, Pakistan dictated the nature of the F-16 program for that country. It dictated the time of delivery, terms of the sale, the financing arrangements, and the kind of equipment which was to be provided. Every essential element of a legal contract was dictated by the Pakistan government.

CONCLUSIONS

The proliferating sales of top-of-the-line U.S. military technology to developing countries raise many issues even beyond those discussed in this study of the F-16 program. Arms sales are an important tool of foreign policy. However, they are tools which require discrimination on the part of the United States as a supplier. Bending to foreign demands before meeting our own legitimate security requirements only jeopardizes the national consensus which now exists regarding defense spending. As the fighting last summer in Lebanon between Israeli and Syrian forces demonstrated, the U.S. maintains as significant qualitative edge over some quantitative advantages enjoyed by the Soviet Union in their weapons systems. Yet the Administration has allowed itself to be maneuvered into a position of jeopardizing this qualitative edge by succumbing to the demands of Third World countries such as Pakistan.

The political advantage the Administration perceives in allowing a country such as Pakistan to dictate the nature of the technology we make available has to be weighed against what should be paramount in U.S. arms policy—the protection of this technology against compromise. The F-16s being provided Pakistan contain state-of-the-art U.S. Air Force technology. Soviet AWACS and fighter interceptor capabilities are hampered by the current lack of this technology. If a decision is made to provide the Pakistanis with either the AIM-9L or AIM-9M air-to-air missile for their F-16s, the Soviets would have an even greater incentive to obtain technology we are making available to President Zia's government. The AIM-9L and the more sophisticated AIM-9M, now being developed, have an all-aspect capability. In other words, interceptor aircraft do not need to maneuver behind a hostile aircraft to score a kill. The Soviets have not yet been able to develop this capability which is vital to offsetting larger numbers of enemy aircraft.

The Soviets have been careful as to which weapons systems, particularly aircraft, they make available for export. An advanced Soviet export fighter is the MiG-23 Flogger, which is of 1967 vintage. However, the export version contains less sophisticated avionics equipment than those MiG-23s in the Soviet inventory. The more sophisticated Soviet fighters are not available for export at this time.

It is ironic that an Administration which has pressed our NATO allies to control the types and flow of high technology items to the Soviet Union would engage in an aggressive arms export policy which put top-of-the-line U.S. military equipment advances at risk. Earlier this year, the Senate Governmental Affairs Permanent Subcommittee on Investigations issued a report warning that the Soviet Union dedicated "substantial resources to highly focused attempts to secure American technology and was increasingly adept at acquiring this technology."

The pressure the Administration has exerted on our allies regarding the technology transfer issue has placed additional strains on the alliance. However, the Administration's credibility in this matter is strained considerably when it pursues a policy resulting in the global proliferation of high technology military equipment, such as the F-16s, over which we lose direct control once it is sold to another country.

Along with the Administration's aggressive policy of transferring high technology weapons into the Third World, there also has emerged a new arms sale lexicon. In the case of the AWACS sale to Saudi Arabia it became a "litmus test" of our relationship with that country. And as the Pakistanis maintain, the F-16 sale to their country is a "symbolic gesture." Neither the "litmus test" nor the "symbolic gesture" are criteria to be found in the Arms Export Control Act. Yet this terminology used to justify high-technology sales to countries such as Pakistan and Saudi Arabia is irrefutable evidence of a policy which is clearly "the tail wagging the dog." Recipient countries are now dictating the terms of major U.S. arms sales. Meeting U.S. defense requirements and protecting the qualitative edge we enjoy over our major adversary in the world—the Soviet Union—should be the paramount national security concern of our government. However, in the name of "litmus tests" and "symbolic gestures" the Administration has placed this technological edge in jeopardy. What concerns our military personnel above all else is having to face a potential enemy that has comparable avionics and missile capabilities to our own. They know the potential enemy has an edge in numbers which can be offset only by superior U.S. technology and the qualitative advantage it confers.

It is incumbent upon the Congress to reevaluate completely our arms sale practices and the legal underpinnings which support them in light of the developments outlined in this study. The reevaluation would, of necessity, involve review of the present adequacy of procedures contained in the Arms Export Control Act which has historically defined congressional involvement in this critical area of foreign policy.

Mr. BYRD. Mr. President, I reserve the remainder of my time.

I see that Senators PELL, BIDEN, and SARBANES are in the Chamber. I yield the floor, but I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I support the distinguished Democratic leader and express my agreement with the arguments he has put forth, the points he has made.

I wish to express my deep concern over our administration's conventional arms transfer policy. I do so because this administration's arms sales policy is excessive and contradicts this Nation's historical commitment to restraint in the arms trade; 50 years ago, the exploding growth in the arms trade and the rise of militarism in Europe generated a widespread criticism in this country similar to today's public concern over the proliferation of nuclear weapons.

Following the "Report on the Munitions Industry," or the Nye commission report as it was more popularly known, Congress responded in 1935 with a bipartisan effort which led to the enactment of the first in a series of major laws regulating military transfers.

World War II and the period of reconstruction saw the emergence of a policy designed to strengthen U.S. security by providing our close allies with weapons sufficient to combat aggression and protect our shared interests. Gradually, as the economic condition of our allies improved, grants under the military assistance program—MAP—were replaced by sales for the same carefully limited purpose.

In 1968, Congress passed the Foreign Military Sales Act in order to provide a framework for weapons transfers as a policy instrument. That legislation discouraged U.S. sales to countries demonstrating a poor record of promoting democratic traditions. The new law also restricted weapons transfers solely to purposes of self-defense and denied sales to countries where scarce resources were better directed toward economic development.

Unfortunately, despite these constraints, the United States became caught up in the global arms spiral that resulted in a quadrupling of the world's dollar volume of arms trade between 1965 and 1975. But once again the Congress acted in a spirit of concern. In a bipartisan effort to restrict the trend and to make arms transfers an integrated part of overall U.S. foreign policy, Congress enacted the Arms Export Control Act of 1976. As that title clearly, states, the act represented a change in emphasis from sales to control. In the new law's opening paragraphs, Congress directed that:

It shall be the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war and to lessen the danger of outbreak of regional conflict and the burdens of armaments. United States programs for, or procedures governing the export, sale, and grant of defense articles and defense services to foreign countries and international organizations shall be administered in a manner which will carry out this policy.

To achieve that goal, the Arms Export Control Act provided for major changes in the way arms sales were to be determined. In particular, the act established extensive reporting requirements to reflect the strong congressional desire for increased participation in the formulation of military assistance sales policies and programs.

In addition, the act directed that the executive branch weigh certain issues in making any transfer. These included consideration of the following:

Possible third-party transfers and the associated risks;

A recipient country's policy relating to terrorism;

A recipient country's record in human rights;

The ability of the recipient country to shoulder the significant financial costs of such arms transfers from the United States.

Regrettably, in its push to sell an increasing number of our most sophisticated weapons to a growing list of developing countries, the current administration has cast aside the historical American commitment to restraint. Indeed, as the study compiled by the staff of the Democratic Policy Committee points out, the tenets of the Reagan administration's policy directly conflict with the guidelines established in the Arms Export Control Act. Specifically, an aggressive program of arms sale promotion undermines the guiding principle that the United States should exert leadership in the world community to bring about arrangements for reducing the international trade in the implements of war. In application, the administration's policy has undermined the act in the following ways:

By discarding previous guidelines in favor of a wholly flexible, case-by-case determination for each proposed sale. This has led to inconsistencies in a program where the only predictable elements are steady increases in both the quality and quantity of weapons sold.

By depleting U.S. service inventories, and those of our allies, through accelerated sales of high-technology items to Third World customers.

By jeopardizing the pool of trained technicians available to the U.S. Armed Forces by creating conditions under which private contractors hire service personnel to provide support for weapons systems transferred abroad.

By ignoring the relationship between conventional arms transfers and nuclear proliferation, as in the case of Pakistan.

By failing to fulfill the mandate of Congress that the United States exercise leadership in seeking multilateral controls on global arms trade.

And by exposing the American taxpayer to billions of dollars in potential future bailouts for Third World countries which have purchased lavishly expensive weapons but which may be unable to meet payments on already onerous debt burdens.

Mr. President, I congratulate the distinguished Democratic leader for having commissioned this study. I think the release comes at a particularly opportune time, and I join him in pressing for legislative remedies to get the United States back into the business of arms control. rather than in the business of arms proliferation.

Mr. SARBANES. Mr. President, I am pleased to join the distinguished minority leader and the ranking member of the Foreign Relations Committee, the Senator from Rhode Island (Mr. PELL), and my committee colleague, the Senator from Delaware (Mr. BIDEN) in addressing this issue, which has been of longstanding concern to many of us, both inside this body and outside, and in pointing out the dangers inherent in the administration's arms sales policy.

It is clear, I believe, that the President's program has gone far beyond the intent of the Arms Exports Control Act of 1976. The President has characterized his program as flexible, but I think it would be more accurate to describe it as an aggressive policy of arms sales promotion around the world, particularly with respect to the developing nations, a policy with uncertain and unpredictable consequences for U.S. security and foreign policy.

I want to look at this policy for a moment in broad terms. I have been increasingly concerned by what has appeared to be a trend but is now obviously a focused policy of this administration to militarize our foreign policy.

Recent testimony before the Foreign Relations Committee on the administration's budget submission indicated that the administration is continuing to increase significantly the military assistance portion of the international security assistance programs.

I will take a moment or two to talk specifically about that part—the military assistance portion of the international security program. That does not touch on the cash arms sales taking place, which represent a much larger amount, somewhere in the range now of $15 billion.

I wish to look for a moment, though, at the more limited area of the security assistance programs where the United States provides assistance through the Federal budget to other nations both in the military and in the economic area.

In fiscal 1981, the security assistance programs in total were $5.3 billion, of which $3.2 billion were military—FMS sales, MAP, (the military grant program) and IMET (military education and training program).

In fiscal 1982, the first budget of this administration, the figure for security assistance jumped from $5.3 billion to $7.2 billion, of which $4.1 billion was military.

In fiscal 1983, the administration sought to go to $8.8 billion, of which $5.9 billion would have been military. In acting on this request Congress in the continuing resolution for fiscal 1983 provided $7.8 billion for all of the programs, of which $5.1 billion was for the military programs. The fiscal 1984 request of the administration has now jumped from that $7.8 billion figure appropriated by Congress in the continuing resolution to $9.2 billion (an 18-percent increase) of which $6.2 billion will be military.

So between fiscal 1982 and fiscal 1984, the administration has expanded the program by $2 billion, and all of that is on the military side. These figures are summarized in the following table:

U.S. SECURITY ASSISTANCE PROGRAM

[In billions of dollars]

	Fiscal year				
	1981 (actual)	1982 (actual)	1983 (request)	1983 (continuing resolution)	1984 (request)
Military [1]	3.2	4.1	5.9	5.1	6.2
Economic	2.1	3.1	2.9	2.7	3.0
Total	5.3	7.2	8.8	7.8	9.2

[1] Includes FMS sales, MAP, IMET.

In addition to this sharp increase in the military components of our security assistance program, the administration has now begun to include a great many more nations in the MAP, which is a grant program. In fact, the increase in the amount for that program is 157 percent from last year's continuing resolution to the request for this year. Of course, this only underscores the point made by both of my colleagues that the financial burden we are throwing on many countries by our arms policy is creating a serious economic problem, raising the question of whether they will able to repay the loans.

In effect, the administration is now acknowledging that increasing problem by moving to shift the program from loans to grants. This trend counters the concerted effort, in part at the direction of Congress, to reduce the number of countries receiving military grants; an effort which had succeeded in reducing that number to just a handful.

The administration in the budget submitted for this year proposes to give grant military aid to more than 20 countries.

Within the security assistance requests in the budget, the administration request for fiscal 1984 represents a 21-percent increase over the amount appropriated for the current fiscal year in the foreign military sales, military grant and IMET programs.

This request for a 21-percent increase comes at a time when Congress is forced by the economic circumstances confronting this country to deal with a budget which on the domestic side provides for cuts or hardly any increases, and with respect to our own defense budget calls for a 15-per-

cent increase. I might note that the question of whether a 15-percent increase is called for in our own defense budget is now an issue of much debate in Congress.

That issue, which has drawn so much attention and comment, should be contrasted with the fact that in the foreign military sales and grant programs, the administration is asking for an increase of 21-percent, almost half again as much of a percentage increase.

I am not sure this is fully appreciated. But the fact of the matter is as we deal here with these difficult budget questions—the amount by which our own defense budget should increase, the amount by which the domestic budget should be cut—we should recall that the administration is asking for a 21-percent increase with respect to military assistance programs for other countries.

The administration's request for development assistance reflects only a 4-percent increase while the request for economic support aid reflects an 11-percent increase. While both exceed what is being done with respect to many domestic programs the contract with the 21-percent increase in foreign military aid is sharp.

In short, all of the items in the administrations budget requests, taking them all across the board—the domestic programs, our own defense budget, our efforts to provide development assistance abroad, our efforts to provide economic assistance abroad—the item that most looms out of proportion is the proposed 21.2 percent increase in the military assistance programs, with respect to other countries.

This is a dramatic demonstration of the shift in our policy abroad toward military assistance and away from economic support, one of the problems discussed in this very fine staff study by the Democratic Policy Committee.

Further, I am deeply concerned that the administration has not been able to articulate a strong rationale for this fundamental and accelerating shift in policy that places a greater share of our resources in military aid abroad, nor has the administration offered a rationale for allowing such an enormous increase in this component of the budget at the same time that we face restraint and austerity with respect to the other parts of the budget.

Mr. President, there is one point I particularly want to note. When the F-16 sale to Pakistan was considered, in our minority report on that sale questions were raised about the transfer of top-of-the-line U.S. technology to countries where the security of that equipment could be compromised. The distinguished minority leader was touched on this point, and it is contained in the current report. I think it is an extremely important point. We enjoy a technological advantage in advanced weapons systems, and should that technology be compromised by gaining access to this equipment and by reverse engineering it obviously allows others to develop countermeasures to deal effectively with our systems. It is a matter which should and must be of very deep concern.

Mr. President, the legislation that is being prepared for introduction by those participating in this discussion addresses many of the concerns which have been outlined well in the staff study. These steps would include congressional approval for all major arms sales over $200 million. The number of those sales has jumped in a disturbing fashion in the last several years, and we really have a situation in which U.S. arms sales policy appears to be out of control.

This is a very important issue, with very serious implications for our foreign policy, and our national security policy. Clearly it is relevant to the whole debate over priorities which is now dividing the country, and I frankly find it difficult to understand how the administration can be seeking increases in the military assistance programs significantly in excess of the increases they are seeking in our own defense budget, leaving aside the contrast between the increases they are seeking in those military assistance programs with what they are doing to a whole range of domestic programs in this country, programs vital to the health and the education and the well-being of our people.

I want to commend the minority leader for the leadership he has taken with respect to this issue, acknowledge the contribution of those who prepared the staff report, and say that I hope this will begin to focus attention on an issue which certainly deserves action by this Congress and the country.

I yield the floor and reserve the balance of my time.

RECOGNITION OF SENATOR BIDEN

The PRESIDING OFFICER (Mr. PRESSLER). Under the previous order, the Senator from Delaware is recognized for not to exceed 15 minutes.

THE FINANCIAL IMPLICATIONS OF THE ADMINISTRATION'S FOREIGN MILITARY SALES PROGRAM

Mr. BIDEN. Mr. President, let me begin by apologizing for my voice. I have had difficulty speaking this morning, which gave a number of my colleagues a sense of solace but I will attempt to speak very briefly to the issue that the Democratic leader and the Democratic leader of the Foreign Relations Committee have addressed from a slightly different perspective.

Let me say at the outset that I would like to associate myself with the remarks made by my three colleagues who have spoken on the subject already and I would like to compliment highly the Democratic Policy Committee for what I believe to be one of the best reports I have been associated with in a long time. It was a piece of good work and scholarship and I commend it to my colleagues.

I also would like to thank the members of the Foreign Relations Committee staff, particularly John Ritch, for the efforts and expertise he has brought to bear in helping me particularly both to understand and to become associated with this issue.

Mr. President, my colleagues have pointed out the need to return to an arms export policy of restraint rather than one of proliferation as has been the case under this administration. Let me address, if I may, another dimension of the administration's program which demonstrates a cavalier disregard for the American taxpayer.

The administration's arms proliferation policy has failed to take into account the financial impact of unrestrained arms sales on the economies of the developing countries, not merely our economy.

In our joint statement, we raised the issue of the impact of these sales on the already burgeoning debt problems of Third World countries. For example, Pakistan alone spends 29 percent of its budget on debt service. Yet, we have sold them $1.1 billion worth of F-16's and associated support services. At the time this sale was sent to Congress, we were assured that our good friend Saudi Arabia would provide the bulk of the financing. Yet, when it came time for the first six F-16's to be delivered to Pakistan, the administration had to reprogram—that is a fancy word for "come up with money"—had to reprogram $120 million in U.S. funds to pay for the aircraft. In other words, the Saudis were going to come up with the money for the Pakistanis, since they do not have the money, but then in order to make our sale to the Pakistanis go through, we had to go into the American Treasury in effect to pay for the sale we were about to make to the Pakistanis, and to the tune of $120 million.

Since it should be obvious to everyone that there is not any way Pakistan can repay these loans, at least nothing that I am aware of in terms of the future and immediate economic future of Pakistan—I wish them well, but the fact of the matter is they, like many Third World countries, have been very badly damaged by the state of the world economy and their economy was already in trouble before the world went into a recession—the American taxpayer likely, in my view, could be stuck with a $1.1 billion bailout if the

Saudi performance thus far is any gage of what we can expect from them. Obviously the Saudis can change their tune. If we take a look at oil prices today I do not imagine that the Saudis are going to find it easy, particularly if the oil price continues to drop, to pick up the $1.1 billion tab to pay to the United States for aircraft we are transporting and selling to Pakistan.

Other countries are already in default on foreign military sales loans, and further rescheduling of payments is anticipated.

For those in the public at large who will read this statement or be aware of it, "rescheduling" is another way for us to say that American taxpayers, we the people who pay the taxes, may ultimately have to pay for this.

Turkey, for example, has not paid its foreign military sales debts since 1978. I am not suggesting that Turkey is a bad country or that Turkey is trying to bilk us. I merely want to point out Turkey is incapable, because of her serious economic situation, to carry the burden of their obligations. There have been four reschedulings of over $400 million in loans to that nation since 1978.

According to the General Accounting Office, U.S. officials have admitted that Turkey's debt service payments will climb after 1983 and will create continuing difficulties for that country in its ability to repay us and its other creditors. Despite these facts, the administration is seeking a near doubling of U.S. military assistance to Turkey for fiscal year 1984.

According to the GAO, there are 12 other countries on the FMS danger list, in addition to Turkey.

Yet, while FMS loans are increasing under this administration, the FMS guaranty reserve fund, for which Congress provides appropriations to cover potential loan defaults is now at a new low. OMB officials admit that the available reserves may go below the statutory trigger of $750 million later this year. As a matter of fact, OMB projects that a total of $785 million is expected to be paid out of these FMS reserves for fiscal years 1984 through 1987 to cover projected loan reschedulings.

If we were operating a bank, and the bank examiners came in and examined many of these FMS loans, they would declare that these loans, in fact, were in default and they would declare that they are bad loans and not likely to be repaid, and we would, as bankers be required to respond accordingly.

But we are not faced with that realization, that coming up against the truth like that such as a commercial banker would be. The administration plans to continue the policy, which we are able to do under the law, of bailing out these FMS reserves for fiscal years 1984 through 1987 to cover these projected loan reschedulings.

In addition, a request for appropriations of $250 million will be required for fiscal year 1988 to cover projected defaults during that year. Despite this fact, the administration has not—I emphasize "has not"—sought appropriations to increase the reserve, thereby confronting the Congress with the possibility of an emergency request to keep the fund in compliance with the statutory trigger. I think it is time we alert the American taxpayers to the fact that they may find themselves called upon to cover the costs of arms purchased by developing nations around the world. It is a bitter irony that we should be called upon by this administration to pay the costs of these loans while domestic loan programs for higher education, small business, and a host of other important domestic needs are being cut by this administration.

I have been impressed with the fact that we spend a great deal of the Senate's time debating the relative merits of particular weapons systems to be procured for our own Armed Forces. I think it is appropriate and necessary that we do so. However, I want to suggest that we should apply the same criteria to the kinds of equipment that we sell—not merely that we purchase for ourselves, but that we sell abroad. In particular, we ought to weigh the contribution that foreign military sales make to our own defense and security, and that we must consider the real costs of these sales. I do not believe the administration has given even the remotest consideration to these issues in pursuing its current policy. The 1984 budget request offers little hope of improvement.

Therefore, it is incumbent upon the Congress to address these issues and develop the necessary remedies to a policy which is obviously out of control. That is why I join my distinguished colleagues in recommending the Policy Committee's study to you as making an important contribution to the critical issue of arms sales abroad.

In conclusion, Mr. President, it really comes down, basically, to a truth-in-lending policy. I think if the administration feels these arms transfers are so vital and so important to our security interests that it should come right up front and acknowledge the low probability of repayment.

We spend here, I say to my friend from West Virginia, hours and hours debating about students who do not pay back loans of $2,000 and should we have ever given it to them in the first place; was it reasonable to expect that they would pay it back? We offer that as a justification for curtailing a program to allow people access to higher education. We argue and argue about that.

Why can we not have the same sense of forthrightness and honesty about the loans we make to the other countries? It may be, but I doubt it, personally, that American security is so involved in arms transfer policies that we conclude, (a) that it is necessary to transfer x millions of dollars' worth of arms to that country and, (b) to acknowledge that the American taxpayers are going to pay for that. If that is the case, let us face it directly.

If we do not face this problem now, we are going to be facing it 2, 3, 4, and 5 years down the road and the ticket price is going to be awfully high. We are going to be faced with little alternative but to raise the dollars and the American public is, once again, going to think, "What in God's name was that Congress doing while all of this was happening? Why didn't they know?"

One of the purposes of the report that the Democratic leader has introduced today and the legislation that will follow is that we are putting the American public and our colleagues on notice: The bill is going to have to be paid. We had better look at any future commitments and we had better be prepared to ante up for commitments already made. People should know that.

I thank my colleagues for yielding me this time. I hope the remainder of colleagues look very closely at what is at issue.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I thank my colleagues, Messrs. PELL, SARBANES, and BIDEN for their statements, for the salient points that they have made, and for joining with me in this endeavor.

I think, in summation, what the report is saying is that we are transferring top-of-the-line items, in many instances, to countries that do not have the technicians and the capabilities of dealing with that kind of equipment.

Second, we are draining off our own reserves and the reserves of our allies, and in doing so we are selling ourselves short. We are not contributing to stability in the other parts of the world and we are not contributing to our own national security.

As Mr. SARBANES, Mr. PELL, and Mr. BIDEN each pointed out, in the final analysis the American taxpayers are going to pay the bill on many of the loans that are made. I think it is time for the American people to know this. I think Mr. BIDEN and Mr. SARBANES were both right in their references to the debates that are occurring with regard to our own defense spending and the domestic programs that are being cut in America and yet the fact that there is this hemorrhage of arms flow, in many instances to underdeveloped countries, which the taxpayers of America eventually will have to pay. I

think these are important points and I compliment those Senators, and Senator PELL, on the study that they have given to this subject.

I compliment the Democratic Policy Committee staff, under the leadership of Mr. Liberatore, which has put this report together. I hope it will be read by our colleagues and by the press.

Mr. President, I previously had asked unanimous consent, and it had been granted, that a portion of the report which dealt with "F-16 Sales Abroad: A Case Study" be printed in the RECORD. I ask unanimous consent, instead, that the entire report be printed in the RECORD. I express the hope that our colleagues will read it carefully.

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

AN UNCONVENTIONAL ARMS POLICY: SELLING OURSELVES SHORT

UNITED STATES SENATE,
DEMOCRATIC POLICY COMMITTEE.

In the first full year of the Reagan Administration's promotional arms policy, the United States sold $21.5 billion worth of arms worldwide. These sales have set records for total dollar volume, levels of sophistication, and the kinds of customers involved. There is some evidence that these sales of high technology weapons could be creating serious draw-downs on United States armed forces inventories, while increasing the risk that sensitive technologies will be compromised and used against us or our allies. At the same time, their policies are undermining the ability of developing countries to deal with their growing debt burden and encouraging a new militarism in their foreign policy.

This report was initiated by Richard McCall, Deputy Staff Director and foreign policy professional for the Senate Democratic Policy Committee, and prepared principally by Kevin Nealer. It discloses the dimensions of these problems, and recommends congressional approval of major sales, along with increased oversight of arms policy formulation. It calls for recognition of the economic consequences of sales for recipients and suppliers, and for negotiations to limit sales, beginning with NATO allies. While these recommendations are not the official position of the Democratic Policy Committee, we hope they will serve as a starting point for a dialog on this issue. I encourage you to read and consider this important study.

ROBERT C. BYRD,
Senate Democratic Leader.

EXECUTIVE SUMMARY

Arms transfers play a critical role in the conduct of U.S. foreign policy. Historically, the utilization of this policy tool often has been marked by controversy between the executive and legislative branches of government. As a consequence, the role of Congress in the decision-making process governing arms transfers abroad has been institutionalized through bipartisan legislation reaching back over forty years. The most recent congressional initiative in this area is the Arms Export Control Act of 1976 which established policy guidelines aimed at creating a regime of restraint and selectivity.

However, the transfer of conventional arms through the foreign military sales (FMS) program of the U.S. government and through commercial channels (requiring the issuance of export licenses by the executive branch) has reached major proportions under the current Administration. The Administration's $21.5 billion program of arms sales has departed from the criteria established in the Arms Export Control Act, setting a new and possibly dangerous direction for U.S. policy which could be detrimental to our own security interests.

The Administration's approach ignores the lessons of recent events in the South Atlantic, the Persian Gulf, and the Middle East by encouraging an increasing number of developing countries to acquire sophisticated weapons systems. There also is a body of evidence that American munitions manufacturers are, in many instances, whetting the appetites of Third World nations for our most advanced weapons, and that acquiring these weapons has become a status symbol in nearly all regions of the world.

The Administration's arms transfer policy is built on two related misconceptions:

The global increase in the arms trade is seen through the lens of bipolar world politics as another opportunity for U.S.-Soviet competition. This view ignores the reality of a growing market in which the U.S. and the U.S.S.R. lead a long list of competing suppliers, particularly our Western European allies.

Arms sales are pictured as guaranteeing influence and extending U.S. security abroad. U.S. experience, with Iran and others argues against this theory, as does the Soviet record of failure with such major customers as China, Egypt, Indonesia, Iraq, and Sudan. While sales to NATO and other close allies who share a common security concern can enhance U.S. interests, arms transfers to the Third World do not create automatically such shared interests. This is particularly true when the perceptions of the threat on the part of the seller and recipient are not congruent. The transfer of forty F-16s to Pakistan is a case in point.

The tenets of the Administration policy directly conflict with the guidelines established in the Arms Export Control Act. Specifically, an aggressive program of arms sale promotion undermines the guiding principle that the U.S. should "exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war." In application, the Administration's policy has undermined the Act in the following ways:

By discarding previous guidelines in favor of a wholly "flexible, case-by-case" determination for each proposed sale. This has led to inconsistencies and a program where the only predictable elements are increases in both the quality and quantity of weapons sold.

By depleting U.S. service inventories through accelerated sales of high technology items to Third World customers.

By reducing the pool of trained technicians available to U.S. armed forces, due to private contractors who may be hiring service personnel away to support foreign sales.

By ignoring the relationship between conventional arms transfers and nuclear proliferation.

By failing to fulfill the mandate issued by Congress for the U.S. to exercise leadership in seeking multilateral controls on global arms trade.

By exposing the American taxpayer to billions of dollars in potential future "bailouts" for Third World countries with whom we have signed arms transfer agreements and whose ability to meet payments on already onerous debt burdens is in doubt.

EFFECTS OF THE ADMINISTRATION POLICY ON DEVELOPING COUNTRIES

The new policy of arms promotion abroad affects developing country recipients in three ways:

The level of sophistication of arms being transferred is increasing dramatically, raising the danger of regional arms races and increasing the risk that U.S. technology will be compromised or used against us or our allies.

The inability of developing countries to absorb high-cost, sophisticated military hardware, undermining economic growth and siphoning precious material and human resources away from the already burgeoning social needs of their populations.

The quantity and quality of weapons being transferred to developing countries has the potential for creating greater instability and increasing the likelihood that the recipients will respond to political problems with military solutions.

RECOMMENDATIONS

There are several responses possible within the context of the Arms Export Control Act. The procedures for congressional involvement in arms transfer policy require changes along the following lines:

1. The sales of major weapons systems should require affirmative congressional approval. This would serve to strengthen the current veto process.

2. Congress must participate in the long-term planning and policymaking objectives of the Arms Export Control Act, assuring that legitimate security and developmental needs of Third World buyers are met within the bounds of U.S. policy and economic realities. This would include automatic submission to the Congress of Defense Requirement Surveys since it appears many arms requests flow from these studies.

3. The Administration should heed the admonition in the Arms Export Control Act by seeking negotiations to impose multilateral restraint over the transfer of arms around the world. The first step should be consultations with NATO and other allies to review markets, the levels of sophistication of arms being transferred, and the impact these sales may have on regional stability.

INTRODUCTION

First in Western Europe and now in the U.S., concern over nuclear arms proliferation has caught the public imagination. Hundreds of thousands took that concern into the streets of Amsterdam, Bonn, and New York. Public pressure brought the issue to the floor of the United Nations, the U.S. Congress, State legislatures, and even town councils. It forced the Reagan Administration to begin promised arms reduction talks with the Soviets. The broad spectrum of public interest and the sense of urgency shown by so many led to fundamental change in Administration policy.[1] If good faith is maintained on both sides, this change could translate into meaningful controls and an eventual reduction of nuclear weapons stockpiles.

But the threats to peace and international security are not posed by nuclear weapons alone. Few believe that a regional conflict would start with an exchange of nuclear salvos, and many experts reject the massive surprise attack as a likely scenario for a su-

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Footnotes at end of article.

perpower showdown. Instead, the greatest threat is portrayed as a local brushfire war that expands to nuclear conflagration. Wherever it originates, the kindling for such a nuclear fire is likely to be conventional weapons. As the level of sophistication and destructive potential of these weapons has increased, so has availability. The recent tragedies of war in the South Atlantic and Middle East demonstrate that the introduction of high technology nonnuclear weapons into Third World arsenals has challenged our assumptions about conventional warfare.[2] A new generation of laser, camera, and radar guided "smart" missiles, high performance aircraft, and battlefield rocketry increases instability and the likelihood of conflict in those parts of the world already dangerously close to the flashpoint.[3]

Against this background the Reagan Administration has announced its intention to embark on the most ambitious promotion of arms sales in U.S. history. It has rejected previous guidelines and, in derogation of statutes and established practice, set out to make the trade in conventional weapons the centerpiece of its foreign policy management.[4] While conventional arms transfers can make an important contribution as a tool of foreign policy, their role has long been subordinate to notions of promoting security and the national interest in a well-crafted policy framework. In abolishing criteria are moving to a "flexible" approach to transfers, the Administration has ushered in a new era in the history of the arms race. This program has prompted Senator Proxmire to observe that the Reagan foreign policy "more than [that of] any Administration in American history, is based on a single strategic factor: arms sales. . . . We will now sell arms to anyone, anywhere, for any reason."[5]

The effort here will be to provide an overview of this policy and what it means for global security. We will need to look at the legacy of U.S. arms export policy, recent trends, underlying assumptions of this Administration, and the direction in which its policies are moving us, and others.

I. A COMMITMENT TO RESTRAINT

A. The legislative response

Fifty years ago, the growth in the arms trade and the rise of militarism in Europe generated popular criticism of weapons proliferation similar to the reaction to nuclear issues today. The 1934 publication of Engelbrecht and Hanighen's *Merchants of Death*[6] helped focus attention on the need for statutory guidelines for U.S. arms transfers. Following the work of the Nye Commission, Congress responded in 1935 with a bipartisan effort, addressing this issue by enacting the first in a series of major laws regulating military transfers.[7] World War II and the period of reconstruction saw the emergence of a policy designed to strengthen U.S. security by providing our close allies with weapons sufficient to combat aggression and protect our shared interests. As time went on and the economic conditions of our allies improved, the Military Assistance Program (MAP) grants were replaced by sales, and the European arms industry began to recover and expand. In 1968, Congress passed the Foreign Military Sales Act[8] to provide a framework for weapons transfers as a policy instrument. The legislation discouraged sales to countries demonstrating a poor record of promoting democratic traditions,[9] restricted weapons transfers to self-defense use only,[10] and denied arms sales to countries where scarce resources were better directed toward economic development.[11]

Despite these constraints, the U.S. became caught up in the global arms spiral that saw a quadrupling of the world's dollar volume of arms trade between 1965 and 1975.[12] The culmination of a bipartisan congressional effort to cope with that trend and make arms transfers an integrated part of overall foreign policy came in the Arms Export Control Act of 1976 (AECA).[13] As the title indicates, the Act represented a change in emphasis from sales to control. In the opening paragraphs, Congress directed that:

"It shall be the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war and to lessen the danger of outbreak of regional conflict and the burdens of armaments. United States programs for or procedures governing the export, sale, and grant of defense articles and defense services to foreign countries and international organizations shall be administered in a manner which will carry out this policy."[14]

To achieve that goal, the Act provides for major changes in the way sales are to be determined.

In particular, the AECA established extensive reporting requirements which the legislative history tells us were included because of the "strong desire to provide for increased congressional participation in the formulation of military assistance sales policies and programs."[15]

In addition, the Act mandates that the Administration weigh certain issues in making any transfer. These include consideration of:

Possible third party transfers and the associated security risks;

Recipient country's policy relating to terrorists;

Recipient's exclusionary policies which would discriminate against U.S. nationals on the basis of race, religion, national origin, or sex; and,

Recipient's record on human rights.

This policy guidance, in conjunction with the information requirements and the emphasis on government-to-government sales, was designed to guarantee a stronger congressional role in the arms transfer process. To assure that objective, the Act includes provision for congressional vetos of major sales.[16] While it has not yet been invoked and remains politically contentious, the legislative veto has proven a useful tool in shaping arms transfer policy.[17]

B. The Carter criteria

In an effort to supplement the policy guidance of the AECA, President Carter set forth a list of objectives for arms export policy. In his statement of May 19, 1977, Carter announced that arms transfer would continue to be an important element of U.S. policy, but would be regarded as "exceptional." Transfers which promoted U.S. security and that of our close allies would continue unchanged; NATO countries, Japan, Australia, and New Zealand were exempted from the new criteria. But sales to other parts of the world would come under special scrutiny and, for any new sales, "the burden of persuasion will be on those who favor a particular arms sale, rather than those who oppose it.[18] This standard was to respect traditional security arrangements while reflecting a new caution in transfer involving less-developed countries (LDCs).

Specifics of the Carter policy were aptly summarized in the 1981 Congressional Research Service (CRS) report to the House Committee on Foreign Affairs entitled "Changing Perspectives on U.S. Arms Transfer Policy."[19] The main points included reduction in the dollar volume of Foreign Military Sales (FMS) and MAP programs, with qualitative restrictions on weapons transfers. This meant a prohibition on introduction of new technologies into a region, development of export-only systems, or sales of systems not yet operationally deployed with U.S. forces. It also entailed tight restrictions on coproduction agreements and third party transfer of U.S. weapons. U.S. embassies would require prior approval from the State Department before assisting U.S. arms firms in marketing overseas.

Obviously ambitious, the Carter plan was unable to live up to many of the expectations it engendered. The CRS 1981 report concludes that the Carter Administration failed to make arms transfers an "exceptional" tool of foreign policy. Almost $40 billion in new arms agreements with LDCs were made during the Carter years. The Carter approach to unilateral restraint came at a time when Soviet and Western European suppliers were increasing their market shares. Moreover, the uneven application of restrictions gave rise to uncertainties about U.S. arms export policy. Exceptions to the qualitative guidelines included agreements for coproduction, and introduction of the FX as an export model fighter to fill the performance gap between the F-5E and the first-line F-15 and F-16 aircraft.

But the Carter guidelines represented a serious Executive initiative in attempting to restrain sales and bring them into the mainstream of foreign policy. The CRS report notes that:

"The Carter arms transfer policy established a more precise and systematic decisionmaking process and more specific guidelines for those in the arms sales chain. . . . This framework increased the prospect that significant proposed sales would have to go through a rigorous review."[20]

The report continued by noting that the requirement for State Department approval prior to sales promotions,

". . . increased the prospect that foreign policy makers could and *would* be able to evaluate the potential ramifications for American policy interests *before* being confronted with a formal request for a sale resulting in premature promotional actions by U.S. arms sellers."[21]

Defense analyst Andrew Pierre characterized the effect of the Carter policy in writing that it "provided a framework for an important aspect of American foreign relations."[22]

This review process led to over $1 billion in refused requests during the Carter presidency, affecting more than sixty countries. Many of these rejections prevented acquisition of inapposite high technology weapons by LDCs. The CRS report cites refusals of requests by Guatemala for F-5Es, Pakistan for A-7s, Taiwan for F-4s, and Iran for F-4Gs, as instances in which purchases of equivalent systems from alternate suppliers were not made. But the absence of multilateral controls did result in alternate purchases following U.S. refusals of aircraft sales to Argentina, Ecuador, and India. In each of those cases, a European-built product was substituted, giving weight to arguments for allied cooperation in restrictions of the market.

While Carter did begin to follow through on the AECA mandate for multilateral con-

trol talks, he failed to seek participation of suppliers other than the Soviets. These conventional arms talks (CAT) collapsed after a year as a result of what participants described as "deteriorating U.S./Soviet relations, a volatile Middle East, and an increasingly difficult political situation for the Carter Administration at home, along with bureaucratic confusion, personal rivalries, and tactical errors."[23] It was questionable whether such talks could have produced any meaningful agreement when France and the other major producers were not parties to the process.

The legacy of the Carter arms transfer policy is then a melange of successes and failures. By offering "an institutionalized framework in which hard policy decisions can be made,"[24] the Carter program moved toward integrating arms sales into the fabric of foreign policy management. Perhaps a greater commitment to multilateral controls and the requisite political will would have done more to lend predictability and credence to weapons export policy and the conduct of foreign affairs as a whole.

Despite valid criticism that Carter "stepped in front of a moving train" on arms control, his Administration did offer "a set of criteria designed to insure that a grant or sale of defense articles will be in the national interests of the United States,"[25] as envisioned by the AECA. The importance of such guidelines becomes clear when looking at recent trends and the current policy.

II. THE CURRENT CRISIS

A. Trends and methods examined

An understanding of the current Administration's policies and where they may be leading requires a look at recent developments and the assumptions derived from them. The facts are sometimes hard to come by, but an accurate reading of the situation is essential to any judgment about the direction of U.S. arms export policy.

In considering statistics on U.S. arms transfers, several caveats should be kept in mind. First, arms transfers and support services have several different forms. Most important are the FMS program sales, including loans and direct credits. These are complemented by private commercial sales, training programs (chiefly, IMET), MAP grants, leasing and use of military equipment and facilities, the excess defense articles program (EDA) and other formal and informal arrangement.[26] This last catch-all category includes programs that do not appear in conventional accountings of sales and support costs. Like some private sales and classified programs, these costs are elusive. Moreover, the costs of the FMS program itself may be understated with respect to administrative expenses and potential liabilities.[27]

Second, comparisons between U.S. exports and those of other countries also suffer form creative accounting practices which skew totals. One proposal would distill the costs of "nonlethal" supports (e.g., training and military construction) out of U.S. arms transfer totals.[28] The Administration has endorsed this device, along with the practice of comparing U.S. and Soviet transactions in isolation. Many analysts criticize this approach as disingenuous, insisting that the more accurate accounting would juxtapose Western allied transfers with those of the Eastern bloc.[29] Comparisons also suffer from "loss in translation" problems in evaluating data from other countries. Predictable barriers of secrecy and the difficulties of valuing goods and services from planned economies confound East/West comparisons. The Director of the Defense Security Assistance Agency has testified that, in Eastern bloc countries, "the whole financial structure can be artificial . . . the whole matter of pricing the equipment."[30] These murky waters have spawned very different estimates of the market.

The Administration's comparisons announced by Under Secretary Buckley at an August 2, 1982, press conference are but the latest expression of the controversy.[31] They rekindle the debate over reliance on numbers of weapons transfers as against dollar volume in measuring market shares. The Department of State report upon which Mr. Buckley's remarks were based notes that, "Each [method] has shortcomings and neither is a true measure of military capability."[32] However, the Congressional Research Service's updated analysis recognizes that "the basic utility of the dollar value of arms transfer agreements is in indicating *long-range trends* in sales activity by arms suppliers."[33] This CRS report draws upon the same sources as were available to the State Department, and combines dollar totals with a tally of systems transfers to provide a balanced view. Several important trends emerge from this latest CRS study, and other public sources.

In the first full year of its promotional arms sale policy (FY 1982), the Reagan Administration sold an all-time high of $21.5 billion worth of arms worldwide. This is more than double the previous year's total, and well above the amount the State Department had indicated to Congress at the beginning of FY 1982.

The U.S. and Western European allies continue to dominate the world arms trade in many categories of weapons systems and in total dollar volume of sales values and deliveries.[34]

Arms deliveries to Third World countries from all sources are increasing geometrically, from more than $7 billion in 1974 to more than $23 billion in 1981.[35]

Soviet arms sales are now at record levels, and Soviet transfers to the Third World accounted for about one-quarter of all arms agreements with that market in 1981.[36]

Non-traditional LDC purchasers have entered the high technology market and world arsenals are growing both in quantity and quality. Supersonic aircraft and new families of missiles are becoming standard equipment in LDC weapons inventories.[37]

B. The Reagan assumptions

The Reagan Administration has drawn some alarming conclusions from these trends. It has inflicted its bipolar view of global politics on the facts of increased arms sales and declared another arena for U.S./Soviet competition. By viewing regional problems through an East/West optic, there is a likelihood that the Administration has misread and misrepresented the potential dangers of unbridled trade in sophisticated weapons.[38]

In testimony before the Senate Foreign Relations Committee, Under Secretary of State James Buckley relied on controversial Administration totals in concluding the Soviet arms deliveries to the Third World for the period 1977 to 1980 exceeded U.S. shipments by 20%.[39] Figures from the 1981 CRS report and other sources substantiate an *increase* in Soviet deliveries of only 14%; $23.6 billion for the U.S., as against $26.9 billion for the Soviets.[40] More importantly, the CRS analysis points out that U.S. arms *agreements* with the Third World for that period exceed Soviet deals by over $3 billion.[41] (Agreements can be a better gauge of trends, since they represent commitments for future deliveries.) The State Department Special Report released by Mr. Buckley acknowledges that U.S. sales to LDCs exceeded Soviet transfers by "roughly two to one" in total dollar volume for the entire sample period.[42] The new CRS study confirms that between 1974 and 1981, "the U.S. made Third World sales in nominal terms that exceeded those of the U.S.S.R. by about $9.1 billion."[43]

The CRS report of August 1982 places these figures in perspective, recognizing the limitations of dollar estimates and systems counting. It criticizes the Administration practice of excluding $15.5 billion in FMS construction cost between FY 1974 and FY 1981, and sounds a note of caution about Administration methodology that led Mr. Buckley to say the Soviets were "clearly" in first place.[44] While the U.S. "has not matched the Soviets in terms of sheer numbers delivered in the recent four-year period," the study warns that those numbers do not "provide any indication of the capabilities of the recipient nations" because they cannot show levels of sophistication of weapons or quality of training received.[45] As one observer notes, the advent of the Reagan policy is "less evident in the costs of the arms the new Administration transferred than in their sophistication and the list of buyers."[46]

Of equal significance are the CRS conclusions concerning the role of other suppliers in the market. An economic analysis of the arms market shows it to be a fairly strict oligopoly, with high barriers to entry for the production of advanced systems, and a global clientele. The system is very much demand-driven.[47] Leading producers are the U.S., U.S.S.R., France, and other Western European countries. A recent report in the *Congressional Quarterly* noted that, "The nation that fills a void when the U.S. refuses a sale is just as likely to be U.S. allies, France or Britain"[48] as the Soviet Union. The 1982 CRS study shows that Western European exporting countries led in deliveries to the Latin American market in more categories of systems than did the U.S. or the U.S.S.R. It concluded that "(T)he major Western European suppliers have become, in the recent period, serious competitors for arms markets in every region of the Third World. . . ."[49]

Proportionally more Western European production is geared to export than is the case for either the U.S. or the U.S.S.R. France, the third largest arms producer, exports more than one-third of its production, while the U.S. and U.S.S.R. each export less than one quarter of their production.[50] While the Soviets enjoy a strong and growing market share, it no longer makes sense to cast the arms sale competition as a U.S./Soviet horse race. The Administration's insistence on that characterization ignores the other competitors and presumes that, in a larger sense, there can be a winner.

This win/lose approach is predicted on a second misconception about arms transfers: that they guarantee influence and control over the recipients. The hard lessons of recent history provide evidence for the opposite conclusion, and show the Administration's concern over "who's on first" in volume of sales to be a mistake in emphasis. The Falklands crisis found the British confronted by Argentine forces equipped with British weapons systems. That bitter irony prompted one cartoonist to depict British soldiers peering into the sky and asking, "Is

it one of ours . . . or one of ours?" The U.K. sold Argentina warships and electronics valued at $200 million over the past three years, according to a recent Washington Post article by Anthony Sampson, author of "The Arms Bazaar."[51] Sampson notes that one-fourth of the Excocet missile components are manufactured in Britain.

Whitehall's sense of embarrassment was well understood in Washington and Moscow. The U.S. has seen two of the largest infusions of its arms in the past decade—purchases by Iran and Vietnam—fail to reinforce U.S. interests or prevent regional instability. Even in the case of Israel, the U.S. learned that it exports control and the ability to influence end use along with U.S. weapons.[52] Constraints on spare parts and extra ordnance shipments are post facto remedies at best, and seldom used. Neither device offers any guarantees of behavior acceptable to the U.S.

As costly and painful as these lessons have been for the U.S., the Soviet record is even worse. With the exception of the captive clients of the Warsaw Pact, virtually every major Soviet arms customer since World War II has bitten the hand that feeds it. China, Egypt, Somalia, and the Sudan have turned their backs on the Soviets, and the policy interests which their arms transfers were supposed to secure. So too, Indonesia, Ghana, Guinea, Iraq, and India have moved away from Moscow's infuence, taking their Soviet-made weapons with them.[53]

President Ford's national security advisor, Lt. General Brent Scowcroft, argues that the issue is more complicated than influence. If you mean we are buying influence by selling arms . . . the answer is clearly no."[54] The AWACS sale offers a recent example of this dilemma, where U.S. interest and influence are not necessarily enhanced by the transfer, but would be vitiated by a refusal. Former Deputy Director of the Arms Control and Disarmament Agency (ACDA), Barry Blechman, noted that "(t)his Administration exaggerates tremendously the influence arms sales bring. It's really negative. Turning down a sale hurts your influence."[55] The "negative influence" also applies to the leverage a sale is supposed to bestow on the seller once it is made. The practical effect is that the buyer, not the seller, garners greater leverage from a completed sale, because buyers can raise questions about the supplier's reliability as an ally and source. This provides even a small purchaser with some power over the oligopoly, since political pressure can be brought to bear to play suppliers off against one another. As the Center for Defense Information observed, "The good will generated by an arms sale, if any, may only last until the next request for weapons comes along."[56]

The most important point to be made is that arms transfers are not, of themselves, the cement of influence by sellers over buyers. Common interests and shared perception of security may be enhanced by sales, as is surely the case among NATO allies. Where those shared goals and policies are not already in place, weapons transfers can create shifting dependencies and "negative" leverage. And there is nothing to suggest that they change the local perception of local conflicts; that a border dispute or factional rivalry assumes an East/West dimension for the recipients. U.S. interests are not necessarily aggrandized, nor security concerns shared, when U.S. weapons systems move abroad.

Moreover, it is unhelpful to translate comparative market standing into relative defense strength, as if contrasting the U.S. domestic arsenal with that of the U.S.S.R. The CRS report points up this direction in Administration policy; a harkening back to the Nixon (Guam) Doctrine that nations with U.S. weapons are surrogates, projecting U.S. influence.[57] Under Secretary Buckley mirrored that thinking in testifying that:

"The marginal U.S. dollar loaned under FMS to the Turkish Army or to the Thai or Pakistan Air Force is a dollar that we otherwise would have to spend outright on our own forces to do a job that the Turks and Thais and Pakistanis can do better and at less cost."[58]

While the dollars are fungible, policy interests and ideologies may not be. U.S. supremacy in arms sales to LDCs is no more a guarantor that U.S. security is being served than was the case when the Romans hired and equipped mercenaries to guard the outposts of their empire. A strong U.S. market posture only means a larger relative share for U.S. arms manufacturers in a market where each new sale by the competing supplier nations diminishes their ability to control events in the buyers' part of the world. These transfers of sophisticated arms are giving Third World regimes options which had been the exclusive currency of the more technologically advanced countries. As with any currency, its proliferation debases its value—and the influence it supposedly represents.

III. THE REAGAN ADMINISTRATION POLICY IN APPLICATION

We've seen that current arms transfer policy is built on two related assumptions: (a) the conventional weapons market is another species of U.S./Soviet arms race in which the U.S. is behind; and (b) arms sales mean influence. Carrying these assumptions into the execution of its polices, the Reagan Administration has discarded established tenets of restraint in U.S. arm transfers, and the dictates of statute. These have been supplanted by a policy without guidelines, where the only predictable outcome is an increase in quality and quantity of sales.

A. Exit the AECA

The Reagan Administration policy has been explained through two vehicles. The first expression came in the Presidential Policy Directive of July 8, 1981. Beyond that document, there has been a series of statements and testimony by Under Secretary Buckley and other Administration spokesmen which sheds light on the Directive. These sources clarify the Administration's position on the objectives announced by Congress in the Arms Export Control Act.

The CRS 1981 report concludes that, "(t)he President Directive of July 8, 1981, does not present a balanced and comprehensive reflection of the policy directions of the AECA."[59] In fact, the Directive and follow-up statements raise serious doubts about the Administration's compliance with the letter and spirit of the Act. Reviewing the most important areas, the following inconsistencies emerge:

1. Promotion, Not Control

The thrust of the AECA is to provide a framework for arms transfer policy and controls. Section 1 of the Act requires that U.S. policy aim at "reducing the international trade in implements of war."[60] The Reagan Directive announces the Administration's intention to "enhance United States defense production capabilities and efficiencies." Similarly, National Security Advisor William Clark, in a May, 1982 speech to the Georgetown Center for Strategic and International Studies remarked that, "Not only does security assistance offer a cost-effective way of enhancing our secuity worldwide, but it also strenthens our economy in general and our defense production base in particular."[61] The CRS 1981 Report notes that:

"(T)he Act does not suggest that arms sales should serve as a positive force in maintaining a strong American defense industry. This notion is somewhat contrary to the balanced objectives expressed in the AECA which recognize legitimate national security needs for arms transfers while also promoting controls and restraints so that the sales do not accelerate out of control, fueled by domestic financial factors."[62]

In the name of promoting the interests of U.S. manfacturers and serving their arguments for economies of scale, the Administration has set its course in opposition to Congress and its efforts at control. Arguments that filling the LDC demand reduces unit costs and benefits the domestic economy are both questionable ecomonics and dangerous in the implications they hold for the growth in LDC sales.[63] Such arguments fail to acknowledge that export orders are uncertain and vary greatly from year to year, making it difficult to depend on economies of scale from foreign purchases when the cost effectiveness of new weapons production is being judged. Also, the available evidence suggests that the reduction in unit cost that results from foeign orders does not provide extraordinary savings to the government in the case of most systems being produced for the domestic market.[64] Certainly marginal economies should not justify a policy of weapons proliferation inimical to U.S. interests, and an unwillingness by the Administration to comport with the basic direction of the Act should not be excused by any economic rationale.

2. Failure of Leadership: The Obligation to Negotiate

The Act specifies that "it shall be the U.S. policy to exert leadership in the world community" in limiting arms transfers. Further, it was the sense of Congress that the President should "seek to initiate multilateral discussions" and "work actively with all nations to check and control the international sale and distribution of conventional weapons of death and destruction."[65] The Reagan Administration has abdicated this leadership role. Mr. Buckley testified that he would "remain prepared to examine ways" to achieve arms control, but would not "go it alone." This mirrors the Policy Directive language that the U.S. will "retain a genuine interest" in the proposals of others.

Neither the language of the Act nor its legislative history contains a call for unilateral restraints. To the contrary, the President is obliged to seek cooperative arrangements that would lead to controls. This is not a passive posture. It requires that the President exercise traditional U.S. leadership rather than a wait-and-see approach. The law calls upon the President for something more than being receptive to another country's initiatives.

3. No Place for Human Rights

Section 301 of the AECA amends Section 502B of the Foreign Assistance Act and declares the policy of the U.S. to be to "promote and encourage increased respect for fundamental human rights and freedoms."[66] It specifically prohibits security assistance to any country "engaged in consistent patterns of gross violations of inter-

nationally recognized human rights." The State Department is unable to quantify arms sale refusals made on human rights grounds in either the Carter or Reagan Administration, but the difference in directions is clear.[67] This Administration has supported lifting arms sales prohibitions against the regimes in Argentina and Pakistan, and has increased military assistance to El Salvador and Guatemala.[68]

Beyond these actions, the Administration has sent an unmistakable message around the world that human rights issues are of less concern in current decisions on proposed arms sales. There is no mention whatsoever of human rights—either directly or by implication—in the Presidential Directive on arms sales. In his remarks before the Foreign Relations Committee, Mr. Buckley enumerated the Administration's priorities on arms sales, noting the statutory obligation to consider human rights.[69] But Administration statements elsewhere raise doubts about his commitment to those principles.[70]

4. Feeding Nuclear Proliferation

Section 305 of the Act amends Section 669 of the Foreign Assistance Act,[71] linking conventional weapons transfers to the recipient country's policies on developing nuclear weapons. The Glenn/Symington amendments banned security assistance to countries engaged in the production of nuclear material outside of international controls. That restriction has not inhibited the Reagan Administration's sale of forty F-16 aircraft and support systems to Pakistan, though it was unable to obtain firm assurance that Pakistan has stopped nuclear weapons development. Likewise, the Administration has permitted Brazil to purchase fuel from other suppliers without requiring penalties in its contract with the U.S. and has allowed a token military training program in that country.[72] Computerized process controls were sold to Argentina for use in unsafeguarded reprocessing operations, while U.S. brokers have been permitted to assist South Africa in circumventing the U.S. embargo of fuel to that country.[73] The signal to these recipients and others is a lack of U.S. interest in nuclear proliferation among LDCs.

5. Jeopardizing U.S. Service Inventories

The AECA also restricts sales which "could have significant adverse effect on the combat readiness of the Armed Forces of the United States" to an "absolute minimum." Section 21(i)(1) requires that the President report and justify any such proposed transfers to appropriate committees of the Senate and to the House. This portion of the Act reflects the long-standing U.S. policy against draw-downs on scarce items in the domestic inventories for the sake of exports. Despite lip service to this objective, the Reagan Administration practice appears to be at variance with it.

The Administration has disregarded the advice of its own experts in promoting high technology sales. Lt. General Kelly Burke, (USAF Deputy Chief of Staff for Research, Development, and Acquisition) testified in March, 1981 before the Senate Armed Services Committee that proposed sales of F-16s would not undercut U.S. needs "providing the sales are negotiated with the normal lead time requirements. . . . Specifically, a forty-two month lead time is required."[74] Later, Under Secretary Buckley told the House Foreign Affairs Committee that those same sales of the most advanced fighter plane in the world would be carried out on an accelerated basis.

Air Force internal documents substantiate the effect of these accelerated sales. They note that the sales "will have a particularly dramatic impact on our F-16 support posture," compromising already low parts inventories and the Administration's goal of preparedness.[75] Those sources also criticize the effect of the sales on production planning. Thus far, accelerated transfers have resulted in preempting delivery of six aircraft to Belgium and the Netherlands in an effort to cover U.S. inventory shortages.

Departure from its own timetable raises questions about the Administration's ability to assess and meet the needs of U.S. and NATO forces. Despite the recognized uncertainties surrounding the F-16 sales, the Administration has not reported their impact and has continued to make *pro forma* guarantees which contradict documented Air Force findings.[76] A special case study on the F-16 appears as Appendix C of this report.

B. Inconsistency institutionalized

Beyond the legal requirements and policy directions established by the AECA, the Administration has signalled confusion and unpredictability in implementing a policy without guidelines. The Presidential Directive recites a litany of goals to be pursued, but reveals more about its basic policies by what it omits. The Center for Defense information observes that the Administration has departed from prior practice by:

Abolishing the "ceiling" on the total dollar value of U.S. arms transfers authorized each year;

Dropping the prohibition on developing a weapon system solely for export;

Dropping the prohibition against introducing a newly developed, advanced weapon system creating a significantly higher combat capability in a region;

Dropping the prohibition against making foreign sales prior to operational deployment with U.S. forces; and

Rescinding Carter's so-called "leprosy letter" which instructed U.S. overseas officials not to assist private American businessmen seeking to promote arms sales.[77]

Statements made to support this approach rely heavily on one word: "flexibility". The Reagan Directive and testimony by Administration officials repeatedly call for flexibility and a "case-by-case" review of arms transfers.[78] A recent *Congressional Quarterly* report characterized this elusive standard by noting that:

"The Reagan policy contains no guidelines. Instead, all foreign requests to buy U.S. arms are to be examined 'case-by-case'. . . . In essence, if another nation is deemed to need the weapon in question, and the sale is thought to serve U.S. interests, the sale is to be made."[79]

Consistency was the much-advertised yardstick by which the incoming Reagan Administration measured the deficiencies of Carter foreign policy. That same measure applied to the totally subjective "flexible" Administration approach to arms transfers leaves this Administration far more open to criticism than its predecessor. Even *Aviation Week* has seen fit to register concern about this trend noting that "the Reagan guidelines are more a repeal of Carter human rights doctrinarism [sic] than the adoption of a new policy."[80] Without meaningful guidelines, the only predictable aspect of the Reagan program is growth—in sheer numbers of sales and, more importantly, in sophistication of the weapons systems sold.

C. Discarding fiscal restraint

Recent General Accounting Office (GAO) studies raise questions about irregularities in the FMS program, and suggest a need for caution in assessing the extent of U.S. economic commitments. In particular, a recent GAO report cites DOD for "inaccurate and incomplete estimates" of administrative costs.[81] This has occurred when the Defense Security Assistance Agency (DSAA) "directed the military services to exclude certain valid costs from their budget submissions." With "no assurance that the 3% surcharge" is covering administrative costs and DOD failure to "make an adequate and meaningful analysis" of those costs, GAO found that:

"Although GAO could not determine the total amount by which the military sales appropriations are subsidizing the foreign military sales program, the amount is known to be in the millions of dollars."

This has led GAO attorneys to issue an opinion which characterized DSAA practices as "legally improper" under the Arms Export Control Act.[82]

Of much greater importance is the liability exposure created by the FMS loan program. GAO has identified thirteen countries as being in default on interest payments.[83] This increase, up from two defaults in 1978, occurs as the reserve fund to cover such shortages has declined from $1.71 billion in 1980 to the present level of $860 million. Several countries unable to service their past debt are nonetheless objects of Administration requests for additional loans (e.g., Sudan and El Salvador). The absence of meaningful eligibility standards also generates concern as this indebtedness mounts. The manager of the Treasury's Federal Financing Bank (FFB) which oversees the guaranteed loans told the *Washington Post* that:

"I don't believe there are any requirements that the President or anyone find a country creditworthy. If the Department of Defense comes to us and says it will guarantee a loan, there's no reason for us to say no."[84]

This paractice is in conflict with the basic requirement of the Act that sales be "to friendly countries having sufficient wealth to maintain and equip their own military forces at adequate strength, or to assume progressively larger shares of the cost."

While some debts are being rescheduled, the Administration is seeking to have repayment of $950 million for FY 1983 forgiven through the direct credit program. That proposal includes loan forgiveness of $50 million for Sudan, adding it to the list of countries qualifying for what is essentially grant assistance. The Administration also proposed including 19 additional countries to the concessional repayment plan for FY 1983.

Congress has mandated that guaranteed loans at near market rates of interest continue as the primary vehicle for financing military assistance. But current practices lead critics to conclude that FMS loans are being used to fill the void left by MAP grants, which are being phased out. Administration proposals for new concessional FMS loans give added weight to these charges. So too, reliance on "cash flow" financing, which permits countries to incur obligations on U.S. arms purchases without sufficient reserves, undermines the FMS program. The effect is to paint an unrealistic picture of FMS obligations and create the potential that liabilities ultimately may

fall on the U.S. Treasury, undercutting the economic advantages these sales are supposed to confer on the U.S. economy.

IV. A MORE DANGEROUS WORLD

The effect of the Administration's arms policy can best be understood by looking at its regional application, projecting current trends through key recipients and neighboring countries. The Middle East is by far the largest recipient of all arms transfers,[85] but other areas with a history of instability are seeing tensions increase as regional arsenals grow. Africa, the Caribbean, and South Asia offer revealing case studies.

Such examples need to be prefaced by a few general observations on LDC weapons transfers. First, the current volume of transfers to the Third World is, of itself, a highly destabilizing force. The recent Iran/Iraq war is a graphic example of the scope and character of a regional dispute exacerbated by the presence of large amounts of sophisticated hardware on both sides. The introduction of high technology weapons into a region can contribute substantially to localized arms races, raising the likelihood that political problems will be answered by military solutions. William E. Jackson (former executive director of the General Advisory Committee on Arms Control and Disarmament) cautions that, by introducing high-tech arms, "Far from preventing war, you may be increasing its severity or making it more likely by making a country confident enough to push its interests. Once the political fabric is torn suficiently, war breaks out."[86] Of course the rivalries and tensions exist with or without advanced weapons systems, but the availability of those weapons raises the level of conflict and the extent of destruction.

Second, there is the related issue of qualitative increases in LDC weapons purchases. A review of delivery dates for LDC arms transfers reveals that the gap between state-of-the-art systems and LDC acquisitions has closed dramatically in recent years.[87] In an article in *Foreign Affairs Quarterly,* Andrew Pierre observed:

"Prior to the 1970s most arms sales (especially to the developing countries) were the surplus and obsolete weapons of the major powers, which they wanted to eliminate from their inventories (often as military assistance grants) so as to make room for new, more advanced weapons. Even in the early 1960s the aircraft transferred to the developing world more often than not were ten year old F-86 and Soviet MiG-17 fighters. . . ."[88]

Developing countries are no longer interested in hand-me-downs. Sophisticated weapons have become as much a status symbol as a national airline, with the added advantage of satisfying real and perceived security needs.

Increased sophistication of LDC arsenals is consonant with the announced goals of the Reagan program. Under Secretary Buckley has said:

"What we do expect to see, as our policy is applied, is a qualitative shift in the kinds of countries with which we will be concluding sales. They will include a large number of developing countries . . . with which we will want to develop a cooperative relationship. . . ."[89]

This statement and others confer legitimacy on what has elsewhere been viewed as a potentially dangerous increase in coproduction agreements with non-NATO countries, whereby LDCs acquire technical information to manufacture advanced weapons through licensing and joint venture agreements.[90] Coproduction is the most problematic aspect of increased LDC weapons sophistication, with the net result of losses to the U.S. on three fronts: (a) more sophisticated weapons in the hands of LDCs with a concomitant reduction in U.S. influence and security; (b) the attenuating of U.S. technological advances through their acquisition by LDCs; and (c) the loss of U.S. jobs and creation of an LDC competitive base. Why these disadvantages are being institutionalized in U.S. policy is difficult to understand, beyond recognizing the boost they provide to the short-term earnings of arms manufacturers.[91]

Finally, LDC arms acquisitions must be viewed against the backdrop of the recipients' economies. With LDCs buying arms at an estimated average increase in value of 25% per year, the opportunity costs to many struggling economies are formidable.[92] Each new weapons system bought can translate into social services and developmental goals forgone.[93] A recent Wall Street Journal article points out that African arms imports are eleven times the level of a decade ago, and Latin American purchases have increased by 608%.[94] Such policies receive a tacit blessing from an Administration which offered an FY 1983 foreign assistance budget request for a 44% increase in defense spending, as against an 8% increase in developmental aid.[95]

The prevailing attitude in the Administration is that the very poverty of most LDCs would act as an effective control on their arms spending. Under Secretary Buckley has said that:

"The enormous cost of modern weapons and the state of the world economy provide their own restraints on the capacity and appetite of would-be purchasers."[96]

Reliance on this economic braking system does not seem realistic, given that the Administration has encouraged greater LDC borrowing through debt forgiveness, rescheduling subsidies, "cash flow financing", and proposals for a new concessional loan window. Moreover, the military regimes that rule or exert strong influence over most LDCs have a vested interest in allocating substantial portions of their national budgets for defense purchases. Without due regard for the absorptive capacities of the recipients, the Administration's vigorous arms sale policy is helping to drive LDCs even deeper into debt.[97] Turning to regional profiles, we can see the effects of U.S. policies and those of other suppliers.

A. Sub-Saharan Africa

While the Middle East is by far the largest regional recipient of arms transfers, Sub-Saharan Africa is the fastest growing market.[98] The region is the product of colonial rule, from which some of its countries have only recently emerged. Despite some oil and mineral resources, Africa remains one of the least developed areas in the world. Economic instability and poverty are leitmotifs of African politics. So too is tribalism, a divisive feature that continues to complicate emergence of national identities. More recent sources of conflict which thread through regional issues have been the different external threats from Soviet adventurism and an isolated, powerful South Africa.

The Soviets have dominated the African arms market, with France and the U.S. following at a distance.[99] This clear lead has done little to assure Soviet hegemony in the region, as noted in Section II. While they maintain strong client relations with several states, the Soviets have failed to develop a more conventional economic and diplomatic presence.[100] The Soviet-backed Cuban forces in Angola are regarded with suspicion and concern in neighboring countries. Cuban troops in the Congo cause anxiety in Gabon, which depends upon Brazzaville's cooperation to transport strategic minerals to their markets. Most important, Soviet arms shipments to Libya have destabilized the Sahel and all of Africa, resulting in open warfare in Chad and disturbances in Sudan. The list of Soviet customers includes Angola, Equatorial Guinea, Ethiopia, Guinea, Guinea-Bissau, Mali, Mozambique, Sudan, and Uganda.[101] In the period 1974-1981, the Soviets have sent some 4,885 pieces of artillery, 1,555 tanks, and 340 supersonic aircraft to the region, along with other hardware and advisory support.[102]

The Allied share of this market has been far more modest, but still significant.[103] Western European transfers tend to follow colonial lines, with Francophobe African nations relying on the French, and former English colonies continuing military ties with Britain. The U.S. has sought to create special relationships to facilitate plans for Rapid Deployment Force capacity through the region. To that end, the Administration has proposed $165 million in FMS credits for Sudan, Kenya, and Somalia. This is part of an increased arms transfer program which anticipates a quadrupling of FMS credits from the 1981 totals of $126 million to proposed 1983 levels of $474 million.[104] As mentioned earlier, forgiveness of indebtedness incurred by Sudan and new low interest loans for six other African countries are part of this package. A parallel increase in U.S. commercial sales is predicted, from 1981 exports of less than $6 million to the region, to a 1983 estimate of $17 million.[105] The increase in volume of U.S., Western European, and Soviet arms transfers has been accompanied by qualitative increases. Few African arsenals will boast of the most sophisticated weapons systems, but recent trends show the region to be one step away from latest-generation acquisitions.[106]

This occurs against a backdrop of growing instability, largely caused by the endemic problems discussed above, but interpreted by the major powers as having East/West dimensions. Continued fighting in the Horn is a prime example. The Soviets are supporting Ethiopian leader Mengitsu in his efforts to destabilize the regime of Somali President Siad Barre, who receives U.S. backing. Factional groups in both countries create internal friction and complicate the picture. The U.S. faces the dilemma of supporting the Somali government without encouraging further incursions into Ethiopia based on Somalia's irredentist claims in the region. Another layer of complexity results from Somalia's long-time rivalry with neighboring Kenya, which is also a U.S. customer and ally. The recent coup attempt in Kenya emphasizes the uncertainty of the political situation in that country, and the persistence of tribal rivalries.[107] Factionalism and tribalism also threaten the new regime in Zimbabwe[108] and play a role in the frustrated efforts to reach a settlement in Namibia.[109]

Perhaps most important, growing domestic strife and the enmity of Black African states makes the position of Africa's largest military power, South Africa, more untenable. Friction with the border countries of Botswana, Lesotho, and Swaziland portends future violence. A Reagan Administration initiative seeking to remove prohibitions against sales of nonlethal equipment to

South African police raises questions about U.S. policies there.

The continuing upheaval throughout the region and the relatively low level of arms sophistication suggest the need for restraint by suppliers. But the quantity and quality of weapons transfers to Africa are increasing and the opportunity for imposing those controls is slipping away.

B. The Caribbean[110]

The Caribbean region, like Africa, has not been a traditional customer for sophisticated weapons. But, as in Africas, that situation is changing rapidly as the major powers introduce more arms with greater destructive potential.

The Caribbean islands and littoral states of Central and South America are politically diverse. Some of the islands remain protectorates (Guadeloupe, Virgin Islands, Puerto Rico). Others are sovereign, and retain small police *cum* military establishments which play a part in internal politics, but do not exercise a major defense role in the region (Jamaica, Barbados, Dominican Republic). The obvious exceptions are Cuba and a new regional *bete noir*, Grenada. Soviet military shipments to Cuba have increased to their highest levels since 1962,[111] and the construction of a military installation and a large airport on Grenada contribute to regional uncertainties.

Traditional border disputes among Central American neighbors continue, especially between Guatemala and Belize, Honduras and Nicaragua. But more important to the area are pervasive economic and social problems, including land reform movements and the demands for more pluralistic societies.[112] A provocative government in Nicaragua and continued Cuban intervention feed those fears. Border disputes also disrupt relations on the South American coast, where oil-rich Venezuela claims 65% of Guyana.[113] Tensions beteeen Venezuela and Colombia over illegal immigration and maritime boundaries also continue to grow.[114]

The major arms supplying nations have begun to capitalize on the demand generated by this instability. The French have concluded sales agreements with Nicaragua of $13 million worth of helicopters, missile-firing patrol boats, air-to-ground missiles, and rocket launchers.[115] This move occurs as the U.S. Administration is seeking additional arms assistance for El Salvador, including more helicopters and support services. Recent Soviet shipments to Cuba include MiG-23 aircraft, which the Administration perceives as helping to raise the regional ante.

The U.S. has interpreted regional developments, especially the growing Cuban presence on Grenada, as sufficient provocation to contract with Venezuela for the sale of twenty-four F-16 fighters, at a total cost of $615.3 million. This agreement undermines Paragraph 9 of the Declaration of Ayacucho of 1974, in which Venezuela joined with seven other Andean nations to seek to limit the introduction of offensive weapons into the region.[116] The proposed sale brought a formal protest from Guyana, and Colombia's president-elect has also expressed concern.[117] It remains to be seen whether the sale itself and Venezuelan statements proclaiming a role as regional protector will seriously damage strong U.S. ties with Colombia, including cooperation in controlling illicit drug traffic.

In the wake of the Venezuelan agreement, Peru made overtures concerning the F-16/J79; another species of export fighter which resembles the F-16, but has a more modest power plant. State Department officials privately expressed doubt about Peru's ability to finance such a purchase, and about the effect the sale would have on that country's development. As could be predicted, the F-16 sale to Venezuela has served to "break the tacit threshold on sophisticated weapons in Latin America", and make it "more difficult for Washington to turn down other nations which request the F-1."[118]

Administration spokesmen have championed the Venezuelan sale as protecting an important oil-supplying friend without overburdening its economy. A joint statement by Assistant Secretaries of State Enders and Burt recites Administation concern about the Cuban threat and again offers the argument that the sale would have gone to another supplier if the U.S. had not reacted first.[119] But former Under Secretary of State Matthew Nimetz told the Senate Foreign Relations Committee that "If Cuba gets into fighting people by air, the U.S. is going to be involved; we are not going to count on Venezuela to have an air war with Cuba."[120] Given the proximity to the U.S. and the level of conflict that an air war would represent, Nimetz's thesis seems well founded.

More important, the Administration's "us or them" posture begs the question of whether or not such weapons should be sold by anyone. Professor Pierre has underscored both the need and the opportunity for arms limitations in the whole of Latin America:

"The potential for conflict with Latin America appears to have increased in recent years, underscoring the significance of the need for restraint. The rising cost of arms and of efforts to modernize the armed forces provides another incentive. Moreover, the establishment of some qualitative ceilings on the type of arms that might be introduced into the region may be feasible, given the still relatively low level of military technology in the inventories. Latin America would also be an especially appropriate region for consultation among the suppliers. No nation has a dominant share of the arms market that it would be asked to give up. The essentially commercial competition that exists at present among the suppliers could therefore be regulated so as to ensure that political objectives, such as regional stability, are best met."[121]

Since the publication of Pierre's book earlier this year, the arithmetic of sales to the region has altered, making localized and global arms restraint policies more critical, if serious confrontations are to be avoided.

C. South Asia

In contrast to Africa and the Caribbean, the Asian subcontinent has been a major arms recipient since World War II. The U.S. provided a large volume of surplus weapons to Pakistan and lesser amounts to India as part of its post-war communist containment policy. Between 1954 and 1965, the U.S. gave $674 million in military grant assistance to Pakistan, and $95 million to India.[122] These U.S. transfers accounted for some 80% of Pakistan's armaments during that period and made the country into a "serious military power."[123] The buildup led to an arms race with India, and eventually contributed to three regional wars. The 1965 fighting over Kashmir resulted in U.S. curtailment of arms transfers to both countries. While sales later resumed, a restrictive policy remained in effect until 1975.

When Soviet troops invaded Afghanistan in December of 1979, the Carter Administration sought to accelerate security assistance to Pakistan and rebuild relations which had further deteriorated in November of that year when radicals burned the U.S. embassy in Islamabad, killing several American employees. But uncertainty about the depth of U.S. commitment led General Zia ul-Haq to reject a $400 million assistance offer as "peanuts."[124] His reticence was traceable to the fact that Carter earlier had invoked the Symington amendment denying military assistance when it became clear that Pakistan was developing a nuclear weapons capability. Nonetheless, the Carter Administration managed to rekindle bilateral security discussions with the Pakistani regime.

The Reagan Administration advanced those discussions and took them in a new direction. The result was an agreement to sell Pakistan an integrated air defense system which includes forty F-16 fighters at a cost of more than $1 billion. It generally is agreed that the purchase is supported by financing from Saudi Arabia, since Pakistan would not be able to undertake such a commitment alone. The State Department estimates Pakistan's GNP for 1981 to have been about $24.5 billion. Its balance of trade deficit runs nearly two to one: $4.7 billion of imports versus $2.4 billion in exports.[125] A recent *Wall Street Journal* article notes that the sale represents a serious burden on a Pakistani economy where 20 percent of the country's budget is spent in servicing existing debt. The article also points up the opportunity cost to a developing country such as Pakistan, where the annual per capita income is below $250.[126] More than three-quarters of the population is illiterate, and two-thirds in mud houses. In a country where only one village in five has electricity, the Secretary for Economic Affairs complains of the drain that manning and servicing F-16s will have on the small pool of educated young men.[127] Pakistan currently spends more than ten times as much on defense as on all social services combined, and Pakistani officials admit that such a misallocation is unresponsive to the felt needs of their people and creates the potential for internal problems.[128]

But the Pakistanis are unable to register any discontent at the ballot box. The Zia government promised elections within ninety days after seizing power five years ago.[129] Instead, Zia's predecessor, Zulfiqar Ali Bhutto, was executed and Zia's opponents charge that 2300 political prisoners were jailed.[130] General Zia gives no indications that elections will occur any time soon, and U.S. officials privately admit no orderly transfer of power is likely in the foreseeable future. These facts cast doubt on Reagan Administration claims that the F-16 sales will provide leverage on human rights issues, and suggest parallels with the failed U.S. policies in Iran.

More importantly, the events within Pakistan challenge the notion that U.S. arms shipments will create a relationship which will encourage Zia's government to forego its research on nuclear weapons. To date, this Administration has not made serious efforts to discourage continued Pakistani research along these lines, short of signaling U.S. disapproval of a nuclear detonation by Pakistan. The sale of aircraft which, with very minor alterations, are themselves capable of delivering a nuclear warhead is hardly tailored to achieve restraint.

Reagan Administration policies with respect to South Asia follow in the tradition of misunderstanding that has characterized the U.S. approach to security needs to the region since World War II.[131] While U.S.

policy makers have focused on the Soviet threat, both India and Pakistan are obsessed with regional issues and a pervasive mutual distrust. Time and resources have permitted India to emerge as the dominant area power, with nearly four-to-one air superiority and a domestic defense industry which employs 250,000.[132] But India has had difficulty coming to terms with its new leadership role. Old hostilities and suspicions still shape its policies. The announcement of the Pakistan sale prompted India to buy Mirage 2000s from France and begin negotiations with the Soviets for new MiGs to add to its existing inventories of French, Soviet, British, and Indian-built fighters.[133] Prime Minister Gandhi's visit to Washington was the occasion for President Reagan to offer an olive branch for U.S./India relations in the incongruous form of a proposed $1 billion artillery sale.[134] This development places the U.S. back in the uncomfortable position it was in before 1965—supplying arms to both parties.

Administration spokesmen point to the 85,000 Soviet troops caught in the Vietnam-style guerrilla war in Afghanistan as the real threat to regional security. But some U.S. officials and area observers admit that a major Soviet threat to the region is unlikely. The Pakistani government seems to share that perception; or at least to be less concerned about the possibility of a confrontation with the Soviets than with traditional rivalries. This is evident from the fact that approximately 80% of Pakistan's army is concentrated along the border with India. Pakistani air bases are also established in the east, rather than along its borders with the Soviet Union and Afghanistan. Thus, it seems more likely that current policies will feed old tensions and generate new instability in a region where a delicate equilibrium might otherwise prevail.

V. RETROSPECT AND RECOMMENDATIONS

We have seen that the transfers of sophisticated weapons to Third World countries have increased markely over the past decade. The result of these qualitative and quantitative changes is that LDCs now have unparalleled political and military options. Recently, such options have been exercised in the South Atlantic and Middle East. The potential for more and even greater instability exists in other parts of the world, and we have reviewed some regions which are shaping up as grim "coming attractions." In the face of these challenges, U.S. policy has departed from the congressional mandate of restraint. In its stead, the Reagan program of arms promotion abandons guidelines to pursue a U.S./Soviet arms sale race, where LDC buyers become surrogates for the sellers, policing seller interests with high technology weapons. Developmental goals and concern for regional stability are minimized by this policy which purports to "deal with the world as it is, rather than as we would like it to be." [135]

But "the world as it is" turns out to be a complicated, multi-polar place; a product of divers economic and political conditions. As General Wallace Nutting (Commander-in-Chief, U.S. Southern Command) noted in his testimony on El Salvador, "conditions, not communists," cause instability. Pursuit of successful foreign policy demands attention "on all fronts simultaneously: economic, political, social, and military." [136] While competition from a belligerent and powerful Soviet Union must be a central theme in U.S. relations with the developing world, there is every reason to believe that U.S. interests are poorly served when that competition is expressed in large transfers of sophisticated weapons. That course can result in a lessening of U.S. influence and freedom of action, regional instability, and misallocation of recipient country resources. It may also compromise U.S. security needs through drawdowns on scarce items in our service inventory and an increased risk of reverse engineering and countermeasure development.[137]

The alternative is to require that arms transfers be assigned a realistic role in the conduct of our foreign policy. This means recognizing the very important contribution they make as one element of a balanced approach to the security and developmental needs of key recipients, and of whole regions. It also demands that some basic multilateral restraints be applied to the trade in sophisticated weapons to developing countries, so that the collective security of suppliers and recipients will not be undermined further by competition for the market. The Arms Export Control Act provides the U.S. with a framework for initiatives on both fronts.

A. The Congressional role

The Congress determined it would play a larger role in the formulation of arms transfer policy when it passed the AECA. The legislative history noted that "Too often in the past decisions have been made with respect to security assistance without the knowledge or concurrence of Congress."[138] To "insure congressional oversight of arms transfers," the AECA incorporated requirements for annual estimates (Sec. 25), expanded quarterly reports (Sec. 36(a)), and reporting on important offers to sell (Sec. 36(b)). The 36(b) reports of major sales incorporate a notice period of thirty days. An additional twenty day informal notice prior to such submissions was agreed upon as a "tickler" system for important sales. Subsequent amendments consolidated and expanded the Sec. 25 reports, along lines envisioned by Senator Javits in amendments he had proposed.[139] Other changes have made defense requirements surveys (Sec. 26) and price and availability requests (Sec. 28) accessible to Congress.

Despite better information, it is apparent that Congress has not become a full partner to the process. Informal reviews of 36(b) submissions show that many of these sales were not included in the quarterly estimates required by Sec. 28 as price and availability requests. Most omissions seem to be uncontroversial and not prejudicial to the congressional role. But breaches of the formal and informal notice process weaken congressional oversight and the opportunity to participate in comprehensive planning. Moreover, they create the risk of an AWACS scenario in which, as Senator Robert C. Byrd noted, "a simple survey of Saudi defense requirements escalated into a major foreign policy issue for the United States without a great deal of high level attention along the way." [140]

Congress may also find that DOD and the Administration have created a "Catch 22" situation for the legislative branch through the use of the "cash flow" method of financing. This permits credits to be extended to countries which have only enough monies to meet current fiscal year cash requirements of a sale, rather than the usual demand that they set aside the total cost of the purchase at the time the order is placed. By permitting this practice, GAO warns that Congress has allowed the Defense Department to make "a deeper commitment without congressional approval for future support." [141] Congress may one day soon find itself obligated to make sales to countries when such transfers may run counter to U.S. interests.

More fundamentally, the information that Congress receives does not lend itself to use in long-term planning.[142] Staff members of the responsible committees argue that sales are presented in isolation, and Congress is asked to approve without knowing the context of the transfer. This differs dramatically from the extensive justifications which accompany bilateral and multilateral development programs. Those programs use a country plan approach to report and evaluate all aspects of recipient economies. U.S. aid levels are reviewed in terms of genuine needs and participation by other countries and international organizations.

While additional data on arms sales are available to Congress under the extended reporting provisions of Sec. 36(b), that clause has seldom been invoked, and does not include full economic analysis. Likewise, the Sec. 25 report has not been adequate for economic planning. The economic considerations embodied in Sec. 35, which would declare ineligible a country diverting development resources to "unnecessary military expenditures", have never been called into play.

The solution may be as simple as requiring that the Departments of State and Defense share with the appropriate committees the products of the military/economic reviews undertaken at the mission level. The 1978 amendments to the AECA requiring that the Administration share defense requirement surveys with the concerned committees have met with DOD resistance on the single instance when invoked: a request relating to El Salvador. Accordingly, the surveys have no systematic role in the congressional review process.[143] It may be desirable that country reports be provided through the vehicle of the regional subcommittees, in some established way. Certainly an "economic impact statement" of some kind would be a small burden; no more onerous than the one AID and IDCA now carry on developmental programs. And it would allow for a programmatic, informed approach to FMS and commercial license proposals.

Consideration should also be given to charging one staff member on each committee with responsibility for LDC arms export policies and for following the programs more carefully than is now done. The size of the programs and the security issues at stake clearly justify some full-time attention, and long-term congressional participation.

Finally, Congress would guarantee a more positive role for itself by requiring that major sales be approved, rather than relying on a resolution of disapproval, as is now the case. Senator Robert C. Byrd recommended this approach in 1977 for sales in excess of $200 million for any one country.[144] The effect would be to involve Congress in important country policy decisions without intruding into the more routine transactions that are properly left within the jurisdiction of the Executive agencies. Again, this would help to assure continuity and a longer view of U.S. policies.

B. U.S. leadership

The AECA obligation to seek multilateral controls should become an urgent priority. If the Administration genuinely is "prepared to examine ways" to control the spread of high technology conventional

weapons, the time is now. The failure of the 1977 CAT meetings with the Soviets offers some important lessons, and suggests alternatives which are more likely to meet with success.

The first step necessarily would be multilateral discussions with NATO members. Those who participated in the original CAT meetings urge that Western producers come to terms with a program for restraint and market sharing before trying to reach consensus with the Soviets.[145] Professor Pierre concurs, noting that:

"It is remarkable, in fact, that systematic foreign policy consultations among the major Western powers on developments in the Third World do not already take place, given the importance to the First World countries of what happens in some of the more volatile parts of the world."[146]

The issue has become too important to allow the objection that such discussions are beyond the ambit of European security and thus exceed the NATO mandate. The current competition among allied producers undercuts shared policy goals and prevents a unified approach. Allied nations share many objectives in other regions. That common ground ought to be explored as part of the existing collective security arrangement.

The economic interests of Western countries will, of course, be the barrier to a consensus on restraint; especially among European nations whose economies rely more on exports. But market division along geographic or product lines could offer solutions that would be economically attractive to the producers. Experiments with regional cooperative schemes may lead to an acceptable formula for the global market.

Only when the Allies can agree among themselves on a program of restraint will a serious approach to the Soviets be possible. Professor Pierre characterizes this step as an attempt to establish "rules of the game."[147] There is no doubt that the Soviets see negotiations as an opportunity to limit Western transfers and garner a better market position. But the Soviets share Western interests in limiting the number of sophisticated weapons and the diffusion of influence that occurs. Those interests might find expression in a willingness to abide by regional restrictions on categories of high technology weapons. We have seen that Africa and the Caribbean may be good starting points for this restrictive treatment.

Other channels for pursuing restraint have been suggested. The Palme Commission recommends regional agreements and supplier/recipient guidelines for conventional transfers.[148] Here again, a unified allied approach may offer the best chance of success in achieving enforceable agreements. But the suggestion that recipients be included in the process is important, and becomes more so as LDCs develop their own arms production capabilities. An orderly system for meeting their security needs in appropriate ways requires developing country participation and commitment. The U.S. has the choice of encouraging this process, or hoping to ride out the storm of growing instability that is gathering.

FOOTNOTES

[1] John Steinbruner, "Fears of War, Programs for Peace," *The Brookings Review*, Fall, 1982, p. 6.

[2] Stanley Hoffman, "Three Falkland Lessons," *New York Times*, May 7 1982; Charles Mohr, "New Wars Show the Power of Military Basics," *New York Times*, June 18, 1982; Drew Middleton, "In Falkland Fighting, Harrier Jump-Jet and Exocet Missiles Won New Regard," *New York Times*, June 19, 1982; Letter to the Editor by Admiral Stansfield Turner, *New York Times*, June 20, 1982; "Lebanon, Falklands: Tests in High-Tech War," *U.S. News & World Report*, August 16, 1982.

[3] Lt. Co. G. H. Turley, "Time of Change in Modern Warfare," *Marine Corps Gazette*, December, 1974; Leslie Wayne, "High Tech Companies Cash in or Today's Computer Battlefields," *New York Times*, June 20, 1982; "Killer Electronic Weaponry," *Business Week*, September 20, 1982, p. 74.

[4] Michael R. Gordon, "Competition with the Soviet Union Drives Reagan's Arms Sales Policy," *National Journal*, May 16, 1981, p. 868.

[5] Press Release issued by Senator William Proxmire, November 6, 1981.

[6] H. C. Engelbrecht and F. C. Hanighen, *Merchants of Death* (New York; Dodd, Mead & Co., 1934); See also Anthony Sampson, *The Arms Bazaar* (New York; Viking Press, 1977), p. 66 *et seq.*

[7] Report on the Munitions Industry, S. Rep. No. 3, 74th Cong., 1st Sess. (1935).

[8] Foreign Military Sales Act, 83 Stat. 1320 (1968) (current version renamed at 22 U.S.C. 2751 (1978)).

[9] *Id.*, ch. 1, Sec. 1.

[10] *Id.*, ch. 1, Sec. 4

[11] *Id.*, ch. 3, Sec. 35.

[12] Stockholm International Peace Research Institute (SIPRI), *Yearbook 1981*, (London: Taylor & Francis Ltd., 1981), Table pp. 186-187.

[13] International Security Assistance and Arms Export Control Act of 1976, 22 U.S.C. 2751 and other sections of the former FMSA.

[14] *Id.*, at Sec. 2751 (FMSA Sec. 1).

[15] Committee Comment, 94th Cong., 2d. Sess. (1976); *U.S. Code Cong. & Ad. News*, p. 1387.

[16] 22 U.S.C. 2751(b)(1), (Sec. 36(b)).

[17] An analysis and history of the AECA legislative veto is contained in "The Legislative Veto and U.S. Arms Sales," an unpublished CRS White Paper by Dr. Richard Grimmett (September 24, 1979). The broader issue of the constitutionality of the legislative veto is treated in John B. Henry's "The Legislative Veto: In Search of Constitutional Limits," 16 *Harv. J. Legis.* 735 (1979). The Supreme Court is scheduled to deal with this issue in two cases to be considered in the coming term: *Chadha v. Immigration & Naturalization Serv.*, 634 F.2d 408 (9th Cir. 1980); *Consumer Energy Council of America v. Federal Energy Regulatory Commission*, 673 F.2d 425 (D.C. Cir. 1982). Both cases deal with the issue of one house legislative vetoes.

[18] Statement by President Carter on Conventional Arms Transfer Policy, May 19, 1977, 1 *Pub. Papers* 931-932 (1977).

[19] Congressional Research Service Report (hereinafter "CRS 1981 Report") prepared for the Subcommittee on International Security and Scientific Affairs, House Committee on Foreign Affairs, 97th Cong., 1st Sess., "Changing Perspectives on U.S. Arms Transfer Policy," (Comm. Print, Sept. 25, 1981), p. 11.

[20] *Id.*, p. 29.

[21] *Id.*, p. 29.

[22] Andrew J. Pierre, The *Global Politics of Arms Sales*, (Princeton: Princeton University Press for the Council on Foreign Relations, 1982), p. 59.

[23] B.M. Blechman, J.E. Nolan, A. Pratt, "Pushing Arms," *Foreign Policy*, No. 46 (Spring 1982), pp. 138-154.

[24] CRS 1981 Report, p. 31.

[25] Committee Comment, 94th Cong., 2d. Sess. (1976); *U.S. Code Cong. & Ad. News*, p. 1388.

[26] For a more complete description of programs and costs, see the Congressional Presentation of Security Assistance Programs for FY 1983, Summary.

[27] See p. 30, infra, "Discarding Fiscal Restraint."

[28] Press Release issued by Senator Charles Percy, summarizing Administration report for 1978-1980 arms transfers, February 1, 1982.

[29] Richard Wittle, "Special Report on Arms Sales: Part I," *Congressional Quarterly*, April 3, 1982, p. 723 (inset).

[30] Hearings on Conventional Arms Sales before the Senate Committee on Foreign Relations (hereinafter "Senate Hearings"), 97th Cong., 1st Sess. (July 28, 1981), p. 22 (statement by Lt. Gen. Ernest Graves, Director, DSAA). While Graves' remarks concern Soviet arms values, similar difficulties obtain in making estimates for other suppliers, including France. See Andrew Pierre's comments in *Global Politics*, footnote 45, p. 321.

[31] "Soviet Union is the World's Largest Arms Peddler, U.S. Asserts," *Washington Post* (AP), August 3, 1982. Buckley's remarks are contained in a State Department Press Release dated August 2, 1982.

[32] Department of State Special Report No. 102, "Conventional Arms Transfers in the Third World, 1972-81," August, 1982, p. 7.

[33] Congressional Research Service (CRS) Report, updating information in the CRS 1981 Report and presented as "Trends in Conventional Arms Transfers to the Third World by Major Supplier, 1974-1981" (herein after "CRS Update (1982)" or "CRS 1982 Report"), unpublished CRS White Paper by Dr. Richard F. Grimmett (August 12, 1982). See Tables 1-7, pp. 13-23. Portions of this report appear as Appendix A.

[34] CRS Update (1982), Tables 2 (p. 16), and 3 (p. 19).

[35] *Id.*, p. 16.

[36] *Id.*, p. 13.

[37] This typology is drawn from "U.S. Arms Transfers to the Third World: The Implications of Sophistication," an unpublished Congressional Research Service White Paper prepared by Caleb Rossiter of the Foreign Affairs and National Defense Division of CRS. An Excerpt from Prof. Rossiter's analysis is attached as Appendix B.

[38] Michael Harrison's article in *Foreign Policy*, No. 43 (Summer 1981), p. 3, entitled "Reagan's World," offers a thoughtful overview of the Administration's preoccupation with the U.S./Soviet dimension of foreign policy.

[39] Senate Hearings, p. 10.

[40] CRS 1981 Report, Table 2, p. 15.

[41] CRS 1981 Report, Table 1, p. 13.

[42] Department of State Press Release (not numbered), August 2, 1982, p. 3.

[43] CRS Update (1982), p. 8.

[44] "Soviet Union is the World's Largest Arms Peddler, U.S. Asserts," *Washington Post*, August 3, 1982.

[45] CRS Update (1982), p. 12.

[46] "Arms Sales: Part 1," *Congressional Quarterly*, April 3, 1982, p. 720.

[47] Pierre, *Global Politics*, p. 131.

[48] "Arms Sales: Part 1," *Congressional Quarterly*, April 3, 1982, p. 723.

[49] CRS Update (1982), p. 11.

[50] Congressional Research Service analysis places U.S. exports at less than 24% of total arms production while the U.K. exports about 26%, France over 30%, and Italy 31%. In *Global Politics of Arms Sales*, Andrew Pierre puts the French total at 41% in 1980 (p. 85). Pierre notes the difficulty of assessing Soviet percentages, but acknowledges that export pressure is lower (p. 80). CRS sources estimate Soviet exports to be about 18% of total production. CRS calculations are based on five year averages derived from Arms Control and Disarmament Agency (ACDA) figures and other unclassified sources.

[51] Anthony Sampson, "The Lethal Ironies of Arms Sales," *Washington Post*, June 21, 1982.

[52] Dan Morgan, "Israel the Customer, and America, the Armorer, Sway Each Other," *Washington Post*, July 21, 1982, in which Secretary of Defense Casper Weinberger is quoted as saying the U.S. has "no control" over Israel.

[53] Pierre, *Global Politics*, p. 81.

[54] Remarks before the American Enterprise Institute Forum (No. 56), September 9, 1981, rpt., p. 23.

[55] Barry M. Blechman, quoted in "Arms Sales: Part 1," *Congressional Quarterly*, April 3, 1982, p. 722.

[56] "U.S. Weapons Exports Headed for Record Level," *The Defense Monitor*, Vol. XI, No. 3 (1982), p. 8. Prepared by the Center for Defense Information.

[57] CRS 1981 Report, p. 44.

[58] Senate Hearings, p. 8.

[59] CRS 1981 Report, p. 39.

[60] 22 U.S.C. 2751.

[61] Speech by William P. Clark, "National Security Strategy," delivered to the Georgetown Center for Strategic and International Studies, Georgetown University, May 21, 1982, rpt., p. 10.

[62] CRS 1981 Report, p. 42.

[63] Statement by Walter R. Edgington, International Committee, National Security Industrial Association, included in Senate Hearing, p 88. See also Mr. Edgington's response to question by Senator Percy, p. 99, acknowledging the primacy of national security concerns in making foreign sales.

[64] Congressional Budget Office Staff Working Paper of May 24, 1976 which concludes that "For the current mix of sales the study estimates that only fifty percent of foreign military sales result in cost savings to the U.S.," Summary, p. "x". Follow-up discussions with CBO officials confirm that the savings from foreign sales are "not of a dramatic nature."

[65] 22 U.S.C. 2751.

[66] 22 U.S.C. 2304.

[67] Cf. "Arms Sales," *Congressional Quarterly*, October 29, 1977, p. 2319; Congressional Research Service Report No. 81-257, "Human Rights in U.S. Foreign Relations," December 10, 1981; "Overhaul U.S. Policy on Human Rights?," *U.S. News & World Report*, March 2, 1981, p. 49.

[68] "Arms Sales: Part II," *Congressional Quarterly*, April 10, 1982, p. 802.

[69] Senate Hearings, p. 6.

[70] In a May 21, 1981, address (reprinted as Department of State Current Policy 279), Under Secretary Buckley referred to "undercutting, the capabilities of strategically located nations" as a species of the "Self-inflicted injuries" of the Carter policy. See also William Clark's speech to Georgetown University, May 21, 1982, making no mention of human rights considerations.

[71] 22 U.S.C. 229.

[72] "Envoy Asks and Senate Acts to Ease Ban on Aid to Brazil," *Congressional Quarterly*, June 5, 1982, p. 1341.

[73] "The Administration's Record in Nonproliferation Matters," unpublished report by Lynn Weiss, Minority Staff Director, Senate Subcommittee on Energy, Nuclear Proliferation and Government Process of the Committee on Government Affairs.

[74] Written response by Lt. Gen. Kelly Burke (USAF) to questions from the Senate Armed Services Committee in March, 1981.

[75] Walter Mossberg, "Administration Split Over Who Gets F16 First," *Wall Street Journal*, June 23, 1981.

[76] Section 206 of the AECA amends Section 21 of the Foreign Military Sales Act (22 U.S.C. 2761 (h)(i)) to require a written statement accompanying any proposal to sell defense articles or services which "could have a significant adverse effect" on U.S. service inventories. Authorities report that no such statement has ever been submitted by this Administration. The 36(b) submissions contain boilerplate assurances that sales will not harm materially U.S. readiness. Likewise, no detailed reports under Sec. 812 of the DOD Appropriations Act of 1976 (Pub. L. 94-106) have been submitted by this Administration.

[77] Defense Monitor, p. 3.

[78] Presidential Policy Directive of July 8, 1981, 17 *Weekly Comp. of Pres. Doc.* 727-729 (July 13, 1981); Senate Hearings, p. 8 (remarks of Mr. Buckley) and p. 38 (remarks of Mr. West, responding to Senator Glenn).

[79] "Arms Sales: Part II," *Congressional Quarterly*, April 10, 1982, p. 797.

[80] William H. Gregory, "Controlling Military Sales", *Aviation Week and Space Technology*, June 29, 1981, p. 11.

[81] Report by the Comptroller General of the United States, "Improvment Still Needed in Recouping Administrative Costs of Foreign Military Sales," AFMD-82-10, (February 2, 1982).

[82] *Id.*, Appendix II, P. 16.

[83] Report by the General Accounting Office, "U.S. Securuty and Military Assistance: Programs and Related Activities," GAO/ID-82-40, June 1, 1982.

[84] Dan Morgan, "13 Arms Buyers in Default on interest to U.S.," *Washington Post*, July 12, 1982.

[85] Pierre, *Global Politics*, p. 133. Table 3 shows that seven of the world's ten largest arms importers are Middle Eastern countries. Pierre avers that this region accounted for 50% of developing world weapons transfers in 1980, p. 134.

[86] William E. Jackson, Jr., as quoted in "Arms Sales: Part I, " *Congressional Quarterly*, April 3, 1982, p. 724.

[87] See Stockholm International Peace Research International Institute (SIPRI) *Arms Trade Registers* (Cambridge: M.I.T. Press, 1974), giving listings of national defense stockpiles with acquisition dates of inventoried items. A review of these dates gives some indication of the compression which has occurred, with developing countries acquiring more state-of-the-art equipment.

[88] Andre J. Pierre, "Arms Sales: The New Diplomacy," *Foreign Affairs Quarterly*, Vol. 60, No. 2 (Winter 1981/1982), p. 267.

[89] Senate Hearings, p. 12.

[90] CRS 1981 Report, p. 52.

[91] George Wilson, "Egypt as Warplane Maker," *Washington Post*, October 5, 1982. The article reports that co-production agreements with Egypt for FX fighters are "an administration objective."

[92] Pierre, *Global Politics*, p. 131, citing SIPRI Yearbook, 1979.

[93] How Much Does a Soldier Cost?" *South*, July, 1982, p. 8.

[94] June Kronholz, "Taking Up Arms," *Wall Street Journal*, June 29, 1982.

[95] Defense Monitor, p. 6.

[96] Senate Hearings, p. 12.

[97] Brandt Commission, *North-South: A Program for Survival*, (London: Pan Books, 1980), pp. 120–122.

[98] Pierre, *Global Politics*, p. 255. This is true despite the constraints of Sec. 33 of the AECA, restraining sales to the region.

[99] CRS Update (1982), Table 7, p. 23.

[100] Henry Bienen, "Perspectives on Soviet Intervention in Africa," *Political Science Quarterly*, Vol. 95. No. 1 (Spring, 1980), p. 40.

[101] Pierre, *Global Politics*, p. 257.

[102] CFR Update (1982), Table 7. p. 23.

[103] *Id.*

[104] Unpublished CRS White Paper, "Increasing U.S. Military Involvement in Africa," by Prof. Caleb Rossiter, June 16, 1982, p. 3.

[105] *Id.*, p. 5.

[106] Unpublished CRS White Paper, "Arms Transfers: Implications of Sophistication" by C. Rossiter, July 26, 1982, p. 7.

[107] "Kenya Foils Air Force Coup Attempt," *Washington Post* (AFP), August 1, 1982.

[108] "Mugabe Blames Opposition Party for Kidnapping," *Washington Post*, July 30, 1982.

[109] Joseph Lelyveld, "Inside Namibia," *New York Times Magazine*, August 1, 1982, p. 12.

[110] As used here, "Caribbean" includes the islands and the coastal countries of Central and Latin American bordering the Caribbean Sea.

[111] Jozef Goldblat and Victor Millan, "Militarization and Arms Control in Latin American," rpt. from SIPRI *Yearbook 1982*, p. 398.

[112] An overview of economic challenges to the region and the Reagan Administration response is available in "The Caribbean Basin Initiative," by Messrs. Feinberg and Newfarmer in the Senate Democratic Policy Committee's collection *From Gunboats to Diplomacy* (June 19, 1982), p. 206.

[113] CRS 1981 Report, p. 62.

[114] *Id.*

[115] "French Arms Go to Nicaragua," *New York Times* (AP), July 13, 1982; Christopher Dickey, "Nicaragua Says It Seeks Soviet, French Planes," *Washington Post*, July 29, 1982.

[116] 1974 Declaration of Ayacucho, December 9, 1974, Peru, Bolivia, Panama, Venezuela, Colombia, Argentina, Ecuador, and Chile; reported in *El Peruano*, No. 10105, December 10, 1974.

[117] CRS 1981 Report, p. 62.

[118] Pierre, *Global Politics*, p. 246.

[119] Department of State Current Policy No. 349, "Arms Transfers to Latin American," October 22, 1981.

[120] Unpublished Hearings before the Senate Committee on Foreign Relations, July 28, 1981, quoted in CRS 1981 Report, p. 65.

[121] Pierre, *Global Politics*, p. 254.

[122] CRS 1981 Report, Table, p. 71.

[123] Stephen Cohen, "US Weapons and South Asia: A Policy Analysis," *Pacific Affairs*, Vol. 49, No. 1 (Spring 1976), p. 49.

[124] Pierre, *Global Politics*, p. 223.

[125] June Kronholz, "Taking Up Arms," *Wall Street Journal*, June 29, 1982.

[126] See also CRS 1981 Report, p. 78.

[127] "Taking Up Arms," sidebar.

[128] *Id.*, comments of Secretary of Economic Affairs Ejaz Niak.

[129] Stuart Auerbach, "Zia Has No Election Plans," *Washington Post*, July 11, 1982.

[130] *Id.*

[131] Cohen, "US Weapons and South Asia," p. 55.

[132] Pierre, *Global Politics*, p. 222.

[133] *Id.*

[134] Richard Halloran, "$1 Billion Sale of Artillery to India Appears Likely," *New York Times*, July 29, 1982.

[135] Presidential Policy Directive of July 8, 1981, 17 *Weekly Comp. of Pres. Doc.* 727-729 (July 13, 1981).

[136] Unpublished Hearings before the Senate Committee on Foreign Relations, August 2, 1982.

[137] Rossiter, "Implications of Sophistication," p. 9.

[138] Committee Comment, 94th Cong., 2d Sess. (1976), *U.S. Code Cong. & Ad. News*, p. 1387.

[139] "Arms Sales: Part II," *Congressional Quarterly*, April 10, 1982, p. 798.

[140] 127 Cong. Rec. S11,756 (daily ed. Oct. 21, 1981) (remarks by Senator Robert C. Byrd).

[141] Report by the Comptroller General of the United States, "U.S. Security Assistance: Programs and Related Activities," GAO/ID-82- 40, June 1, 1982, p. 71.

[142] S. Scott Morrison's "The Arms Export Control Act: An Evaluation of the Role of Congress in Policing Arms Sales," *Stanford Journal of International Studies*, Vol. 14 (Spring 1979), p. 105 offers a litany of reasons for the limits on congressional participation. See p. 166 ff. See also Foreign Affairs Committee Print, *Congress and Foreign Policy Series, No. 7*, "Executive-Legislative Consultation on U.S. Arms Sales," (December 1982)

[143] In his 1977 address on "The Senate and Arms Sales," Senator Robert C. Byrd described the need for closer cooperation between the Senate and DOD on arms sales information. While several of his recommendations have become law, the institutional role of defense requirements surveys established in Sec. 26 (by Pub. L. 95-384) has been frustrated, and cannot provide the picture of current and potential recipient needs which Senator Byrd recognized as crucial to fulfilling Congress's responsibility. See 126 *Cong. Rec.* 32843 (1977).

[144] *Id.*

[145] B.M. Blechman, J.E. Nolan, A. Pratt, "Pushing Arms," *Foreign Policy*, No 46 (Spring 1982), p. 151.

[146] Pierre, *Global Politics*, p. 297.

[147] *Id.*, p. 301.

[148] "Vance vs. the Arms Race," *Christian Science Monitor*, August 3, 1982.

APPENDIX A—TRENDS IN CONVENTIONAL ARMS TRANSFERS TO THE THIRD WORLD BY MAJOR SUPPLIER, 1974–81

(By Richard F. Grimmett)

TABLE 1.—ARMS TRANSFER AGREEMENTS WITH THE 3D WORLD, BY SUPPLIER [1]

[In millions of current U.S. dollars]

	1974	1975	1976 [2]	1977	1978	1979	1980	1981
Total	20,263	20,550	24,393	25,134	21,416	28,631	43,803	26,728
Non-Communist	13,323	16,120	16,578	14,454	17,526	18,321	27,533	12,828
Of which:								
United States	8,723	9,990	12,468	6,439	7,486	8,901	9,463	4,868
France	2,060	2,630	1,040	3,140	1,950	4,350	8,680	1,215
United Kingdom	750	940	600	1,415	3,860	1,270	2,170	1,460
West Germany	620	630	730	1,200	2,520	900	770	1,150
Italy	410	1,040	360	980	1,390	340	2,870	370
Other free world	760	890	1,380	1,280	320	2,560	3,580	3,765

TABLE 1.—ARMS TRANSFER AGREEMENTS WITH THE 3D WORLD, BY SUPPLIER [1]—Continued

[In millions of current U.S. dollars]

	1974	1975	1976 [2]	1977	1978	1979	1980	1981
Communist	6,940	4,430	7,815	10,680	3,890	10,310	16,270	13,900
Of which:								
U.S.S.R	5,970	3,670	6,600	9,750	2,920	8,880	14,770	6,630
Other Communist	970	760	1,215	930	970	1,430	1,500	7,270
Dollar inflation index (1974=100) [3]	100	109	117	125	134	144	160	181

[1] U.S. data are for fiscal year given (and cover the period from July 1, 1973, through Sept. 30, 1981). Foreign data are for the calendar year given. Statistics shown for foreign countries are based upon estimated selling prices. All prices given include the values of weapons, spare parts, construction, all associated services, military assistance, and training programs. U.S. commercial sales contract values are excluded, as are values of the military assistance service funded account (MASF) which provided grant funding for South Vietnam, Laos, Philippines, Thailand, and South Korea. MASF for fiscal year 1974 was $840,000,000; for fiscal year 1975 $544,000,000. Related grant transfers to South Korea and Thailand, also excluded, were $11,000,000 in fiscal year 1979; $132,000,000 in fiscal year 1980; and $100,000,000 for fiscal year 1981. All data are current as of Jan. 1, 1982, and reflect termination of all sales contracts. The value of Iranian contracts canceled but not included in the U.S. data above are as follows: Fiscal year 1974 ($390,000,000); fiscal year 1975 ($1,157,000,000); fiscal year 1976 and transitional quarter ($236,000,000; fiscal year 1977 ($2,953,000,000); fiscal year 1978 ($1,673,000,000); fiscal year 1979 ($6,000,000); fiscal year 1980 (0); fiscal year 1981 (0). 3d World category excludes Warsaw Pact nations, NATO nations, Europe, Japan, Australia, and New Zealand.
[2] U.S. data for fiscal year 1976 includes the transitional quarter (fiscal year 197T).
[3] Based on Department of Defense price deflator (minus pension funds).

Source: U.S. Government.

TABLE 1A.—ARMS TRANSFER AGREEMENTS VALUES AVERAGES, TO 3D WORLD BY SUPPLIER, 1974–77 [1]

[In millions of current U.S. dollars]

	1974	1975	1976 [2]	1977	Average (1974–77)
Total	20,263	20,550	24,393	25,134	22,585.00
Non-Communist	13,323	16,120	16,578	14,454	15,118.75
Of which:					
United States	8,723	9,990	12,468	6,439	9,405.00
France	2,060	2,630	1,040	3,140	2,217.50
United Kingdom	750	940	600	1,415	926.25
West Germany	620	630	730	1,200	795.00
Italy	410	1,040	360	980	697.50
Other free world	760	890	1,380	1,280	1,077.50
Communist	6,940	4,430	7,815	10,680	7,466.25
Of which:					
U.S.S.R	5,970	3,670	6,600	9,750	6,497.50
Other Communist	970	760	1,215	930	968.75
Dollar inflation index (1974=100) [3]	100	109	117	125	

[1] U.S. data are for fiscal year given (and cover the period from July 1, 1973, through Sept. 30, 1977). Foreign data are for the calendar year given. Statistics shown for foreign countries are based upon estimated selling prices. All prices given include the values of weapons, spare parts, construction, all associated services, military assistance, and training programs. U.S. commercial sales contract values are excluded, as are values of the military assistance service funded account (MASF) which provided grant funding for South Vietnam, Laos, Philippines, Thailand, and South Korea. MASF for fiscal year 1974 was $840,000,000; for fiscal year 1975 $544,000,000. All data are current as of Jan. 1, 1982, and reflect termination of all sales contracts. The value of Iranian contracts canceled but not included in the U.S. data above are as follows: fiscal year 1974 ($390,000,000); fiscal year 1975 ($1,157,000,000); fiscal year 1976 and transitional quarter ($236,000,000); fiscal year 1977 ($2,953,000,000). 3d World category excludes Warsaw Pact nations, NATO nations, Europe, Japan, Australia, and New Zealand.
[2] U.S. data for fiscal year 1976 includes the transitional quarter (fiscal year 197T).
[3] Based on Department of Defense price deflator (minus pension funds).

Source: U.S. Government.

TABLE 1B.—ARMS TRANSFER AGREEMENTS VALUES AVERAGES, TO 3D WORLD BY SUPPLIER, 1978–81 [1]

[In millions of current U.S. dollars]

	1978	1979	1980	1981	Average (1978–81)
Total	21,416	28,631	43,803	26,723	30,144.50
Non-Communist	17,526	18,321	27,533	12.828	19,052.00
Of which:					
United States	7,486	8,901	9,463	4,868	7,679.50
France	1,950	4,350	8,680	1,215	4,048.75
United Kingdom	3,860	1,270	2,170	1,460	2,190.00
West Germany	2,520	900	770	1,150	1,335.00
Italy	1,390	340	2,870	370	1,242.50
Other free world	320	2,560	3,580	3,765	2,556.25
Communist	3,890	10,310	16,270	13,900	11,092.50
Of which:					
U.S.S.R	2,920	8,880	14,770	6,630	8,300.00
Other Communist	970	1,430	1,500	7,270	2,792.50
Dollar inflation index (1974=100) [2]	134	144	160	181	

[1] U.S. data are for fiscal year given (and cover the period from Oct. 1, 1977, through Sept. 30, 1981). Foreign data are for the calendar year given. Statistics shown for foreign countries are based upon estimated selling prices. All prices given include the values of weapons, spare parts, construction, all associated services, military assistance and training programs. U.S. commercial sales contract values are excluded, as are values of the military assistance service funded account (MSAF) which provided grant funding for Thailand and South Korea. Related grant transfers to South Korea and Thailand, also excluded, were $11,000,000 in fiscal year 1979; $132,000,000 in fiscal year 1980; and $100,000,000 for fiscal year 1981. All data are current as of Jan. 1, 1982, and reflect termination of all sales contracts. The value of Iranian contracts canceled but not included in the U.S. data above are as follows: Fiscal year 1978 ($1,673,000,000); fiscal year 1979 ($6,000,000); fiscal year 1980 (0); fiscal year 1981 (0). 3d World category excludes Warsaw Pact nations, NATO nations, Europe, Japan, Australia, and New Zealand.
[2] Based on Department of Defense price deflator (minus pension funds).

Source: U.S. Government.

TABLE 2.—ARMS DELIVERIES TO THE 3D WORLD, BY SUPPLIERS [1]

[In millions of current U.S. dollars]

	1974	1975	1976 [2]	1977	1978	1979	1980	1981
Total	7,263	8,044	11,916	15,392	18,912	21,923	21,179	23,414
Non-Communist	4,343	5,014	7,666	9,652	11,702	11,733	12,379	14,234
Of which:								
United States	2,793	3,084	4,646	5,932	6,382	6,463	5,079	6,144
France	480	480	960	1,010	1,700	1,360	2,780	3,670
United Kingdom	450	400	530	725	1,030	770	1,600	1,200
West Germany	180	270	520	620	660	740	960	910
Italy	130	190	190	350	700	615	600	800
Other free world	310	590	820	1,015	1,230	1,785	1,360	1,510
Communist	2,920	3,030	4,250	5,740	7,210	10,190	8,800	9,180
Of which:								
U.S.S.R.	2,530	2,400	3,400	5,000	6,230	9,180	7,480	7,160
Other Communist	390	630	850	740	980	1,010	1,320	2,020
Dollar inflation index (1974=100) [3]	100	109	117	125	134	144	160	181

[1] U.S. data are for fiscal year given (and cover the period from July 1, 1973, through Sept. 30, 1981). Foreign data are for the calendar year given. Statistics shown for foreign countries are based on estimated selling prices. All prices given include the values of weapons, spare parts, construction, all associated services, military assistance, and training programs. U.S. commercial sales contract values are excluded, as are values of the military assistance service funded account (MASF) which provided grant funding for South Vietnam, Laos, Philippines, Thailand, and South Korea. MASF deliveries values for fiscal year 1974 were $1,159,000,000; for fiscal year 1975 $1,125,000,000. Related grant transfers to South Korea and Thailand, also excluded, were $11,000,000 in fiscal year 1979; $10,000,000 in fiscal year 1980 and $100,000,000 in fiscal year 1981. All data are current as of Jan. 1, 1982. 3D World category excludes Warsaw Pact nations, NATO nations, Europe, Japan, Australia, and New Zealand.

[2] U.S. data for fiscal year 1976 include the transitional quarter (fiscal year 197T).

[3] Based on Department of Defense price deflator (minus pension funds).

Source: U.S. Government.

TABLE 2A.—ARMS DELIVERIES VALUES AVERAGES TO 3D WORLD BY SUPPLIER, 1974–77 [1]

[In millions of current U.S. dollars]

	1974	1975	1976 [2]	1977	Average (1974–77)
Total	7,263	8,044	11,916	15,392	10,653.75
Non-Communist	4,343	5,014	7,666	9,652	6,668.75
Of which:					
United States	2,793	3,084	4,646	5,932	4,113.75
France	480	480	960	1,010	732.50
United Kingdom	450	400	530	725	526.25
West Germany	180	270	520	620	397.50
Italy	130	190	190	350	215.00
Other free world	310	590	820	1,015	683.75
Communist	2,920	3,030	4,250	5,740	3,985.00
Of which:					
U.S.S.R.	2,530	2,400	3,400	5,000	3,332.50
Other Communist	390	630	850	740	652.50
Dollar inflation index (1974=100) [3]	100	109	117	125	

[1] U.S. data are for fiscal year given (and cover the period from July 1, 1973 through Sept. 30, 1977). Foreign data are for the calendar year given. Statistics shown for foreign countries are based upon estimated selling prices. All prices given include the values of weapons, spare parts, construction, all associated services, military assistance and training programs. U.S. commercial sales contract values are excluded, as are values of the military assistance service funded account (MASF) which provided grant funding for South Vietnam, Laos, Philippines, Thailand, and South Korea. MASF for fiscal year 1974 was $840,000,000; for fiscal year 1975 $544,000,000. All data are current as of Jan. 1, 1982, and reflect termination of all sales contracts. 3d World category excludes Warsaw Pact nations, NATO nations, Europe, Japan, Australia, and New Zealand.

[2] U.S. data for fiscal year 1976 includes the transitional quarter (fiscal year 197T).

[3] Based on Department of Defense price deflator (minus pension funds).

Source: U.S. Government.

TABLE 2B.—ARMS DELIVERIES VALUES AVERAGES TO 3D WORLD BY SUPPLIER, 1978–81 [1]

[In millions of current U.S. dollars]

	1978	1979	1980	1981	Average (1978–81)
Total	18,912	21,923	21,179	23,414	21,357.00
Non-Communist	11,702	11,733	12,379	14,234	12,512.00
Of which:					
United States	6,382	6,463	5,079	6,144	6,017.00
France	1,700	1,360	2,780	3,670	2,377.50
United Kingdom	1,030	770	1,600	1,200	1,150.00
West Germany	660	740	960	910	817.50
Italy	700	615	600	800	678.75
Other free world	1,230	1,785	1,360	1,510	1,471.25
Communist	7,210	10,190	8,800	9,180	8,845.00
Of which:					
U.S.S.R.	6,230	9,180	7,480	7,160	7,512.50
Other Communist	980	1,010	1,320	2,020	1,332.50
Dollar inflation index (1974=100) [2]	134	144	160	181	

[1] U.S. data are for fiscal year given (and cover the period from Oct. 1, 1977, through Sept. 30, 1981). Foreign data are for the calendar year given. Statistics shown for foreign countries are based upon estimated selling prices. All prices given include the values of weapons, spare parts, construction, all associated services, military assistance, and training programs. U.S. commercial sales contract values are excluded, as are values of the military assistance service funded account (MASF) which provided grant funding for Thailand, and South Korea. Related grant transfers to South Korea and Thailand, also excluded, were $11,000,000 in fiscal year 1979; $132,000,000 in fiscal year 1980; and $100,000,000 for fiscal year 1981. All data are current as of Jan. 1, 1982, and reflect termination of all sales contracts. 3d World category excludes Warsaw Pact nations, NATO nations, Europe, Japan, Australia, and New Zealand.

[2] Based on Department of Defense price deflator (minus pension funds).

Source: U.S. Government.

TABLE 3.—NUMBERS OF WEAPONS DELIVERED BY MAJOR SUPPLIERS TO THE THIRD WORLD [1]

Weapons category	United States	U.S.S.R.	Major Western European [2]
1974–77			
Tanks and self-propelled guns	3,881	4,595	1,215
Artillery	3,123	7,375	1,260
APC's and armored cars	6,853	5,245	1,470
Major surface combatants	61	12	19
Minor surface combatants	144	58	189
Submarines	13	9	14
Supersonic combat aircraft	822	1,280	215
Subsonic combat aircraft	510	230	35
Other aircraft	938	170	490
Helicopters	463	305	890
Guided missile boats	0	32	8
Surface-to-air missiles (SAM's)	2,450	14,345	1,755
1978–81			
Tanks and self-propelled guns	2,375	5,635	510
Artillery	2,783	7,000	1,145
APC's and armored cars	5,658	6,810	3,230
Major surface combatants	23	28	43
Minor surface combatants	33	110	93
Submarines	1	6	8
Supersonic combat aircraft	500	1,795	240
Subsonic combat aircraft	149	190	75
Other aircraft	330	300	410
Helicopters	172	845	715
Guided missile boats	0	42	21
Surface-to-air missiles (SAM's)	4,995	5,665	585
1974–81			
Tanks and self-propelled guns	6,256	10,230	1,725
Artillery	5,906	14,375	2,405
APC's and armored cars	12,511	12,055	4,700
Major surface combatants	84	40	62
Minor surface combatants	177	168	282
Submarines	14	15	22
Supersonic combat aircraft	1,322	3,075	455
Subsonic combat aircraft	659	420	110
Other aircraft	1,268	470	900
Helicopters	635	1,150	1,605
Guided missile boats	0	74	29
Surface-to-air missiles (SAM's)	7,445	20,010	2,340

[1] Third World category excludes Warsaw Pact nations, NATO nations, Europe, Japan, Australia, and New Zealand. U.S. data are for fiscal years given (and cover the period from July 1, 1973, through Sept. 30, 1981). Foreign data are for calendar years given.
[2] Major Western European includes France, United Kingdom, West Germany, and Italy totals as an aggregate figure.
Source: U.S. Government.

TABLE 4.—NUMBERS OF WEAPONS DELIVERED BY MAJOR SUPPLIERS TO EAST ASIA AND THE PACIFIC [1]

Weapons category	United States	U.S.S.R.	Major Western European [2]
1974–77			
Tanks and self-propelled guns	543	275	30
Artillery	1,904	120	75
APC's and armored cars	1,101	95	20
Major surface combatants	31	0	1
Minor surface combatants	88	0	0
Submarines	2	4	0
Supersonic combat aircraft	236	15	0
Subsonic combat aircraft	106	0	0
Other aircraft	449	105	110
Helicopters	106	40	75
Guided missile boats	0	0	0
Surface-to-air missiles (SAM's)	185	0	15
1978–81			
Tanks and self-propelled guns	714	640	50
Artillery	870	475	115
APC's and armored cars	870	355	230
Major surface combatants	14	7	0
Minor surface combatants	25	44	16
Submarines	0	0	2
Supersonic combat aircraft	218	240	0
Subsonic combat aircraft	118	55	10
Other aircraft	67	100	80
Helicopters	150	130	115
Guided missile boats	0	8	3
Surface-to-air missiles (SAM's)	1,078	175	0
1974–81			
Tanks and self-propelled guns	1,257	915	80
Artillery	2,774	595	190
APC's and armored cars	1,971	450	250
Major surface combatants	45	7	1
Minor surface combatants	113	44	16
Submarines	2	4	2
Supersonic combat aircraft	454	255	0
Subsonic combat aircraft	224	55	10
Other aircraft	516	205	190
Helicopters	256	170	190
Guided missile boats	0	8	3
Surface-to-air missiles (SAM's)	1,263	175	15

[1] Excludes Japan, Australia, and New Zealand. U.S. data are for fiscal years given (and cover the period from July 1, 1973, through Sept. 30, 1981). Foreign data are for calendar years given.
[2] Major Western European includes France, United Kingdom, West Germany, and Italy totals as an aggregate figure.
Source: U.S. Government.

TABLE 5.—NUMBERS OF WEAPONS DELIVERED BY MAJOR SUPPLIERS TO NEAR EAST AND SOUTH ASIA [1]

Weapons category	United States	U.S.S.R.	Major Western European [2]
1974–77			
Tanks and self-propelled guns	3,168	3,230	1,020
Artillery	725	4,195	665
APC's and armored cars	5,426	3,955	1,065
Major surface combatants	4	10	14
Minor surface combatants	26	15	88
Submarines	0	5	3
Supersonic combat aircraft	559	1,000	115
Subsonic combat aircraft	262	150	15
Other aircraft	345	25	135
Helicopters	282	180	685
Guided missile boats	0	27	3
Surface-to-air missiles (SAM's)	2,265	12,680	1,540
1978–81			
Tanks and self-propelled guns	1,656	4,155	390
Artillery	940	4,065	730
APC's and armored cars	4,731	5,125	1,950
Major surface combatants	4	16	7
Minor surface combatants	6	10	28
Submarines	1	3	2
Supersonic combat aircraft	270	1,310	205
Subsonic combat aircraft	19	85	30
Other aircraft	128	90	175
Helicopters	7	575	390
Guided missile boats	0	23	17
Surface-to-air missiles (SAM's)	3,917	4,170	510
1974–81			
Tanks and self-propelled guns	4,824	7,385	1,410
Artillery	1,665	8,260	1,395
APC's and armored cars	10,157	9,080	3,015
Major surface combatants	8	26	21
Minor surface combatants	32	25	116
Submarines	1	8	5
Supersonic combat aircraft	829	2,310	320
Subsonic combat aircraft	281	235	45
Other aircraft	473	115	310
Helicopters	289	755	1,075
Guided missile boats	0	50	20
Surface-to-air missiles (SAM's)	6,182	16,850	2,050

[1] U.S. data are for fiscal years given (and cover the period from July 1, 1973, through Sept. 30, 1981). Foreign data are for calendar years given.
[2] Major Western European includes France, United Kingdom, West Germany, and Italy totals as an aggregate figure.
Source: U.S. Government.

TABLE 6.—NUMBERS OF WEAPONS DELIVERED BY MAJOR SUPPLIERS TO LATIN AMERICA [1]

Weapons category	United States	U.S.S.R.	Major Western European [2]
1974–77			
Tanks and self-propelled guns	136	305	110
Artillery	275	215	165
APC's and armored cars	293	55	120
Major surface combatants	26	0	2
Minor surface combatants	30	17	55
Submarines	11	0	11
Supersonic combat aircraft	18	85	35
Subsonic combat aircraft	142	5	10
Other aircraft	142	15	95
Helicopters	69	45	40
Guided missile boats	0	3	5
Surface-to-air missiles (SAM's)	0	565	95
1978–81			
Tanks and self-propelled guns	5	70	30
Artillery	917	420	130
APC's and armored cars	14	175	210
Major surface combatants	5	1	21
Minor surface combatants	2	21	29
Submarines	0	3	4
Supersonic combat aircraft	0	85	30
Subsonic combat aircraft	12	0	5
Other aircraft	97	55	65
Helicopters	15	30	115
Guided missile boats	0	7	0
Surface-to-air missiles (SAM's)	0	245	70
1974–81			
Tanks and self-propelled guns	141	375	140
Artillery	1,192	635	295
APC's and armored cars	307	230	330
Major surface combatants	31	1	23

TABLE 6.—NUMBERS OF WEAPONS DELIVERED BY MAJOR SUPPLIERS TO LATIN AMERICA [1]—Continued

Weapons category	United States	U.S.S.R.	Major Western European [2]
Minor surface combatants	32	38	84
Submarines	11	3	15
Supersonic combat aircraft	18	170	65
Subsonic combat aircraft	154	5	15
Other aircraft	239	70	160
Helicopters	84	75	155
Guided missile boats	0	10	5
Surface-to-air missiles (SAM's)	0	810	165

[1] Excludes Canada. U.S. data are for fiscal years given (and cover the period from July 1, 1973, through Sept. 30, 1981). Foreign data are for calendar years given.
[2] Major Western European includes France, United Kingdom, West Germany, and Italy totals as an aggregate figure.
Source: U.S. Government.

TABLE 7.—NUMBERS OF WEAPONS DELIVERED BY MAJOR SUPPLIERS TO AFRICA (SUB-SAHARAN) [1]

Weapons category	United States	U.S.S.R.	Major Western European [2]
1974–77			
Tanks and self-propelled guns	34	785	55
Artillery	219	2,845	355
APC's and armored cars	33	1,145	265
Major surface combatants	0	2	2
Minor surface combatants	0	26	46
Submarines	0	0	0
Supersonic combat aircraft	9	180	65
Subsonic combat aircraft	0	75	10
Other aircraft	2	25	150
Helicopters	6	40	90
Guided missile boats	0	2	0
Surface-to-air missiles (SAM's)	0	1,100	105
1978–81			
Tanks and self-propelled guns	0	770	40
Artillery	56	2,040	170
APC's and armored cars	43	1,155	840
Major surface combatants	0	4	15
Minor surface combatants	0	35	20
Submarines	0	0	0
Supersonic combat aircraft	12	160	5
Subsonic combat aircraft	0	50	30
Other aircraft	38	55	90
Helicopters	0	110	95
Guided missile boats	0	4	1
Surface-to-air missiles (SAM's)	0	1,075	5
1974–81			
Tanks and self-propelled guns	34	1,555	95
Artillery	275	4,885	525
APC's and armored cars	76	2,300	1,105
Major surface combatants	0	6	17
Minor surface combatants	0	61	66
Submarines	0	0	0
Supersonic combat aircraft	21	340	70
Subsonic combat aircraft	0	125	40
Other aircraft	40	80	240
Helicopters	6	150	185
Guided missile boats	0	6	1
Surface-to-air missiles (SAM's)	0	2,175	110

[1] U.S. data are for fiscal years given (and cover the period from July 1, 1973, through Sept. 30, 1981). Foreign data are for calendar years given.
[2] Major Western European includes France, United Kingdom, West Germany, and Italy totals as an aggregate figure.
Source: U.S. Government.

DESCRIPTION OF ITEMS COUNTED IN WEAPONS CATEGORIES, 1974–1981

Tanks and Self-propelled Guns: Light, medium and heavy tanks; Self-propelled artillery; Self-propelled assault guns.

Artillery: Field and air defense artillery, mortars, rocket launchers, and recoilless rifles—100 mm. and over; FROG launchers—100 mm. and over.

Armored Personnel Carrier (APCs) and Armored Cars: Personnel carriers, armored and amphibious; Armored infantry fighting vehicles; Armored reconnaissance and command vehicles.

Major Surface Combatants: Aircraft carriers, cruisers, destroyers, frigates.

Minor Surface Combatants: Minesweepers, subchasers, motor torpedo boats; Patrol craft, motor gunboats.

Submarines: All submarines, including midget submarines.

Guided Missile Patrol Boats: All boats in this class.

Supersonic Combat Aircraft: All fighters and bombers designed to function operationally at speeds above Mach 1.

Subsonic Combat Aircraft: All fighters and bombers, including propeller driven, designed to function operationally at speeds below Mach 1.

Other Aircraft: All other fixed-wing aircraft, including trainers, transports, reconnaissance aircraft, and communications/utility aircraft.

Helicopters: All helicopters, including combat and transport.

Surface-to-air Missiles (SAMs): All air defense missiles, excluding those which are shoulder-fired.

NATIONS IN REGIONS IDENTIFIED IN ARMS DELIVERY TABLES AND CHARTS

East Asia and Pacific: Australia; Brunei; Burma; China; Fiji; French Polynesia; Gilbert Islands; Hong Kong; Indonesia; Japan; Kampuchea (Cambodia); North Korea; North Vietnam; Laos; Macao; Malaysia; Nauru; New Caledonia; New Hebrides; New Zealand; Norfolk Islands; Papua New Guinea; Philippines; Pitcairn; Singapore; Solomon Islands; South Korea; South Vietnam; Taiwan; Thailand; Western Somoa.

Near East and South Asia: Afghanistan; Algeria; Bahrain; Bangladesh; Egypt; India; Iran; Iraq; Israel; Jordan; Kuwait; Lebanon; Libya; Morocco; Nepal; North Yemen (Sana); Oman; Pakistan; Qatar; Saudi Arabia; South Yemen (Aden); Sri Lanka; Syria; Tunisia; United Arab Emirates.

Europe: Albania; Austria; Bulgaria; Belgium; Canada; Czechoslovakia; Cyprus; Denmark; Finland; France; Germany, Democratic Republic; Germany, Federal Republic; Greece; Hungary; Iceland; Ireland; Italy; Liechtenstein; Luxembourg; Malta; Netherlands; Norway; Poland; Portugal; Romania; Spain; Sweden; Switzerland; Turkey; United Kingdom; U.S.S.R.; Yugoslavia.

Africa (Sub-Saharan): Angola; Benin; Botswana; Burundi; Cameroon; Cape Verde; Central African Empire/Republic; Chad; Congo; Djibouti; Equatorial Guinea; Ethiopia; Gabon; Gambia; Ghana; Guinea; Guinea-Bissau; Ivory Coast; Kenya; Lesotho; Liberia; Madagascar; Malawi; Mali; Mauritania; Mauritius; Mozambique; Niger; Nigeria; Reunion; Rwanda; Senegal; Seychelles; Sierra Leone; Somalia; South Africa; St. Helena; Sudan; Swaziland; Tanzania; Togo; Uganda; Upper Volta; Zaire; Zanbia; Zimbabwe.

Latin America: Antigua; Argentina; Bahamas; Barbados; Belize; Bermuda; Bolivia; Brazil; British Virgin Islands; Cayman Islands; Chile; Colombia; Costa Rica; Cuba; Dominica; Dominican Republic; Ecuador; El Salvador; Falkland Islands; French Guiana; Grenada; Guadeloupe; Guatemala; Guyana; Haiti; Honduras; Jamaica; Martinique; Mexico; Monteserrat; Netherlands Antilles; Nicaragua; Panama; Paraguay; Peru; St. Christ-Nevis; St. Lucia; St. Pierre and Miquelon; St. Vincent; Suriname; Trinidad-Tobago; Turks and Caicos; Uruguay; Venezuela.

APPENDIX B—U.S. ARMS TRANSFERS TO THE THIRD WORLD: THE IMPLICATIONS OF SOPHISTICATION

(By Caleb S. Rossiter)

IMPLICATIONS FOR U.S. SECURITY INTERESTS

The implications of sophisticated arms transfers are discussed under four headings: regional stability; Soviet reverse engineering and countermeasure capabilities; recipient threat to NATO countries; and levels of U.S. training and maintenance personnel.

REGIONAL STABILITY

Third World conflicts are not only destructive and costly to the participants, but they also can damage U.S. economic and security interests. Some have the potential to place the United States and the Soviet Union in direct confrontation as supporters of the participants. For these and other reasons, the U.S. has adopted a policy of considering the impact of its arms transfers on regional stability.

Assessments of the potential role of sophisticated arms in preserving regional stability can only be made on a case-by-case basis. No general rule appears to arise from recent history. In some cases, possession of sophisticated arms may encourage a country to carry out military operations which it may have otherwise foregone. The scope of Israel's operations and goals in its invasion of Lebanon and Argentina's seizure of the Falklands/Malvinas may have been influenced by the possession of sophisticated weapons. In other cases, possession of sophisticated arms may serve, as U.S. policy intends, to deter a potential adversary. American transfers to South Korea would seem to be a successful case of such deterrence. Finally, the primary motives for some transfers of sophisticated arms may be to bolster U.S. security and political relationships and the recipient's prestige rather than to enhance actual combat capability. However, the purchase of sophisticated arms may in itself create a threat to the internal stability of poorer countries by retarding their economic growth.

If a conflict does occur, however, the presence of sophisticated weapons may tend to make it more destructive and costly than would have otherwise been the case. The high costs of reconstruction in Lebanon and of replacing British and Argentinian equipment lost or damaged in the South Atlantic are recent examples of this tendency. The longer range of the new weapons also tends to extend the battlefield from the front lines into populated rear areas.

SOVIET REVERSE ENGINEERING AND COUNTERMEASURE CAPABILITY

By observing a weapon in action or by obtaining damaged or undamaged versions of it, technologically advanced countries may be able to perform "reverse engineering"—that is, deduce its construction and build a similar weapon. Alternately, they may be able to devise effective counter-measures to the weapon.

Israel's recent successes against MIG fighters and SAM sites in its Lebanese operations were attributable in part to countermeasures developed from observations of these weapons in the 1973 Arab-Israeli war. The Soviet Union has also demonstrated strong reverse engineering and countermeasure capabilities. Some technical analysts feel that Soviet engineers used the U.S. Hawk, Franco-German Roland, and British Rapier surface-to-air missiles, respectively, as their "goal models" in developing the SAM-6, SAM-8, and SAM-13. Exporting sophisticated U.S. weapons increases the likelihood of the Soviet Union obtaining them, or information about them, and performing reverse engineering or developing counter-measures.

THREAT TO NATO COUNTRIES

As noted above, there are a large and increasing number of countries in possession of weapons which could seriously threaten NATO operations. Most Middle Eastern, South American and Asian countries are included in this group. However, the suppliers of these weapons are often NATO countries themselves, and most Third World recipients rely on their suppliers for long-term training and maintenance assistance and resupply during a conflict.

Some analysts argue that this dependence tends to lessen the chances of a recipient using its armed forces offensively against the wishes of NATO countries or against NATO countries themselves. However, Iran's apparent ability to obtain spare parts from other countries for its U.S. equipment and reports of major discrepancies in Saudi Arabian weapons inventories illustrate a particular problem. Once NATO countries export spare parts and weapons, covert re-export—banned by most arms transfer agreements—may be difficult to control. As more Third World countries become co-producers of weapons with NATO countries or establish independent arms manufacturing capability, the ability of the NATO countries to discourage their Third World customers from offensive operations may be a significantly weakened.

LEVELS OF U.S. TRAINING AND MAINTENANCE PERSONNEL

Sophisticated weapons require longer and more intensive training and maintenance activities on the part of the supplier than other weapons. In most cases in the Third World, a sale of sophisticated weapons implies a strong and on-going relationship between the supplying and receiving governments. The number of U.S. personnel operating overseas in support of weapons transfers has been rising recently, and much of this rise can be traced to sophisticated weapons.

According to recent Defense Department reports, 7,640 U.S. Government and contract personnel are implementing U.S. military sales in-country, 25 percent more than there were two years ago. Saudi Arabia accounts for 60 percent of these personnel. Over 1,000 more Defense Department personnel are in-country as managers of arms transfer programs. In addition, a substantial portion of U.S. military training of foreign soldiers—both in the United States and in-country with Mobile Training Teams—under the International Military Education and Training (IMET) and FMS programs is related to transfers of U.S. weapons.

It can be argued that high levels of U.S. personnel are in American interests because recipients may find it difficult to use them to carry out offensive operations without the cooperation of the U.S. Government. However, it should be noted that there are substantial risks involved in high levels of personnel. The presence of a U.S. contingent may serve as an unintended "trip-wire" for the involvement of the United States in a regional conflict. In the event of an attack on the recipient of U.S. arms, the United States may be forced into a choice of cooperation or non-cooperation with the recipient in directly supporting military operations. For diplomatic reasons, such a choice may be difficult and costly. Finally, the United States may find itself the primary

supplier of contending forces in a conflict, a situation in which the choice of cooperation and non-cooperation would be even more difficult.

THE CONGRESSIONAL ROLE IN SOPHISTICATED ARMS TRANSFERS

This paper has raised a number of issues which should be considered when decisions are being made on the transfer of sophisticated U.S. arms. Congress is an integral part of such decisions at present. It authorizes FMS credit financing and debt forgiveness annually, and has the authority to veto major administration transfer recommendations, although the President may void a veto on national security grounds. Some in Congress, however, feel that involvement in arms transfer decisions comes at too late a date in the process of negotiation between the Administration and the potential recipient.

The Administration is required by a number of sections of the Arms Export Control Act to provide Congress with advance notification of inquiries of and negotiations with foreign countries which could lead to a formal letter of offer. For example, Section 25 requires projections of potential offers for the upcoming fiscal year; section 28 requires a listing of countries which have inquired about the price and availability of specific items during a fiscal quarter; and section 36(a) requires a quarterly projection of all likely upcoming offers, which is published in the Congressional Record with reference to the region, rather than the country, in which a major sale may occur.

In some cases, though, advance notification does not occur, and Congress is unable to express an opinion to the Administration on a potential transfer until the proposal is made public with the transmittal of a 36(b) report to Congress. At this point, Congressional resistance to a proposal may be more damaging to foreign policy interests than it might have been while the proposal was still informal, classified and unpublicized. Nonetheless, Congress has thirty calendar days in which to pass a concurrent resolution of disapproval of a proposed arms sale.

An informal notification mechanism has evolved over the past few years, through which the Administration informs the Senate Foreign Relations and House Foreign Affairs committees of the contents of 36(b) reports at least 20 days prior to their formal transmittal. While this mechanism has somewhat alleviated the problem of late notification on particular sales, it still appears that it is difficult for Congress to oversee U.S. arms transfer programs and their implications on a world-wide and regional basis.

APPENDIX C—F-16 SALES ABROAD: A CASE STUDY

(By Kevin Nealer and Dick McCall)

The Reagan Administration's $21.5 billion foreign military sales program for FY 1982 is the largest arms transfer package in U.S. history. It sets new records for total dollar volumes, kinds of customers receiving weapons, and levels of sophistication of defense materials being sold. In light of the Falkland Islands War, even Great Britain is rethinking its arms sale practices, having sold Argentina $200 million in military hardware prior to the outbreak of the conflict.

Administration spokesmen continue to stress the commitment to a growing and aggressive U.S. arms sales policy. Despite the lessons of the Falklands and recent Mideast fighting, they still hold fast to the so-called Nixon (Guam) Doctrine: that U.S. surrogates with high-technology weapons will police our interests in the developing world.

The centerpiece for the Administration's policy in the Third World appears to be the F-16, the ultimate stamp of approval for developing country customers. The U.S. Air Force's highly advanced fighter is one of the most maneuverable, versatile tactical aircraft in the world today. Its sophisticated fly-by-wire flight controls, high "g" cockpit, and powerful afterburning turbofan engine incorporate the latest electronic and engineering advances. It can carry nuclear or conventional air-to-surface ordnance, and can utilize the all-aspect AIM-9L "Sidewinder" missile for air-to-air combat superiority. The F-16 may soon be equipped with even more sophisticated conventional weapons and defense systems.

The Carter Administration first introduced the sale of F-16s abroad on a restricted basis, limited to select NATO countries, Israel, and Egypt. Now the Reagan Administration has added Pakistan, Venezuela, and South Korea to the list of buyers. Of these, only the Korean sale will follow a normal delivery schedule. The other sales are to be made on an accelerated basis, contrary to the timetable that USAF officials have described in testimony and planning documents as being necessary to avoid critical U.S. inventory shortages. Democratic Policy Committee staff review of unclassified Air Force internal documents reveals the following:

OVER-EXTENDING MARKETING

In June of 1981, the former Director of Political-Military Affairs of the State Department, Richard Burt, wrote to Richard Adams, Vice President of General Dynamics (GD), to solicit information on the availability of F-16s for increasing export marketing. Adams responded that aircraft could be provided on an accelerated basis of 24 months. This contradicted the USAF Master Plan projection of 42 months lead time. However, Adams emphasized the 24-month lead time delivery schedule could be met only if the government agreed "to accept pre-contract costs and obligations incurred by General Dynamics and its subcontractors." DOD memos verify that this General Dynamics proposal "allows [the] contractor to obligate U.S. funds in anticipation of an FMS agreement (which violates Public Law)." Under the Arms Export Control Act, major arms transfers and extension of FMS credits cannot occur until the Congress determines that a given sale should not be disapproved.

Moreover, Air Force readiness projections warn that "the historical record says there will be impacts" on U.S. forces, despite GD assurances to the contrary. Because "GD is competing with Northrop's F-5G [F-20] for a portion of the potential export market," DOD analysts caution that General Dynamics is getting ahead of itself in committing to an accelerated production schedule which it cannot sustain without cutbacks to the U.S. and NATO inventories. (Note: DOD and State Department officials have engaged in aggressive marketing of a plane never designed for general export. State's program has been undertaken without reference to establish USAF inventory requirements, or the FX export program option.)

U.S. INVENTORY DEPLETION

General Dynamics and DOD delivery schedules document the draw-down on service inventories. From the second quarter of 1982 to the last quarter of 1984, 40 aircraft will be diverted from the USAF for Egypt alone. Six planes have already been diverted from NATO purchasers for Pakistan, and others must follow to fill that contract for a total of forty F-16s. Current projections do not take into account future sales proposals which may include Indonesia, the Philippines, Jordan, and others. Nor do they anticipate the effect of sales of the "J79" export model of the F-16. Those planes incorporate a less powerful engine, but will necessitate pulling standard F-16 fuselages off the production line and out of projected inventories. DOD planners report that FMS programs to date "have required the diversion of USAF production aircraft and logistic assets at the expense of USAF readiness." Continued acceleration of the F-16 sales program can only result in a further deterioration of USAF readiness.

The FMS-induced shortage goes beyond the problem of diversion of completed F-16s from our own inventories and those of our allies. The crucial areas of maintenance and support also have been affected by the FMS program. Accelerated sales have reduced already low parts inventories, especially for systems with long lead times. The avionics packages, ejection seats, F100 engine spares, and engine accessories cannot be acquired on an accelerated basis from subcontractors due to their complexity and the limited production capabilities. Air Force and DOD reports document the fact that "diversion of USAF spares will have a particularly dramatic impact on our F-16 support posture" leaving the Air Force "critically short of spare parts to support our own peacetime and wartime commitments."

USAF program reports describe the Venezuela sale as a "a contractual and administrative nightmare." They note that the only source of spares will be USAF inventories, and that such "borrowing" will be "costly and difficult to manage". They also point out that the "drastic acceleration" of the Pakistan sale "has had, and will continue to have, significant impact on USAF management activity and support."

Only 67 percent of the nearly 470 USAF F-16s were operational during the first part of 1982. Air Force spokesmen acknowledge that 1983 readiness will be even lower as parts and maintenance support are spread thinner. The full impact has not been reported to Congress, as required by the Arms Export Control Act.

MANPOWER DRAIN

As costly and debilitating as aircraft and spare part diversions have been, a greater threat to U.S. force structure may result from the manpower drain caused by the need for technically trained personnel to support the FMS program abroad. Air Force staffing justifications describe the "extensive training" of some two years which is necessary to bring the skills of maintenance personnel to a competent level in the complex and essential jobs of providing logistical support for the F-16s. Advanced avionics such as communications, navigation, radar, and weapons systems require skilled electronic technicians with "comprehensive training plus operating experience" to assure combat readiness and absolute reliability. But Air Force officials acknowledge serious retention problems in these categories of specialists, placing the service in the position of being unable to comply with DOD Directive 1130.2 which requires "self sufficiency in maintaining and operating new systems" within twelve months of introduction. Former Air Force Secretary

Hans Mark was blunt about this problem when he told The Wall Street Journal that "Airplanes don't fly because we don't have maintenance people."

Congressional action to provide special reenlistment bonuses for key technical positions within the armed services has improved the trend line, but 1981 figures reveal that only about one-third of the new technicians sign up for a second tour. Moreover, Air Force officials are concerned that General Dynamics incentive bonuses may be an attractive lure for Air Force-trained technicians, thereby undercutting the congressionally-initiated bonus system.

DOD officials point to the accelerating FMS program as the principle cause of this manpower drain. They warn that sales to developing countries that have little technical infrastructure create a demand for skilled personnel which private contractors satisfy by hiring away new USAF specialists. In fact, Air Force internal assessments of the foreign sales programs describe "heavy dependence" on private contractors. For the Egyptian sale alone, 130 technicians will be needed. General Dynamics has told DOD officials that part of that force will be made up of personnel acquired from Air Force ranks. One DOD report concludes that "GD will undoubtedly backfill the vacant flightline personnel positions with recruits from the USAF with F-16 experience. The faster the pace of the F-16 FMS case, the faster the F-16 base maintenance capability will be degraded."

As a result of the F-16 FMS sales program, the Air Force finds its manpower needs compromised in several ways. Most importantly, the USAF ability to maintain our own force capability is reduced because some Air Force technicians must be sent overseas to train and assist private contractors and locals in servicing foreign-owned aircraft: this at the expense of U.S. readiness. In addition, government investment in new trainees is not being recouped and attempts to build a corps of experienced personnel are frustrated when private contractors hire away recruits for services which the government must then rent back at the contractors' price, causing "turmoil in the USAF personnel system."

Finally, the service loses control over uniformed personnel. An independent study conducted for DOD warns that "continuing reliance on civilian technicians means that maintenance skills are not being successfully transferred from the producers to the ultimate users of the systems" i.e., the USAF. Moreover, the study points out that "the Military Departments do not have statutory authority to compel [contractors] to perform any function in support of forces engaged in conflict." This poses a danger to U.S. military capability during wartime.

SECURITY CONCERNS

Along with endangering U.S. readiness, F-16 sales to developing countries raise special problems. A recent Congressional Research Service White Paper characterized the sale of high-technology weapons systems as "increas[ing] the likelihood of the Soviet Union obtaining them, or information about them, and performing reverse engineering or developing counter-measures." This is especially true of the F-16s and the advanced missile systems which they will carry. Our experience in Iran where news reports allege that the Soviets gained access to F-14s and the U.S. air-to-air Phoenix missile is the most recent example of the compromise of U.S. technology vital to our ability to maintain a qualitative edge over the Soviets.

The security risk is particularly evident when the purchasers do not share U.S. goals or perceptions of the security threat. For example, the Administration has justified the sale of F-16s and a sophisticated air defense system to Pakistan on the grounds of the Soviet threat, particularly the threat emanating from Afghanistan. Yet 80 percent of Pakistan's army is located at, or near the Indian border, where is also maintains its air bases. Continuing Pakistani research on nuclear weapons development contravenes official U.S. policy, and raises questions about the sale of an aircraft that can be used as a nuclear delivery platform, such as the F-16.

The Pentagon shares the security concern associated with the F-16 sales to Pakistan. On November 29, 1982, a dispute erupted between the U.S. and Pakistani governments over the avionics configuration of the F-16s Pakistan had purchased. The Pakistanis believed they were purchasing the standard U.S. Air Force F-16, and refused delivery of the first six when they found out they would not receive state-of-the-art electronic equipment for detecting enemy ground and airborne radar. *The New York Times* reported on November 30, 1982, that U.S. Air Force officials "dis not want to provide the advanced equipment because of the need to protect its security. The Pakistanis were being offered a less advanced system."

However, the Administration overruled these USAF objections and agreed to provide the most sophisticated version of the F-16 to Pakistan. This turn of events precipitated concern on the part of the Congress that the original FMS notification submitted by the Administration did not indicate that Pakistan would receive state-of-the-art U.S. avionics equipment.

Venezuela is another example of potential differences between the U.S. and a recipient as to perception of security threats. Venezuela is embroiled in border disputes with Columbia and Guyana. Its declaration of a role as "regional protector" following announcement of the purchase of F-16s represents a quantum leap in the regional arms race beyond the capabilities of the MIG-23s in Cuba which U.S. officials used to justify the sale. The net effect of sales such as these is a diminution of U.S. combat readiness in favor of building foreign arsenals over which we do not have control, and which may harm our own security and that of the region.

THE PAKISTAN SALE

In many ways, the sale of 40 F-16s to Pakistan is the classic example of an arms sale "gone wrong." The elements are as follows:

First, the Congress approved the sale on the basis that the bulk of the $1.1 billion in financing would be provided by Saudi Arabia. However, on November 30, 1982, the Administration submitted a reprogramming notice to the Congress for FMS credits in the amount of $150 million for Pakistan. Of that amount, $120 million was to be used for payments on the six F-16s due in Pakistan in mid-December. In that reprogramming request, the Administration did not state from what country, or countries, FMS credits would be reallocated.

Because the Saudis were not forthcoming in financing the first six F-16s, their participation in future funding of the program has been called into question. Since it is apparent that Pakistan will not be able to repay the FMS loans made available for the F-16 program due to its already burgeoning external debt, the burden may fall on the U.S. taxpayer. Potential U.S. taxpayer exposure for the Pakistan program could be $1.1 billion.

Second, the delivery of the first six F-16s on an accelerated basis resulted in a diversion from Dutch and Belgian inventories in order to repay the United States for the six delivered from our inventory. Since the Administration has agreed to an accelerated delivery schedule for the entire Pakistan program, further diversions are likely.

Third, in light of the growing manpower problems in the USAF to service our own F-16 requirements, the Congress should be concerned over the issue of U.S. technical support for the Pakistan program.

Fourth, despite the Administration's justification of the sale on the basis of the Soviet threat to Pakistan, it should be obvious that President Zia remains concerned primarily about the traditional rivalry with India. Recent news accounts alleging that the Indian military may be considering the option of a preemptive strike against Pakistan's nuclear facilities reinforces the view that the long standing enmity dominates the perceptions of both countries.

Fifth, the fact that the USAF was concerned over providing state-of-the-art avionics equipment to Pakistan for fear it would be compromised, only to have these concerns brushed aside by the Administration, should not be taken lightly. Legitimate Pentagon concerns were overridden by an Administration which determined the necessity to make a "symbolic gesture" to Pakistan—a gesture which may prove to be contrary to U.S. interests.

And finally, from the very beginning, Pakistan dictated the nature of the F-16 program for that country. It dictated the time of delivery, terms of the sale, the financing arrangements, and the kind of equipment which was to be provided. Every essential element of a legal contract was dictated by the Pakistan government.

CONCLUSIONS

The proliferating sales of top-of-the-line U.S. military technology to developing countries raise many issues even beyond those discussed in this study of the F-16 program. Arms sales are an important tool of foreign policy. However, they are tools which require discrimination on the part of the United States as a supplier. Bending to foreign demands before meeting our own legitimate security requirements only jeopardizes the national consensus which now exists regarding defense spending. As the fighting last summer in Lebanon between Israeli and Syrian forces demonstrated, the U.S. maintains a significant qualitative edge over some quantitative advantages enjoyed by the Soviet Union in their weapons systems. Yet the Administration has allowed itself to be maneuvered into a position of jeopardizing this qualitative edge by succumbing to the demands of Third World countries such as Pakistan.

The political advantage the Administration perceives in allowing a country such as Pakistan to dictate the nature of the technology we make available has to be weighed against what should be paramount in U.S. arms policy—the protection of this technology against compromise. The F-16s being provided Pakistan contain state-of-the-art U.S. Air Force technology. Soviet AWACS and fighter interceptor capabilities are hampered by the current lack of this technology. If a decision is made to provide the Pakistanis with either the AIM-9L or AIM-9M air-to-air missile for their F-16s, the Soviets

would have an even greater incentive to obtain technology we are making available to President Zia's government. The AIM 9L and the more sophisticated AIM-9M, now being developed, have an all-aspect capability. In other words, interceptor aircraft do not need to maneuver behind a hostile aircraft to score a kill. The Soviets have not yet been able to develop this capability which is vital to offsetting larger numbers of enemy aircraft.

The Soviets have been careful as to which weapons systems, particularly aircraft, they make available for export. An advanced Soviet export fighter is the MiG-23 Flogger, which is of 1967 vintage. However, the export version contains less sophisticated avionics equipment than those MiG-23s in the Soviet inventory. The more sophisticated Soviet fighters are not available for export at this time.

It is ironic that an Administration which has pressed our NATO allies to control the types and flow of high technology items to the Soviet Union would engage in an aggressive arms export policy which puts top-of-the-line U.S. military equipment advances at risk. Earlier this year, the Senate Governmental Affairs Permanent Subcommittee on Investigations issued a report warning that the Soviet Union dedicated "substantial resources to highly focused attempts to secure American technology and was increasingly adept at acquiring this technology."

The pressure the Administration has exerted on our allies regarding the technology transfer issue has placed additional strains on the alliance. However, the Administration's credibility in this matter is strained considerably when it pursues a policy resulting in the global proliferation of high technology military equipment, such as the F-16s, over which we lose direct control once it is sold to another country.

Along with the Administration's aggressive policy of transferring high technology weapons into the Third World, there also has emerged a new arms sale lexicon. In the case of the AWACS sale to Saudi Arabia it became a "litmus test" of our relationship with that country. And as the Pakistanis maintain, the F-16 sale to their country is a "symbolic gesture." Neither the "litmus test" nor the "symbolic gesture" are criteria to be found in the Arms Export Control Act. Yet this terminology used to justify high-technology sales to countries such as Pakistan and Saudi Arabia is irrefutable evidence of a policy which is clearly "the tail wagging the dog." Recipient countries are now dictating the terms of major U.S. arms sales. Meeting U.S. defense requirements and protecting the qualitative edge we enjoy over our major adversary in the world—the Soviet Union—should be the paramount national security concern of our government. However, in the name of "litmus tests" and "symbolic gestures" the Administration has placed this technological edge in jeopardy. What concerns our military personnel above all else is having to face a potential enemy that has comparable avionics and missile capabilities to our own. They know the potential enemy has an edge in numbers which can be offset only by superior U.S. technology and the qualitative advantage it confers.

It is incumbent upon the Congress to reevaluate completely our arms sale practices and the legal underpinnings which support them in light of the developments outlined in this study. The reevaluation would, of necessity, involve review of the present adequacy of procedures contained in the Arms Export Control Act, which has historically defined congressional involvement in this critical area of foreign policy.

Mr. BYRD. Again, I thank our colleagues, Mr. SARBANES, Mr. BIDEN, and Mr. PELL. This is not the last we will hear about this, I am sure.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 12 noon, during which Senators may speak for 3 minutes each.

The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that my 3 minutes may be expanded to twice that length of time.

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

TACTICAL WARFARE

Mr. GOLDWATER. Mr. President, I would like to call my colleague's attention to the cover story in this week's Time magazine. It is entitled "The Winds of Reform" and it is one of the most remarkable articles I have ever read. It is remarkable not for its subject matter on "military reform"—for there is precious little in the article that has not already been published in other, less distinguished journals—but rather it is remarkable for what it implies about Time magazine and our system of government.

Over the years, few institutions have better served this Nation than has the "free press." It is perhaps the essential ingredient of a democracy. But there appears to be a growing trend in this country, among even the more reputable publications as well as the major networks, toward seeking out the one-sided, sensational story at the expense of the balanced and intellectually honest presentation. The implications of this trend are alarming.

Now, this would not be a matter of any great concern if it were not for this disturbing fact: We are becoming increasingly a nation whose thinking is shaped almost entirely by powerful media figures and influential journals—none of whom bear any real accountability to the public.

Such considerable influence should not be faulted where facts are reported accurately and both sides of a controversy are fairly presented. Under such circumstances, the public is faithfully served. But where accuracy and objectivity are sacrificed for the sake of sensationalism, and where editorial opinions are allowed to masquerade as news, the public is shamefully deceived. Under these circumstances, only the selfish purposes of those who perpetrate the deceit are served. In my opinion, the cover story in this week's Time magazine is such a story.

The story is rife with factual errors. It is obvious that little or no effort was made to verify any of the factual assertions made by the authors. Consider the following examples:

First, the article says that the Navy is budgeting for only six new ships this year. The truth is that the Navy has budgeted for 14 new ships in 1983 and 17 in 1984.

Second, the article says that three M-60-A3 tanks may be purchased for the price of one M-1. The truth is that an M-60-A3 costs about $1.3 million each while the M-1 costs $1.8 million per tank.

Third, the article alleges that high technology has made our modern fighters unreliable. In fact, in 1982 the full mission capable (FMC) rate of the Air Force's most sophisticated fighter, the F-15, actually exceeded the FMC rate of the least sophisticated fighter, the F-5. The rates were: F-15, 64.6; and F-5, 62.3.

Even more numerous than the factual errors were the unsubstantiated assertions of the authors. Some of these were quite remarkable. For instance, the article claimed:

First, "The availability rate of the battle-ready fighters will decline in the next 5 years." Yet not a shred of evidence was offered to back up this statement. The truth is that, for the Navy alone, there has been a 16-percent increase in combat aircraft readiness rates since 1980 and the trend is predicted to continue upward over the next 5 years. The Air Force is predicting rates even higher than the Navy's.

Second, the article stated that the Pentagon promotes program managers "for pushing a major project to completion, whatever the price." Not a single example was offered to support this insulting statement. Yet to refute this allegation, there are numerous examples from the past 2 years of program managers who were in fact relieved because of cost problems in their programs.

There were also examples of misleading or perhaps downright dishonest implications. Consider these two:

First, the article implied that the Viper antitank missile had once been expected to penetrate the frontal armor of modern Soviet tanks. It said, "Worse yet, the scaled-down warhead could no longer penetrate the frontal armor of modern battle tanks nor stop Soviet tanks head-on." The truth is that the Viper was never expected to penetrate the frontal armor of modern Soviet tanks. It was designed to penetrate the frontal armor of older Soviet tanks such as the T-62. The specifications required it be able to penetrate 14 inches of steel—in fact, it will penetrate 19 inches.

Second, using a familiar and very deceptive comparison of constant dollars and out-year dollars the article stated that the cost of the F/A-18 had tripled. In fact if one compares the current cost for the F/A-18 and the development estimate in constant dollars, the costs are: Development estimate, in 1975 dollars; $9.9 million per aircraft; and current estimate, in 1975 dollars; $10.28 million per aircraft.

That represents less than 5 percent real growth in the unit cost of the aircraft.

Finally, the authors were apparently given license to express their personal opinions as if they were making statements of uncontested fact. For example:

First, "* * * clear thinking like Boyd's was rare in the Air Force bureaucracy."

Second, "Most important, the Joint Chiefs of Staff must be reformed."

Third, "Indeed, weapons often seem to dictate strategy, rather than the reverse."

These are just a few of the many journalistic flaws which pervade the article. It is inexcusable that a magazine that enjoys the credibility that Time does should tolerate this sort of shoddy journalism. It may be troublesome to insure that all facts are scrupulously verified, but a journal concerned about its professional standards will demand it. It may be an additional burden to insure that editorial comments are confined to editorial pages, but a reputable journal will accept nothing less.

Mr. President, it is my opinion that Time magazine was seduced. They listened unquestioningly to the arguments of a small but vocal minority, decided they had the makings of a sensational story, then published that story without the slightest effort to verify the facts or balance what is a strikingly unbalanced presentation.

It is worth noting that the so-called reformist themes which dominated the Time story are not new themes. They are concepts which have been thoroughly debated in various committees of Congress and, almost without exception, have been rejected. But the authors of "The Winds of Reform" write about these ideas with such beguiling freshness, resurrecting such long-discredited statements as the 3-to-1 cost ratio of the M-1 tank to M-60-A3, that one would think they have just uncovered the great scandal of the 1980's. It is, in fact, nothing more than "hype".

Time was quick to embrace the predictions of a young Pentagon analyst, Chuck Spinney, who appeared last week before the Armed Services Committee. Mr. Spinney's work represents a rather severe indictment of the previous administration's ability to accurately predict weapons costs. But Time found unworthy of mention the fact that there is now hard evidence—not merely an analyst's projection—that the efforts of this administration to control Pentagon cost growth have been successful. Consider these two facts: The total cost growth among the Army's 13 major weapons programs from December 1981 to December 1982 was less than one-half of 1 percent. For the Air Force the total costs actually declined six-tenths of 1 percent. It is also worth noting that the Washington Post, hardly a supporter of this administration's defense efforts, found the Spinney hearing so unremarkable it was relegated to page 5.

Mr. President, the effects of an article like this are easy to predict. A large segment of the public will accept at face value the factual errors, unsubstantiated assertions, and blatant editorial opinions that appear throughout this article. They will be outraged by what they read and we will hear about it here in Congress.

I am afraid, Mr. President, that we have neither the time for the resources to fully undo the damage that is done by an article such as this. Some of my colleagues, I suspect, may find it easier to join with the critics who bask in the favor of the press, rather than resist these repeated efforts to discredit our armed services.

We in Congress have available to us all the information necessary to weigh the alternatives and reach the right conclusions. But I wonder whether we will decide objectively and wisely if the public—to whom we are accountable—is goaded by a press which places a greater premium on sensationalism than on balanced reporting?

Perhaps, ultimately the question is this: Who really governs this Nation, the elected representatives of the people or the unelected media figures and journalists upon whom the public relies for information? I, for one, am beginning to wonder.

Mr. STEVENS. Will the Senator yield, Mr. President?

Mr. GOLDWATER. Yes.

Mr. STEVENS. Mr. President, I thank the distinguished Senator from Arizona for taking the time to make this statement. As chairman of the appropriations subcommittee dealing with defense, I can say we have already been barraged with inquiries about the accuracy of this Time article that the Senator from Arizona has mentioned. I would say that my good friend, with his many years' experience in the defense field and being internationally known for his devotion to accuracy and the truth, has done us all a service. I ask my friend if he would consent to having that statement he just made reproduced so we can send it out from the Defense Committee to those people who inquire about that Time article. Would the Senator give us that permission?

Mr. GOLDWATER. I would be very honored if the Senator would ask for that. I thank my friend from Alaska, who puts so much time and effort into our defense needs.

Mr. President, this is a very, very serious matter with me. I am a great defender of the freedom of the press, but I am becoming increasingly offended by a press that violates the sanctity under which they operate under our Constitution.

One only has to listen to the nightly television shows, the weekly television shows, and read some of our newspapers to understand that there must be a dedicated group among these individuals who are working against our form of government and particularly the need to defend this country.

I will have more to say on this in the future because it is something that bothers me. As a man who is growing older, I do not intend to keep my mouth shut about it.

I thank the Chair.

Mr. STEVENS. 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. STEVENS. 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.

SECRETARY WATT SHOULD REVERSE HIS PRELIMINARY DECISION ON KUWAIT

Mr. BRADLEY. Mr. President, I rise to urge Secretary James Watt to reverse his preliminary decision that the Government of Kuwait may invest in mineral leases on the public lands of the United States. A careful examination of the legislative history of the Mineral Leasing Act of 1920 clearly shows that the Secretary's preliminary decision is directly contrary to both the letter and intent of that act.

Section 1 of the Mineral Leasing Act, 30 U.S.C. § 181, provides that:

> [C]itizens of another country, the laws, customs, or regulations of which deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding, or stock control, own any interest in any lease acquired under the provisions of this Act.

In other words, a citizen of a foreign country may not own an interest in a mineral lease on U.S. public lands if the foreign government denies "similar or like privileges" to citizens of the United States regarding investment in the minerals of that foreign country. This provision has become known as the reciprocity provision.

On December 29, 1982, Secretary Watt rendered a preliminary decision that Kuwait is a reciprocal nation

under the 1920 act. He rendered that decision despite the fact that mineral development within Kuwait is limited to the Kuwait Oil Co., which is 100 percent owned by the Government of Kuwait. There is absolutely no opportunity for an American citizen or corporation to invest in mineral development within Kuwait.

On January 21, Secretary Watt formally suspended the preliminary decision on the grounds that "it has come to our attention that additional information may exist which should be considered before a final decision is rendered." I am unaware of any additional information, but I urge the Secretary to take this opportunity to reconsider the legality of the preliminary decision that Kuwait is reciprocal.

At a February 2 hearing before the Committee on Energy and Natural Resources, I asked Secretary Watt how he could conceivably find Kuwait to be reciprocal under the provisions of the 1920 act. He replied that the 1920 act has been interpreted for many years to mean only that a foreign government may not discriminate between its own citizens and American citizens. In other words, if a foreign government nationalized its minerals industry, it could be said to be granting "similar or like privileges"—that is, no privileges—to both its own citizens and American citizens.

Secretary Watt himself described this interpretation as the "contorted reasoning of a lawyer." I could not agree more. Unfortunately, Secretary Watt's own Solicitor appears to have adopted it. A February 2, 1982, memorandum to the Secretary from his Associate Solicitor for Energy and Resources states that:

> If a country imposes national treatment of its mineral industry or a portion thereof, and does not discriminate against United States holdings, the [1974] Deputy Solicitor's memorandum concluded that such treatment might not be a denial of "like or similar" privileges. . . . While we have not reanalyzed that memorandum in detail, we have no reason to doubt its continuing validity. At your request, we will review that memorandum. Memorandum at 10.

I suggest that the Secretary direct his Solicitor to review the 1974 memorandum. More importantly, I strongly urge the Secretary to review the legislative history of the 1920 act.

The 1920 act was debated and passed in the immediate aftermath of World War I. As a result, Congress was sharply aware of the importance of access to oil, and was anxious to protect domestic sources from foreign control. The bill reported by the Senate Committee on Public Lands prohibited an alien from owning an interest in a lease issued under the act. The chairman of the Committee, Senator Smoot, explained that, "the control of oil produced in this country is of such great importance that the committee decided that some legislation must be had in order to give that control to our government." 58 CONGRESSIONAL RECORD 4160 (1919) (remarks of Senator Smoot).

However, concern was expressed on the Senate floor that an absolute ban on alien ownership might provoke retaliatory legislation by other countries.

> Americans have oil fields in Mexico, in Colombia, in Cuba, in Panama, and in many other countries. We should proceed with the utmost caution in legislating now to establish no precedent that could be utilized justly by other nations to make a drive against the possessions and ownership of Americans in other countries, and I am afraid that this legislation, unless it is very carefully drawn and very carefully phrased, will be seized upon as an excuse, particularly by Mexico, to confiscate the holdings of Americans in that Republic. Id. at 4161 (remarks of Senator King).

Because of this concern, the Senate adopted a compromise provision on the floor. Aliens would be allowed to own an interest in U.S. mineral leases, but the President would be authorized to take over and operate such leases, and the Secretary of the Interior would be authorized to require that the products of such leases be sold for consumption within the United States. Id. at 4160, 4171. As amended, the bill passed the Senate and was referred to the House Committee on Public Lands.

The House committee felt that the Senate provision did not sufficiently protect against the possibility of retaliation. The committee replaced the Senate provision with the reciprocity provision that eventually became law, and gave the following explanation in its report:

> The House amendment . . . seeks to avoid retaliatory action against American investors in foreign countries and provides that no citizen of any foreign country shall, by stock ownership, stock holdings, or stock control, own any interest in any lease acquired under the provisions of this act where such foreign country, by its laws, customs, or regulations, denies similar or like privileges to citizens or corporations of this country. The main argument for the Senate draft was that foreign control of domestic corporations operating a lease under the act would result in large exportations of oil, coal, and other minerals covered by the act, and thereby deplete the domestic supply. Under the House reciprocal clause above mentioned it is obvious that the citizens of the United States could largely offset such a result by their own operations in foreign countries, or, if an acute situation ever developed, a general embargo against exportation would be a sufficient remedy. H.R. Rep. No. 398, 66th Cong., 1st Sess. 11.

Clearly, the House committee was saying to foreign governments, "we'll allow you to invest in our minerals if you allow us to invest in your minerals."

On the House floor, the reciprocity provision was explained in unmistakable terms.

> The House provision provides [for] . . . a reciprocal arrangement by which any foreign country, where Americans are permitted to the full extent in the way of production, the same privilege shall be granted to the nationals of those countries in this country. 58 Cong. Rec. at 7514 (remarks of Rep. Elston).
>
> [T]he bill says that a citizen of a country that does not permit mineral ownership by an American citizen cannot own stock in a corporation of the United States that applies for a lease. *Id.* at 7528 (remarks of Rep. Raker).

In conference, the House reciprocity provision was accepted. The conference report was then adopted by both Houses without further debate.

There can be no doubt that Congress did not intend to allow investment in U.S. minerals by a foreign government, such as Kuwait, that provides no opportunity for American investment in its minerals. I urge Secretary Watt to reverse his preliminary decision that Kuwait may invest in mineral leases on the public lands of the United States. If the Secretary believes that the law should be changed, I invite him to suggest legislation. In the meantime, he should enforce the law.

THE 30TH INFANTRY DIVISION

Mr. THURMOND. Mr. President, I rise to call to the attention of the Senate, a prestigious award recently conferred upon the 30th Infantry Division, better known as the Old Hickory Division. The division, named in honor of Andrew Jackson was recently awarded the Resistance Memorial Cross of the Netherlands. This award is a tribute to the men of the National Guard from South Carolina, North Carolina, Georgia, and Tennessee who comprised the 30th Infantry Division.

I know many men and members of their families from my State who served with honor and distinction when they were called to active duty as well as those returning after the war to civilian life.

Much is owed to the Old Hickory Division, and their families for their sacrifices and lasting contributions on behalf of this Nation and free men everywhere.

The 30th Infantry Division was activated in August 1917 at Camp Sevier, S.C., and was composed of National Guard units from North and South Carolina and Tennessee. The division served overseas during World War I, distinguishing itself in the Somme offensive by breaking through the famed impregnable Hindenburg line and in the battles of La Selle, St. Mihiel, and in the Meuse-Argonne. After World War I the 30th Division was deactivated from Federal service and reverted back to its National Guard role in its respective States.

On September 16, 1940, the 30th Infantry Division was one of the first

four National Guard divisions called to active duty. Composed of the National Guards of North and South Carolina, Tennessee, and Georgia, the division was inducted into Federal service at Fort Jackson, S.C. The division, with its sectional and National Guard character was soon flooded with an influx of selectees, Reserve officers, Regular Army personnel, and OCS graduates from all sections of the country. The infantry division at that time consisted of the 117th Infantry Regiment, 119th Infantry Regiment, 120th Infantry Regiment, 30th Reconnaissance Troop, 105th Engineer Battalion and attached was the 823d Tank Destroyer Battalion, 743d Tank Battalion, and the 531st Antiaircraft Artillery (AW) Battalion. The division's artillery consisted of the 113th Field Artillery Battalion, the 118th Field Artillery Battalion, 197th Field Artillery Battalion, and the 203d Field Artillery Battalion in addition to the 30th Quartermaster Company, 730th Ordnance Company, 30th Signal Company, and the 105th Medical Battalion.

After training for several years at Fort Jackson, S.C.; Camp Blanding, Fla.; Camp Forrest, Tenn.; and Camp Atterbury, Ind., the division went overseas in February 1944 under the command of Maj. Gen. Leland S. Hobbs, a classmate of General Eisenhower and Gen. Omar Bradley. After being trained and prepared for the greatest invasion of all time, the 30th Infantry Division went into France on the 10th of June (D plus 4) and was immediately committed to action against the German Army, participating in the liberation of France, receiving the Croix de Guerre with Palm in 1958.

The division participated in five major campaigns, receiving five battle stars. Its 2d Battalion, 120th Infantry, plus attached units, became known as the Lost Battalion of World War II when, on August 8–14, 1944, surrounded by elements of the German Army, including Hitler's elite 1st SS Division on Hill 314 in Mortain, France, it refused to surrender and held out until relieved. In the battle of Mortain the 30th Division took something out of the German Army which it never regained. Three top German generals, Jodl, Keitel, and Von Kesselring, interviewed after the war, stated that the Mortain engagement was one of the critical operations leading to the defeat of Germany and that the 30th Infantry Division was considered the best fighting division in the European Theater, a fact corroborated by our own American military historians, as evidenced by the "S.L.A. Marshall Letter."

The division spearheaded the Allied breakout from Normandy at St. Lo and was the first American force to enter and liberate Belgium, receiving the Belgian Fouragere, first in Holland with the encirclement of Aachen and first to cross the Rhine River.

During the Battle of the Bulge the 30th again faced the reorganized Hitler's elite 1st SS Division. During the great Ardennes offensive in the winter of 1944–45 the 30th Infantry Division defeated this elite German division so badly that it never returned to combat. Our Assistant Division Commander, Gen. William K. Harrison's task force blocked General Von Rundstedt in his attempt to split the American and Allied forces.

During combat, the 30th was known as the workhorse of the Western Front, so named by Correspondent Wes Gallagher. It was also known as Roosevelt's SS Troops so named by the German high command because of the consistent vigor and pressure it brought to bear on the German Army.

On March 23, 1945, the 30th made an assault crossing of the Rhine River and pursued the enemy across Germany, mopping up enemy pockets of resistance until contact was made with the Russians at Magdeburg on the Elbe River. After a short occupation period the 30th was returned to the United States, arriving home August 19, 1945.

Two additional tributes expressing the commendations of commanders in the field, a part of its glorious history, were in a letter from Lt. Gen. William H. Simpson, the 9th Army Commander, on March 15, to General Hobbs:

It was a distinct pleasure for me last October when I learned that the 30th Infantry Division was being assigned to the Ninth Army, a pleasure all the more keenly felt because of the fact of my previous association as one-time commander of the Division. I have been happy to share with you the pride of accomplishment that has characterized the history of your Division since the initiation of operations on the Continent.

The operation just concluded again furnished your Division with an opportunity to distinguish itself. I scarcely need point out that this opportunity was accepted and completely exploited by the Division, thereby adding another glowing chapter to the record.

Particularly gratifying to me was the surprise which was achieved in your crossing the Roer River at an unsuitable site, and the ingenuity with which your organization overcame the difficulties of building up a bridgehead despite meager access and egress roads. Your expeditious clearing of the Hambach Forest and the firm protection which you furnished the Army right flank, materially assisted the Army to successfully execute the maneuver by which the enemy was turned out of his positions and driven to retreat across his own line of communication.

It was characteristic of your Division that, with the original mission accomplished, you were ready and waiting to execute another mission—that of further securing the Army's right flank and facilitating the capture of the key strongpoint of Neuss.

It is with great personal pleasure that I acknowledge the splendid job performed by the 30th Infantry Division and express my commendation of the individual contribution made by every officer and man.

Maj. Gen. Raymond S. McLain, the XIX Corps commander, in forwarding General Simpson's letter, noted the division's "thorough and rapid action by which the blow never lost its momentum and the enemy moves to check the advance were overrun before they got underway."

Final tribute to the work of the 30th had previously been paid by the four States from which the division had entered Federal service in 1940 and by Gen. Jacob L. Devers, Commanding General of Army Ground Forces. The Governors of Georgia, North and South Carolina, and Tennessee joined in proclaiming October 30 "Old Hickory Day" within their States, and marked the occasion with appropriate ceremonies at the State capitals and with a special radio program. General Devers, in a letter to the 30th's commanding general dated September 21, stated:

The inactivation of the 30th Infantry Division brings to a close a brilliant chapter in American history. The officers and men of the Old Hickory Division, which was formed from National Guard units of North Carolina, South Carolina, Georgia, and Tennessee, have maintained the highest standards of our infantry from the federalization of the unit on September 16, 1940 to the present.

Your Division landed in France in June, 1944 and during the rest of the war performed, often spectacularly, in an efficient, destructive manner. After spearheading the memorable St. Lo breakthrough, your troops were called upon to repel the German attempt to split the American First and Third Armies at Avranches. In one of the most destructive battles of the war, the 30th crushed the enemy assault and held open the vital corridor to the south.

At Aachen, through Belgium, Holland and on into Germany, you continued the offense. As a result of the terrific mauling you gave to some of the Wehrmacht's best troops, the enemy dubbed you "Roosevelt's SS Troops." The final weeks of the war found your men engaged in the drive which encircles the Ruhr and bagged thousands of German prisoners.

Your Division is now being inactivated, but many of your men must remain in the service, while the national security demands their retention. Until they can be released, I am sure they will continue to carry out their assignments with loyalty and vigor.

The 30th has fought courageously and relentlessly, in keeping with the finest traditions of our country. I am proud of that, on behalf of your fellow countrymen, I have this opportunity to commend your officers and men for their devotion and self-sacrifice in the victory over tyranny."

After deactivation, the 30th Infantry Division Association continued in existence and the 30th Armored Division became the National Guard of Tennessee and the 30th Infantry Brigade became the National Guard of North Carolina.

Many 30th men remained on active duty, including the former Assistant Division Commander, Brig. Gen. Wil-

liam K. Harrison, Jr., who, as Lt. Gen. William K. Harrison, Jr., was the chief United Nations peace negotiator at Panmunjom when the treaty ending the Korean war was signed. The Honorable Ralph E. Becker deserves high praise as a former member of the division for his diligent advocacy on behalf of the Old Hickory Division.

Mr. President, I ask unanimous consent that a copy of the Royal Netherlands Decree, Awards Ceremony Agenda, and the letter from Col. S.L.A. Marshall be included 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:

ROYAL DECREE OF 29 December 1980, Number 104

We Beatrix, By the Grace of God, Queen of The Netherlands, Princess of Orange-Nassau, Etc., Etc., Etc.,

Upon the recommendation of Our Minister of Internal Affairs, Directorate General of Civil Service, Department Cabinet Affairs, of 23 December 1980, No. BK8/Uss17; together in the name of Our Ministers of Defense; of Culture, Recreation and Social Work;

Considering, that it is desireable to introduce a decoration on the occasion of the 35th anniversary of the liberation for those who participated in the resistance during the Second World War against the occupation of the Territory of the Kingdom;

Have Consented and Authorized:

ARTICLE 1.

A medal of decoration is introduced that shall carry the name of Resistance Memorial Cross.

ARTICLE 2.

1. The Resistance Memorial Cross is awarded to:

a. Each who belonged to a recognized resistance group as named in the Royal Decree of 5 September 1944 Stb. E62 or another recognized resistance group known to the Extraordinary Pensions Council or the 1940-1945 Foundation.

b. Each who, according to a decree of the Extraordinary Pensions Council, is or would be recognized as a participant in the resistance in the sense of the Extraordinary Pensions Act of 1940-1945, irrespective of whether he/she enjoys or does not enjoy a pension by virtue of this act.

c. Each who has been recognized to have spent time under arms in conformity with the application of the Amendment to the Statute on the Legal Status of Servicemen in Resistance (Act of 20 January 1976, Stb. 19)

d. The servicemen who belonged to The Netherlands Forces of the Interior in occupied territory (in pursuance to Article 2, Paragraph 5 of the Amendment to the Statute on the Legal Status of Servicemen in the Resistance).

e. Each who has participated in manifest actions of resistance against the enemy in the judgement of the concerned committee, as intended by Article 4, during the Second World War in East Asia on Japanese occupied territory or Japanese territory.

f. Each who can also be considered a participant in the resistance according to the judgement of the committee as intended in Article 4, but not falling under the provisions of a through * * *.

2. The award will not be made to those whose conduct during the occupation of the Kingdom is considered, from the point of view of The Netherlands as a nation, to have been dishonorable.

ARTICLE 3.

The award can be made posthumously.

ARTICLE 4.

The award takes place under the responsibility of a committee considered representative of the former resistance, of which the composition and working procedures are determined by a ministerial decree of Our Ministers of Internal Affairs, of Defense, and of Culture, Recreation and Social Work.

ARTICLE 5.

The shape of the decoration, as referred to by Article 1, and the related ribbon will, upon further consideration, be determined by us.

ARTICLE 6.

1. It is permitted to the recipient to wear by itself either the Cross or the ribbon.

2. It it permitted, for those who are eligible to wear the Resistance Memorial Resistance Cross, to wear a miniature model of the Cross.

3. The Cross or ribbon may be worn on a military uniform.

With the award of the Resistance Memorial Cross, the recipient receives a certificate in the designated name.

This decree goes into effect on 31 December 1980. Our Ministers of Internal Affairs, of Defense, and of Culture, Recreation and Social Work are, each in his own capacity, responsible for the execution of this decree that will be placed in the official registry and whereof copies will be sent to the Chancellor of The Netherlands' Order.

Lage Vuursche, 29 December 1980,
BEATRIX.

The Minister of Home Affairs,
H. WIEGEL.

AGENDA FOR THE PRESENTATION OF THE NETHERLANDS' RESISTANCE MEDALS, OCTOBER 1, 1982, DAV HEADQUARTERS, WASHINGTON, D.C.

Welcoming remarks and introduction of DAV staff and dignitaries—by National Commander Galian

Denvel D. Adams—National Adjutant

Norman B. Hartnett—National Director of Services and Staff of National Service and Legislative Hdqts and National Headquarters

Dr. J. H. Lubbers, Netherlands Ambassador to the United States

Mr. G. H. J. M. Peijnenburg, Secretary-General Ministry of Defense

Secretary of the Army, John O. Marsh, Jr.

Director of Army Staff Lt. Gen. James Lee

Mr. Michael Barry—State Department

Commander Galian will introduce Mr. van Lanschot who will give a brief background on the Resistance Medal before presenting same to the following:

Maj. Gen. Jack H. King and Sgt. Maj. Bobby J. Fletcher, 104th Division (Training)

Brig. Gen. James D. Smith Major, 82d Airborne Division

Brig. Gen. William M. Ingram and Sgt. 1st Class Carl Marlowe, 30th Infantry Brigade

Brig. Gen. Patrick W. Harrison and Sgt. 1st Class James L. Taylor, 30th Armored Brigade

Col. (P) William H. Harrison and Sgt. Maj. Jack L. Siggers, 101st Airborne Division (Air Assault)

Col. Phillip Mallory and Sgt. Maj. Earl D. Ferguson, 2d Armored Division

The Netherlands Resistance Medal will also be given to the following Associations:

Mr. Lawrence Cabot, The 2nd Armored Division Association, c/o J. Ramsey Reese, Inc., 555 White Plains Road, Tarrytown, NY 10591.

Mr. Ken Danielson and General William A. Knowlton, 7th Armored Division Association, 4307 Palm Springs Drive, East Point, GA 30344.

Lt. Col. Saul Solow and Lt. Colonel John B. Carbin, 30th Infantry Division Association, 13645 Whippet Way, East, Del Ray Beach, FL 33445.

Mr. James V. Rodier, Chairman, WDC Chapter, 82nd Airborne Division Association, 1806 Beulah Road, Vienna, VA 22180.

Lt. General Harry W. O. Kinnard, 101st Airborne Division Association, c/o George M. Rosie, P.O. Box 101 AB, Court Station, Kalamazoo, MI 49005.

Mr. Howard S. Bedney, National Timberwolf Association, 104th Infantry Division, 721 Byron Avenue, Franklin Square, NY 11010.

Mr. Frank P. Juliano, Allied Airborne Association, 117 Willow St., Staten Island, NY 10306.

Mrs. S. Tipton Randolph, World War II Glider Pilots Association, 136 W. Main Street, Freehold, NJ 07728.

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16 MARCH 1946.

DEAR GENERAL HOBBS: Now that I am leaving the service, I thought it might be well to give you the following information for whatever satisfaction you might derive therefrom.

I was historian of the ETO. Toward the end of last fall, for the purpose of breaking the log-jam of paper concerning division presidential unit citations, General Eisenhower instructed me to draw up a rating sheet on the divisions. This entailed in the actual processing that we had to go over the total work of all the more experienced divisions, infantry and armor, and report back to him which divisions were considered had performed the most efficient and consistent battle service. We so did, and we named certain infantry divisons in the first category and same with armor, and we placed others in a second category and yet others in a third. The 30th was among five divisions in the first category.

However, we picked the 30th Division No. 1 on the list of first category divisions. It was the combined judgment of the approximately 35 historical officers who had worked on the records and in the field that the 30th had merited this distinction. It was our finding that the 30th had been outstanding in three operations and that we could consistently recommend it for citation on any one of these three occasions. It was further found that it had in no single instance performed discreditably or weakly when considered against the averages of the Theatre and that in no single operation had it carried less than its share of the burden or looked bad when compared with the forces on its flanks. We were especially impressed with the fact that it had consistently achieved results without undue wastage of its men. I do not know whether further honors will come to the 30th. I hope they do. For we had to keep looking at the balance of things always and we felt that the 30th was the outstanding infantry division of the ETO.

Respectfully yours,

/s/S.L.A. MARSHALL.

Colonel S.L.A. Marshall, GSC, Historian of ETO.

U.S.S.R. MAY OPEN CIVILIAN A-PLANTS TO U.N. TEAMS

Mr. PROXMIRE. Mr. President, on February 15 Bernard Nossiter reported for the New York Times that the Soviet Union may open civilian atomic plants to United Nations teams. Nossiter reports that specialists warn this does not mean they will permit onsite verification of nuclear arms agreement. But, Mr. President, this could be a vital step in the right direction. I ask unanimous consent that the article by Mr. Nossiter in the New York Times be printed in the RECORD.

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

[From the New York Times, Feb. 15, 1983]

SOVIET MAY OPEN CIVILIAN A-PLANTS TO U.N. TEAMS

(By Bernard D. Nossiter)

UNITED NATIONS, N.Y., Feb. 11.—In a move that could have a major impact on arms agreements, the Soviet Union has said it wants to start talks this spring on opening some Soviet civilian nuclear plants to United Nations inspectors.

Moscow's move was announced in Vienna by the International Atomic Energy Agency, a United Nations body. The agency's Director General, Hans Blix of Sweden, said negotiations would begin in May or June "on a safeguards agreement with the agency."

Disarmament specialists here said this was the first time Moscow had taken a step toward allowing foreign monitors inside Soviet borders. They would be restricted to nuclear plants with peaceful uses.

But the experts said the precedent could ultimately lead to a Soviet willingness to permit on-site inspection of weapons in an accord with the United States. The United States has for years said arms agreements are best verified on the ground. The Soviet Union has insisted that ground monitoring is a breach of sovereignty.

Moscow's decision was foreshadowed last June when Foreign Minister Andrei A. Gromyko told a special United Nations session on disarmament that the Soviet Union was willing to open some plants to the nuclear agency. He made clear that only some civilian plants would be subject to inspection, and the latest Soviet message reiterates this.

Three nations that produce nuclear weapons, the United States, Britain and France, have already signed agreements with the Vienna-based agency. At first glance this seems redundant. The agency's inspection is designed largely to insure against cheating by nations that have agreed by treaty not to produce nuclear weapons. The monitors examine plants to determine whether any plutonium, which can be used for arms, has been hidden or diverted.

The United States said publicly that it would welcome inspection of some civilian plants by the agency to encourage more nations to sign the treaty against the spread of nuclear arms and to assure them that they would not lose any commercial advantage by opening up their installations.

Experts, however, said this was a secondary motive. The primary reason was the hope that the Soviet Union would some day follow suit. This, it was reasoned, could be the opening wedge that might eventually lead to on-site verification of arms accords. From the agency's standpoint, inspection of plants in a country that produces nuclear weapons has a practical use. Officials said the agency learns about the advanced technology and is better able to examine installations in nations that have foresworn nuclear arms.

The Soviet negotiations this spring are expected to center on which plants the agency will examine and on how to insure that Moscow does not have to accept unwanted inspectors. The experts could not predict how long the talks would take, but they seemed confident they would end in agreement.

One specialist suggested that it would be a relatively modest step from agreeing to agency monitors for selected plants to accepting agency inspection of the amount of plutonium produced. But limiting plutonium production is not an issue in any Soviet-American talks now.

The specialists warned that Soviet willingness to permit inspection of some civilian plants, no matter how inportant, was still a long way from accepting on-site verification of arms agreements. That would entail Moscow's permitting outsiders to look at its production and deployment of weapons.

PRESIDENT REAGAN'S NATURAL GAS DECONTROL PROPOSAL

Mr. MITCHELL. Mr. President, I commend President Reagan for his initiative in proposing a plan to deal with a serious national problem: The unintended effects on the natural gas pricing structure that have resulted from the combination of the 1978 price control law and the subsequent boom-and-bust in oil prices.

No one could have anticipated such a price roller coaster when the natural gas-pricing bill was enacted 4 years ago. But the unanticipated did, in fact, occur, and consumers today are faced with the situation that natural gas prices continue to rise, even in the face of general stability and decline in other energy costs.

I have not yet reviewed in detail every element of the President's program. It is a complex proposal designed to minimize disruption to supplies and prices during a transition period before price controls finally expire. The discovery and delivery of natural gas—and the existing price structure—must deal with both developers and pipelines. It has necessarily been a complex price control effort, and has resulted in unintended price differentials which do nothing to enhance efficiency or rational planning in the energy market.

I intend to review the proposal in detail, therefore, before making a final decision on its component parts or its overall impact. It is entirely possible that Congress will act to change some elements and modify others.

I am particularly concerned about the failure to include in the proposal provisions for a windfall profit tax or assistance to low-income families who may be hard hit if prices rise even more as a result of this proposal. But, as the President himself has said, the proposal does not represent the final word, nor does it contain all the answers. Like President Reagan, I doubt that any one proposal could contain all the answers.

But because this energy source is so vital to millions of American consumers and companies, it is clearly time that a serious effort is launched to rationalize its pricing structure and to introduce the element of predictability into those gas prices, an element without which neither households nor companies can budget.

I recognize that to certain regions which are particularly dependent on natural gas for energy, any proposal to change the current situation presents them with the dangers of the unknowable future. But in this instance, it seems to me that the disadvantages and hardships of the known present are at least as serious as the future danger of another major disruption in energy prices.

Any proposal in this area was bound to be controversial, and that has turned out to be the case, as we all know. It is particularly commendable, therefore, that President Reagan chose to disregard the inevitable criticism and to take the initiative of proposing a plan.

Our Nation has suffered from much unpredictable energy price surges in the past decade, and from the interaction of those price changes with our efforts to shield consumers from their worst effects. The continuing congressional effort in the low-income energy assistance program remains a primary tool with which the very poor have been aided to overcome the immediate threat of price surges. Congress has maintained that program in place and it has served our people well. The pricing structures that have been imposed on various energy sources have, necessarily, been complex and difficult to administer. And those carefully balanced proposals have, naturally, been vulnerable to distortions from sudden price swings.

Price surges that made natural gas exploration more attractive have induced the investment of millions of dollars in deep-well drilling. Those efforts have made a major contribution to the overall energy supply future of the country, as these new sources were tapped.

At the same time, in a market where the price of gas' major competing fuel, oil, is falling, the costs of those deeply drilled wells become far more onerous than in a climate of rising prices. And the industry itself has made substantial changes in its operating methods to respond to the threats of supply dis-

ruptions and price instability over the past several years.

None of these actions were intended to result in the unsatisfactory and irrational price outcomes that the consuming public now confronts. Consumers are naturally disturbed that in a time of stable and declining energy prices, the cost of their natural gas is rising. But consumers, along with the industry and the Congress, must recognize that the situation we face today is the outcome of forces and events that could not have been anticipated; they are not the result of some conspiracy or plot. The industry must acknowledge that consumer anger is justifiable. And the Congress should recognize that cooperative work and rational alternative proposals are the best way to overcome the problem, not out-of-hand rejection of the only plan that has been proposed.

This will undoubtedly be one of the most controversial debates the Congress will face this session. I believe we should acknowledge the President's leadership in presenting us with a proposal, and work to make that debate constructive, rather than acrimonious.

CHICAGO'S SALUTE TO BABIES

Mr. PERCY. Mr. President, recently some distressing and saddening statistics were brought to my attention which I wanted to share with my Senate colleagues. Despite all the gains we have made in this country, we still experience high rates of infant illness and death.

More than 250,000 babies are born each year with physical or mental damage. Another 500,000 pregnancies end in miscarriage or stillbirths. About 1.2 million infants, children, and adults are hospitalized annually for treatment of birth defects. And some 60,000 Americans die every year as a result of birth defects.

In urban areas, such as Chicago, there is a concentration of these problems. The infant mortality rate, for example, is 20.6 in Chicago for every 1,000 live births, far higher than the national rate of 11.7.

Mr. President, while I am saddened by these figures, I am equally encouraged by efforts around the country to respond to these problems. In particular, the Metropolitan Chicago chapter of the March of Dimes will stage a Salute to Babies banquet on April 7 to focus attention on the health of the Nation's children. Their goal is to gather together the resources needed to develop new and better programs which will reduce infant illness and death.

Specifically, the private funds raised by the Salute will be used to expand and extend perinatal health care, intensify efforts to assure total health care for infants during their first year of life, particularly in high risk or underserved areas, and to promote activities that will insure the orderly growth and development of all children as they mature.

These efforts will include education at all levels, from potential and expectant parents to parents and families, health workers in all fields and the general public; service through funding of pilot projects and development of prenatal infant intensive care units; and last, research to prevent preterm births, low birth weight, and specific birth defects.

All those associated with the Salute are to be commended, but none more so than the general chairman, Dr. Effie O. Ellis, a renowned advocate for the improvement of maternal and infant health care and the quality of family life.

Dr. Ellis, a graduate of Spellman College in Atlanta, Ga., has served as chief of the department of pediatrics at the University of Illinois Medical School and Center. She held the coveted residency in pediatrics at Massachusetts General Hospital. She was the first black woman to be named a teaching fellow of the Harvard Medical School where she made significant contributions to the speciality of pediatrics. Johns Hopkins School of Medicine awarded Dr. Ellis a fellowship in cardiology where she distinguished herself for research and treatment of the blue baby syndrome with Dr. Helen Taussig. Today, newborn babies rarely die from that birth defect.

Dr. Ellis has also served as director of medical education at Provident Hospital in Baltimore, Md.

Public service has played a large part in her long career. Dr. Ellis served as director of maternal and child health for the State of Ohio. On the Federal level, she has served as the medical director for the U.S. Children's Bureau, region 5, and as the regional commissioner for the social rehabilitation service.

In 1970, President Nixon appointed Dr. Ellis to the White House Conference on Children and the White House Conference on Nutrition. Most recently, in Illinois, Governor Jim Thompson chose her for his Task Force on Children and Youth.

Active in the March of Dimes for many years, Dr. Ellis served as the consultant to the March's Birth Defects Foundation and helped launch the parenting education program which was introduced in 22 States across the Nation.

Mr. President, the Chicago Salute to Babies promises to be a most successful event and I am proud to highlight it here on the floor of the Senate, along with the fine work of the Metropolitan Chicago chapter of the March of Dimes Birth Defects Foundation.

LEARNING FROM "THE WINDS OF WAR"

Mr. PROXMIRE. Mr. President, recently 140 million Americans watched the 18-hour presentation "The Winds of War." This television series is an adaptation of Herman Wouk's best-selling novel of the same name. Although a number of historical events during World War II are depicted, the persecution of the Jews is one of the dominating concerns of both the series and its author, who is a devout Orthodox Jew.

In one particularly horrifying scene, black-costumed Nazi special-action squads herd dozens of Russian Jews into a large grave, where they are shot. This is only one of the numerous methods of massacre which occurred during the time of Adolph Hitler. Ultimately, 6 million people lost their lives, a frightful number still difficult to imagine.

Although the television series could not possibly portray the enormous magnitude of this crime, it served an important purpose. Once again, millions of Americans were reminded of the torture and human destruction the Jews were forced to endure. Once again, millions of Americans were also convinced that the nations of the world must take immediate steps to prevent future instances of such atrocities.

Mr. President, over 80 nations have taken an important first step by ratifying the Genocide Convention. They are on record as opposing the elimination of a national, racial, ethnical, or religious group. They are also on record as declaring this act an international crime. Although the United States has signed this treaty, I am sorry to say that we have yet to ratify it. As a nation which has advocated basic human rights for over 200 years, the United States can only strengthen its position by ratifying this treaty. Therefore, I strongly urge my colleagues to ratify the Genocide Convention without further delay.

MESSAGE FROM THE HOUSE

At 10:41 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that pursuant to the provisions of 2 United States Code 123b, the Speaker appoints as members of the Committee on the House Recording Studio the following members: Mr. ROSE, Mrs. BOGGS, and Mr. BADHAM.

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

H.R. 999. An act to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public or Indian lands, and for other purposes.

HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 999. An act to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public or Indian lands, and for other purposes; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEPSEN, from the Joint Economic Committee:

Special Report entitled "The 1983 Joint Economic Report" (Rept. No. 98-15).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment:

S. 96. A bill to establish the Lee Metcalf Wilderness and Management Area in the State of Montana, and for other purposes (Rept. No. 98-16).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

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

Morton I. Abramowitz, of Massachusetts, a Career Member of the Senior Foreign Service, Class of Career Minister, for the rank of Ambassador during the tenure of his service as the Representative of the United States for Mutual and Balanced Force Reductions Negotiations.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Morton I. Abramowitz
Post: U.S. Representative to MBFR
Contributions, amount, date, donee.
1. Self, None.
2. Spouse, $50, 1981, George Mitchell; $75, 1982, Marie Ridder; $100, 1982, Michael Barnes.
3. Children and Spouses: Names: Sheppie G. Abramowitz (wife); Michael Abramowitz (son); Rachel Abramowitz (daughter).

Manfred Eimer, of Maryland, to be an Assistant Director of the United States Arms Control and Disarmament Agency.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROTH, from the Committee on Governmental Affairs:

Barbara Jean Mahone, of New York, to be a Member of the Federal Labor Relations Authority for a term of five years expiring July 29, 1987; and

John Carl Miller, of Ohio, to be General Counsel of the Federal Labor Relations Authority for a term of five years.

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. PERCY (by request):

S. 659. A bill to authorize the Board for International Broadcasting to provide Federal funding for radio broadcasting to Cuba; to the Committee on Foreign Relations.

S. 660. A bill to authorize appropriations for fiscal years 1984 and 1985 for the Department of State; to the Committee on Foreign Relations.

By Mr. GARN:

S. 661. A bill for the relief of Braun Green; to the Committee on the Judiciary.

By Mr. ARMSTRONG:

S. 662. A bill to provide for confirmation of the repayment contract of the Dallas Creek participating project of the Upper Colorado storage project; to the Committee on Energy and Natural Resources.

By Mr. ARMSTRONG (for himself, Mr. LUGAR, Mr. HATCH, Mr. BAUCUS, Mr. BUMPERS, Mrs. HAWKINS, Mr. ZORINSKY, Mr. CHAFEE, Mr. McCLURE, Mr. HART, Mr. NICKLES, Mr. PRESSLER, Mr. LEVIN, Mrs. KASSEBAUM, Mr. KASTEN, Mr. GRASSLEY, Mr. HATFIELD, Mr. JEPSEN, Mr. WARNER, Mr. QUAYLE, and Mr. DOMENICI):

S. 663. A bill to prohibit the payment of certain agriculture incentives to persons who produce certain agricultural commodities on highly erodible land; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SIMPSON (by request):

S. 664. A bill to amend title 38, United States Code, to extend the authority of the Administrator of Veterans' Affairs to provide certain contract hospital care and medical services in Puerto Rico, the Virgin Islands, and other territories; to the Committee on Veterans' Affairs.

S. 665. A bill to amend title 38, United States Code, to terminate the authority of the Administrator of Veterans' Affairs to make advance payments of education and subsistence allowances, and for other purposes; to the Committee on Veterans' Affairs.

S. 666. A bill to amend title 38, United States Code, to repeal the authority for eligible veterans and eligible spouses to pursue correspondence training, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SIMPSON:

S. 667. A bill to enhance the benefits available under the contributory education program and to eliminate the termination date for the GI bill education program, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. KENNEDY (for himself, Mr. BIDEN, Mr. THURMOND, Mr. LAXALT, Mr. BAUCUS, Mr. HATCH, Mr. ABDNOR, Mrs. HAWKINS, Mr. LEAHY, Mr. COHEN, Mr. D'AMATO, Mr. CHILES, Mr. GLENN, Mr. SPECTER, Mr. HUDDLESTON, Mr. LUGAR, Mr. DeCONCINI, Mr. ZORINSKY, Mr. MOYNIHAN, Mr. METZENBAUM, Mr. SASSER, Mr. SIMPSON, and Mr. STEVENS):

S. 668. A bill to reform Federal criminal sentencing procedures; to the Committee on the Judiciary.

By Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. GORTON, Mr. JACKSON, Mr. BAUCUS, Mr. MELCHER, and Mr. McCLURE):

S. 669. A bill to authorize the construction of a project for navigation at the Bonneville lock and dam, Oregon and Washington; to the Committee on Environment and Public Works.

By Mr. PELL (for himself and Mr. STAFFORD):

S. 670. A bill to establish a New England Regional Power Planning and Distribution Authority, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCLURE (for himself and Mr. DeCONCINI):

S. 671. A bill to authorize a national program to encourage dam safety; to the Committee on Environment and Public Works.

By Mr. McCLURE (for himself, Mr. GOLDWATER, and Mr. WALLOP):

S. 672. A bill to amend the Reclamation Safety of Dams Act of 1978 to authorize additional appropriations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCLURE:

S. 673. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the credit against tax for contributions to, individual housing accounts; to the Committee on Finance.

By Mr. SPECTER:

S. 674. A bill to authorize implementation of a project for flood damage prevention at Milton, Pa.; to the Committee on Environment and Public Works.

By Mr. TOWER (by request):

S. 675. A bill to authorize appropriations for fiscal year 1984 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, and for other purposes; to the Committee on Armed Services.

By Mr. SASSER (for himself, Mr. TSONGAS, Mr. PRYOR, Mr. RIEGLE, Mr. RANDOLPH, Mr. FORD, and Mr. BAUCUS):

S. 676. A bill to provide for capital assistance to State and local governments; to the Committee on Finance.

By Mr. HEFLIN:

S. 677. A bill to amend the Federal Rules of Civil Procedure with respect to the examination of prospective jurors; to the Committee on the Judiciary.

By Mr. QUAYLE (for himself and Mr. LEVIN):

S. 678. A bill making emergency supplemental appropriations for the fiscal year 1983; to the Committee on Appropriations.

By Mr. PERCY:

S. 679. A bill to establish a program to provide funds to States for the purpose of job opportunities and business stimulation, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SARBANES (for himself and Mr. MATHIAS):

S. 680. A bill entitled the Gladys Noon Spellman Parkway; to the Committee on Energy and Natural Resources.

By Mr. EXON:

S. 681. A bill to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebr.; to the Committee on Energy and Natural Resources.

By Mr. BUMPERS:

S. 682. A bill to amend the Agricultural Act of 1949 to modify the acreage base to be used for a farm under the acreage limitation programs for the 1983 crops of wheat, feed grains, and rice; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BUMPERS (for himself and Mr. PRYOR):

S. 683. A bill to modify the special payment-in-kind land conservation program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ABDNOR (for himself and Mr. MOYNIHAN):

S. 684. A bill to authorize an ongoing program of water resources research; to the Committee on Environment and Public Works.

By Mr. QUAYLE:

S. 685. A bill to provide savings in the Federal Employees Compensation Act, and for other purposes; to the Committee on Labor and Human Resources.

S. 686. A bill to amend the Age Discrimination in Employment Act of 1967 to eliminate the upper age limitation of 70 years of age, to make procedural reforms, and reinstate the tenured faculty exemption, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HEINZ (for himself, Mr. DIXON, Mr. BYRD, Mr. SPECTER, Mr. PERCY, Mr. LEVIN, Mr. RIEGLE, Mr. RANDOLPH, Mr. SARBANES, Mr. PELL, and Mr. GLENN):

S. 687. A bill to amend the Federal Supplemental Compensation Act of 1982 to increase the number of weeks of compensation; to the Committee on Finance.

By Mr. HATFIELD:

S. 688. A bill to provide that, unless the Government of El Salvador actively participates in negotiations with all major parties to the conflict which are willing to participate unconditionally in negotiations for the purpose of achieving a cease fire and an equitable political solution to hostilities, U.S. military support for El Salvador shall be terminated, with military assistance funds to be transferred for use for development and humanitarian assistance; to the Committee on Foreign Relations.

By Mr. HEINZ:

S. 689. A bill entitled the Natural Gas Policy Act Amendments of 1983; to the Committee on Energy and Natural Resources.

By Mrs. HAWKINS:

S.J. Res. 47. Joint resolution authorizing and requesting the President to proclaim "National Disabled Veterans Week"; to the Committee on the Judiciary.

By Mr. MCCLURE (for himself and Mr. MATTINGLY):

S.J. Res. 48. Joint resolution to amend the Constitution of the United States to limit budget outlays for a fiscal year to not more than 20 per centum of gross national product for such fiscal year; to the Committee on the Judiciary.

By Mr. PERCY (for himself, Mr. PELL, Mr. BYRD, Mr. DOMENICI, Mr. PRESSLER, Mr. HOLLINGS, Mr. LUGAR, Mr. INOUYE, Mr. JACKSON, Mr. DODD, Mr. SARBANES, Mr. PROXMIRE, Mr. ZORINSKY, Mr. CHAFEE, Mr. BOSCHWITZ, Mr. HUDDLESTON, Mr. MOYNIHAN, Mr. CHILES, Mr. BIDEN, Mr. DIXON, Mr. LEVIN, Mr. HART, Mr. KENNEDY, Mr. SASSER, Mr. DANFORTH, Mr. COHEN, Mr. MATHIAS, Mr. MITCHELL, and Mr. STEVENS):

S.J. Res. 49. Joint resolution to authorize and request the President to proclaim the week of April 10-16, 1983, as "A Week of Remembrance for the 40th Anniversary of the Warsaw Ghetto Uprising"; to the Committee on the Judiciary.

By Mr. LEVIN (for himself, Mr. BAUCUS, Mr. CHAFEE, Mr. GLENN, Mrs. HAWKINS, Mr. HOLLINGS, Mr. RIEGLE, and Mr. ZORINSKY):

S.J. Res. 50. Joint resolution designating the week beginning September 25, 1983, as "National Adult Day Care Center Week"; to the Committee on the Judiciary.

By Mr. DOLE (for himself and Mr. MOYNIHAN):

S.J. Res. 51. Joint resolution designating May 21, 1983, as "Andrei Sakharov Day"; to the Committee on the Judiciary.

By Mr. QUAYLE (for himself, Mr. INOUYE, Mr. HATCH, Mr. SPECTER, Mr. D'AMATO, Mr. WEICKER, Mr. HOLLINGS, Mr. BAUCUS, Mr. KENNEDY, Mr. BURDICK, Mr. RIEGLE, Mr. COCHRAN, Mr. DECONCINI, Mr. STENNIS, Mr. STEVENS, Mr. ANDREWS, Mr. LUGAR, Mr. STAFFORD, Mrs. HAWKINS, Mr. RANDOLPH, Mr. METZENBAUM, and Mr. DODD):

S.J. Res. 52. Joint resolution to authorize and request the President to designate the week of April 10, 1983, through April 16, 1983, as "National Mental Health 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. STEVENS (for Mr. THURMOND) (for himself, Mr. STEVENS and Mr. LAXALT):

S. Res. 79. Resolution to commend the value of the Health Fair Program; considered and agreed to.

By Mr. BYRD:

S. Res. 80. Resolution to amend rule XV to provide a procedure to require that amendments to a bill or resolution be germane after a vote by three fifths of all Senators; to the Committee on Rules and Administration.

By Mr. STEVENS (for Mr. BAKER) (for himself and Mr. BYRD):

S. Res. 81 Resolution to direct the Senate Legal Counsel to represent Senator MOYNIHAN and Senator D'AMATO in the case of *Municipal Electric Utilities Association of New York State* v *Ronald W. Reagan, et al.* Civil Action No. 83-0595; considered and agreed to.

By Mr. MOYNIHAN (for himself and Mr. HART):

S. Con. Res. 13. Concurrent resolution to achieve economic growth through coordination of monetary and fiscal policy; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (by request):

S. 659. A bill to authorize the Board for International Broadcasting to provide Federal funding for radio broadcasting to Cuba; to the Committee on Foreign Relations.

RADIO BROADCASTING TO CUBA ACT

Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill to provide Federal funding for radio broadcasting to Cuba.

This legislation has been requested by the Department of State and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a legislative analysis, and the letter from the Assistant Secretary of State for Congressional Relations to the President of the Senate dated February 24, 1983, requesting this legislation.

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

S. 659

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 "Radio Broadcasting to Cuba Act".

DECLARATION OF ADDITIONAL PURPOSES

SEC. 2. Section 2 of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2871) is amended—

(1) by inserting "(a)" immediately after "Sec. 2."; and

(2) by adding at the end of the section the following:

"(b) The Congress further finds and declares—

"(1) that, consonant with the policy set out in subsections (a) (1) and (2), radio broadcasting to Cuba may be effective in furthering the open communication of accurate information and ideas to the people of Cuba, in particular information about Cuba; and

"(2) that such broadcasting to Cuba, operated in a manner not inconsistent with the broad foreign policy of the United States and in accordance with high professional standards, would be in the national interest."

ADDITIONAL FUNCTIONS OF THE BOARD

SEC. 3. Section 4 of the Board for International Broadcasting Act of 1973 (22 U.S.C 2873) is amended by adding at the end thereof the following:

"(c) In order to further carry out the purposes set forth in section 2 of this Act, the Board is authorized to provide for the open communication of information and ideas through the use of radio broadcasting to Cuba. The Board may carry out this subsection by means of grants, leases or contracts (subject to the availability of appropriations), or such other means as the Board determines will most effectively carry out the purposes set forth in section 2. With respect to grants to or leases or contracts with a separate entity or other means of carrying out broadcasting to Cuba, the Board shall have the same authorities as those detailed in subsection (a) of this section.

"(d) Radio broadcasting to Cuba under this Act shall serve as a consistently reliable

and authoritative source of accurate, objective and comprehensive news.

"(e) Any broadcasting to Cuba in accordance with subsections (c) and (d) on the AM band (535 kHz to 1605 kHz), other than that conducted by means of leasing time on commercial or non-commercial educational radio broadcasting stations, shall be limited to the frequency used by the Voice of America for its broadcasts from the facilities located at Marathon, Florida. In the event that broadcasting is conducted on the frequency used by the Voice of America, the Voice of America broadcasting facilities located at Marathon, Florida, may also be used for the purposes of this Act."

ASSISTANCE FROM OTHER GOVERNMENT AGENCIES

SEC. 4. The Board for International Broadcasting Act of 1973 is amended by adding at the end thereof the following:

"ASSISTANCE FROM OTHER GOVERNMENT AGENCIES

"SEC. 12. In order to assist the Board in carrying out the purposes set forth in section 2 of this Act, any agency or instrumentality of the United States may sell, loan, lease, or grant property (including interests therein) and may perform administrative and technical support and services at the request of the Board. Support and services shall be provided on a reimbursable basis, which reimbursement shall be credited to the appropriation from which the property, support, or service was derived."

MERGER OF BOARDS OF DIRECTORS

SEC. 5. (a) Section 11 of the Board for International Broadcasting Act of 1973 is amended by adding at the end thereof the following:

"(c) No grant may be made under this Act to Radio Broadcasting to Cuba, Incorporated, or any other corporation established to provide radio broadcasting to Cuba, unless such corporation provides in its certificate of incorporation that—

"(1) the Board of Directors of such corporation shall consist of the members of the Board for International Broadcasting and no other members; and

"(2) such Board of Directors shall make all major policy determinations governing the operation of such corporation and shall appoint and fix the compensation of such managerial officers and employees of such corporation as it deems necessary to carry out the purposes of this Act.

Compliance with the requirements of this subsection shall not be construed to make such corporation a Federal agency or instrumentality."

(b) The section heading for Section 11 of the Board for International Broadcasting Act of 1973 is amended to read as follows: "MERGER OF BOARDS OF DIRECTORS".

U.S. DEPARTMENT OF STATE,
Washington, D.C., February 24, 1983.

Hon. GEORGE BUSH,
President of the Senate.

DEAR MR. PRESIDENT: I have the honor to submit for the consideration of the Congress a bill that would authorize the Board for International Broadcasting to provide federal funding for radio broadcasting to Cuba.

I urge that the Congress give this proposal its early and favorable consideration.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.

LEGISLATIVE ANALYSIS: RADIO BROADCASTING TO CUBA ACT

BACKGROUND

On September 22, 1981, the President issued Executive Order 12323 creating the Presidential Commission on Broadcasting to Cuba. The Commission's Final Report strongly urged the early establishment of radio broadcasting to Cuba, to provide the people of Cuba with a source of accurate and objective information, particularly about Cuba. The Commission recommended that such broadcasting be conducted along the same lines as Radio Free Europe and Radio Liberty. During the last session of Congress, the Administration sent to the Congress proposed legislation authorizing funding for radio broadcasting to Cuba. H.R. 5427, as amended, passed the House on August 10, 1982 and, as further amended, was favorably reported by the Senate Foreign Relations Committee on September 9, 1982; however, one bill was never voted on by the full Senate.

This legislation, which amends the Board for International Braodcasting Act of 1973, 22 U.S.C. 2871 et seq., is in several respects similar to H.R. 5427. It authorizes the Board for International Broadcasting to provide for federally funded broadcasting to Cuba, in much the same way that the Board now oversees federal grants to Radio Free Europe and Radio Liberty.

DETAILED ANALYSIS BY SECTION

Section 2

Section 2 contains the congressional findings and policy statement with respect to radio broadcasting to Cuba. It declares that the policy already enunciated in Section 2 of the Board for International Broadcasting Act of 1973, 22 U.S.C. 2871—promoting open communication of information and ideas and supporting the right to receive such information and ideas through any media and regardless of frontiers—may be furthered by radio broadcasting to Cuba. Subparagraph (b)(2) links such broadcasting, operated in accordance with high professional standards and not inconsistently with U.S. foreign policy, to the national interest in general.

Section 3

Section 3, amending the authority under which the Board for International Broadcasting now makes and supervises grants to Radio Free Europe and Radio Liberty, 22 U.S.C. 2873, establishes the basic authority for the Board for International Broadcasting to provide for radio broadcasting to Cuba. Subsection (c) incorporates the relevant authorities the Board for International Broadcasting already possesses with respect to Radio Free Europe and Radio Liberty, and in general allows broad flexibility to the Board to provide for broadcasting to Cuba through grants, leases, contracts or other means the Board deems appropriate.

Subsection (e), however, limits any broadcasting on the AM band (535 kHz to 1605 kHz) to the leasing of time from other stations or to the frequency now used by the Voice of America for its broadcasts from Marathon, Florida. In the event that the latter option is used, it is contemplated that the Board for International Broadcasting will consult with the U.S. Information Agency in determining an appropriate allocation of time between broadcasting to Cuba under this Act and the broadcasts of the Voice of America. This subsection (e) was included to respond to concerns of broadcasters over possible increased Cuban interference on the present commercial portion of the AM band.

Subsection (d) provides that, in accordance with the distinguished tradition of Radio Free Europe and Radio Liberty, radio broadcasting to Cuba shall serve as a consistently reliable source of accurate and objective information.

Section 4

Section 4 adds a new Section 12 to the Board for International Broadcasting Act to provide specific authority for the Board to receive, on a reimbursable basis, a wide range of assistance from other other government agencies, including making property and support services available. Reimbursement in amounts appropriate for such interagency transfers would be credited to appropriations available for use by the agency furnishing the assistance.

Section 5

Section 5 amends Section 11 of the Board for International Broadcasting Act of 1973, 22 U.S.C. 2880, to make its substance applicable to broadcasting to Cuba. Section 11, added in 1982 by Section 403 of P.L. 97-241, requires that in order for RFE/RL, Incorporated (Radio Free Europe/Radio Liberty) to receive federal support under the Act, its Board of Directors must consist, only of the members of the Board for International Broadcasting. Section 11 also requires that the Board have actual control over the operations and management of RFE/RL, Incorporated and specifies that the requirements of that section are not to be construed to render RFE/RL, Incorporated a Federal agency or instrumentality. Section 5 of the Radio Broadcasting to Cuba Act applies these provisions of Section 11 of the Board for International Broadcasting Act to any corporation similar to RFE/RL, Incorporated (such as the already-existing but nonoperational Radio Broadcasting to Cuba, Incorporated) to which the Board for International Broadcasting might provide support under this Act for purposes of broadcasting to Cuba.

By Mr. PERCY (by request):

S. 660. A bill to authorize appropriations for fiscal years 1984 and 1985 for the Department of State; to the Committee on Foreign Relations.

DEPARTMENT OF STATE AUTHORIZATION ACT, FISCAL YEARS 1984 AND 1985

Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill authorizing appropriations for fiscal years 1984 and 1985 for the Department of State.

This legislation has been requested by the State Department and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a section-by-section analysis, and the letter from the Assistant Secretary of State for Congressional Relations to the President of the Senate dated March 1 requesting this legislation.

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

S. 660

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

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

SEC. 101. This title may be cited as the "Department of State Authorization Act, Fiscal Years 1984 and 1985."

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 102. The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law:

(1) For "Administration of Foreign Affairs," $1,473,713,000 for the fiscal year 1984 and $1,574,520,000 for the fiscal year 1985.

(2) For "International Organizations and Conferences," $602,343,000 for the fiscal year 1984 and $645,978,000 for the fiscal year 1985.

(3) For "International Commissions," $23,207,000 for the fiscal year 1984 and $27,329,000 for the fiscal year 1985.

(4) For "Migration and Refugee Assistance and Other Activities," $346,200,000 for the fiscal year 1984 and $328,100,000 for the fiscal year 1985.

WORLD INTELLECTUAL PROPERTY ORGANIZATION

SEC. 103. Subsection (b) of P.L. 92-511 (22 U.S.C. 269f) is amended to read as follows: "(b) Such sums as may be required for the payment by the United States of its proportionate share of the expenses of said international bureau for any year after 1981 as determined under Article 16 (4) of the Paris Convention for the Protection of Industrial Property, as revised."

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING (CIPA)

SEC. 104. P.L. 94-37 (89 Stat. 216) is amended by deleting the words "in the Middle East" after "peacekeeping forces."

ALLOCATION AUTHORITY

SEC. 105. Section 8 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680) is amended to read as follows: "The Secretary of State may allocate or transfer to any department, agency, or independent establishment of the United States Government, with the consent of the head thereof, any funds appropriated to the Department of State, for direct expenditure by such department, agency or independent establishment for the purposes for which the funds were appropriated in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred."

ELIMINATION AND MODIFICATION OF REPORTS

SEC. 106. The following provisions of the following acts are repealed or modified:

(a) Section 126(c) of P.L. 95-426 (22 U.S.C. 2691 note; 92 Stat. 972).

(b) Section 405(b) of P.L. 95-426 (22 U.S.C. 1048 note; 92 Stat. 979).

(c) Section 12(d) of P.L. 96-8 (22 U.S.C. 3311 note; 93 Stat. 20).

(d) Section 4 of P.L. 96-110 (22 U.S.C. 2601 note; 93 Stat. 844).

(e) Section 109(a)(7) of P.L. 95-105 (22 U.S.C. 2384 note; 91 Stat. 847).

(f) Section 411 of the International Development Cooperation Act of 1979, P.L. 96-53 (22 U.S.C. 3511; 93 Stat. 376).

(g) Section 703(f) of P.L. 96-465 (22 U.S.C. 4023; 94 Stat. 2100).

(h) Section 503(b) of P.L. 95-426 (22 U.S.C. 2656 (c); 92 Stat. 983).

(i) Section 156 of the Clean Air Act as amended, P.L. 85-177 (42 U.S.C. 7456; 91 Stat. 729) is amended by striking out "and shall report to the Congress periodically on efforts to arrive at such agreements" in the last sentence.

(j) Subsection 204(b)(4) of the Fishery Conservation and Management Act of 1976, P.L. 94-265 (16 U.S.C. 1824(4)(c); 90 Stat. 342-45) is amended by striking out "; and" after subparagraph (B), substituting a period, and striking subparagraph (C).

(k) Section 412(b)(1)(B) of the Immigration and Nationality Act as amended (8 U.S.C. 1522(b)(1)(B) is amended by striking out the first sentence, and by striking out "after such study" in the second sentence.

DEPARTMENT OF STATE,
Washington, D.C., March 1, 1983.

DEAR MR. PRESIDENT: In accordance with Section 15 of the Act of August 1, 1956, as amended (22 U.S.C. 2680), there is transmitted herewith proposed legislation to authorize appropriations for the Department of State to carry out its authorities and responsibilities in the conduct of foreign affairs during the fiscal years 1984 and 1985 and for other purposes contained in this bill.

The primary purpose of the bill is to provide authorization of appropriations for (1) "Administration of Foreign Affairs," which supports the operation of the United States diplomatic and consular posts abroad and the Department of State in the United States; (2) "International Organizations and Conferences," which includes contributions to meet obligations pursuant to treaties, conventions or specific acts of Congress; (3) "International Commissions," which enables the United States to fulfill treaty and other international obligations; (4) "Migration and Refugee Assistance and other Activities," which funds various refugee assistance programs, including the United States annual contribution to the International Committee of the Red Cross, and which covers Bilateral Science and Technology Agreements. In addition, this bill would eliminate or modify certain requirements for the Department of State reports to Congress which have either been fulfilled or are unnecessary. A section-by-section analysis further explaining the proposed legislation is also enclosed.

The Department has been informed by the Office of Management and Budget that there is no objection to the presentation of this proposed legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

POWELL A. MOORE,
Assistant Secretary,
for Congressional Relations.

Enclosures:
1. Proposed Legislation.
2. Section-by-Section Analysis.

SECTION-BY-SECTION ANALYSIS

SEC. 101—SHORT TITLE

This title may be cited as the "Department of State Authorization Act, Fiscal Years 1984 and 1985."

SEC. 102—AUTHORIZATION OF APPROPRIATIONS

Subsection (a)—This subsection provides an authorization of appropriations for the Department of State in accordance with the provisions of Section 15(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680) as amended. This proposed Act authorizes funds to be appropriated under this legislation for the fiscal years 1984 and 1985 by category.

Category (1)—Authorizes appropriations under the heading "Administration of Foreign Affairs" for fiscal years 1984 and 1985. This catergory provides the necessary funds for the salaries, expenses and allowances of the officers and employees of the Department, both in the United States and abroad. It includes funds for executive direction and policy formulation, conduct of diplomatic relations with international organizations, domestic public information activities, central program services, and administrative and staff activities. This category also provides for representational expenses in accordance with Section 905 of the Foreign Service Act of 1980. Further, it provides funds for such activities as the acquisition, operation and maintenance of office space and living quarters for American staff abroad; funds for relief and repartriation loans to United States citizens abroad and for other emergencies of the Department; a buying power maintenance appropriation; and payments to the Foreign Service Retirement and Disability Fund and the American Institute in Taiwan.

Category (2)—Authorizes appropriations for fiscal years 1984 and 1985 under the heading "International Organizations and Conferences". This category provides the necessary funds for United States contributions of its assessed share of the expenses of the United Nations and other international organizations of which the United States is a member. In addition, provision is made for funding of official United States Government participation in regularly scheduled or planned multilateral intergovernmental conferences, meetings and related activities, and for contributions to international peacekeeping activities in accordance with international multilateral agreements.

Category (3)—Authorizes appropriations for fiscal years 1984 and 1985 under the heading "International Commissions." This category provides funds necessary to enable the United States to meet its obligations as a participant in international commissions and includes expenses of the American Sections (U.S. and Canada), the International Boundary and Water Commission (U.S. and Mexico) and the International Fisheries Commissions.

Category (4)—Authorizes appropriations for fiscal years 1984 and 1985 under the heading "Migration and Refugee Assistance and Other Activities." This category primarily enables the Secretary of State to provide assistance to migrants and refugees, both on a multilateral basis, through contributions to organizations such as the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees, as authorized by law. In addition, provision is made for U.S. Bilateral Science and Technology Agreements.

SEC. 103—WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

At the meetings of the Governing Bodies of WIPO in Geneva, Switzerland, November 16-24, 1981, action was taken by the Assembly of the Paris Union to increase the percentage contribution of Class I countries such as the United States from 4.50 percent to 4.57 percent.

Subsection (b) of P.L. 511 (22 U.S.C. 269f) currently limits the United States annual contribution to the Paris Union for the Protection of Industrial Property of the World Intellectual Property Organization to a maximum of 4.5 percent of the total expenses apportioned among member countries.

This amendment eliminates the legal limitation of 4.5 percent now placed on the United States contribution to the Paris Union so that the United States can continue to participate fully as a member of the Paris Union.

SEC. 104—CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING (CIPA)

Public Law 94-37 authorizes the Department of State to pay U.S. assessments for U.N. peacekeeping forces in the Middle East. However, it is possible that future U.N. peacekeeping forces may have to be established in other areas of the world. This amendment will make it possible for the United States to respond quickly to each peacekeeping effort without the time-consuming necessity of seeking special legislative authority.

SEC. 105—ALLOCATION AUTHORITY

This amendment would provide general authority for the Secretary of State to allocate or transfer funds to other Federal Government Agencies for the performance of work otherwise authorized by law and for the purposes for which funds are appropriated, when those agencies can execute the activities more efficiently than the Department itself.

Currently, the Department requires a specific provision in an appropriation act or other law to make such an allocation or transfer. In the absence of such a specific provision, a significant additional administrative burden has resulted for the Department and the cooperating agencies. This amendment is solely to expedite the public business. Funds so allocated or transferred will only be used for the purposes for which appropriated. In addition, the amendment would provide expenditure authority like that under Section 632(a) of the Foreign Assistance Act.

SEC. 106—ELIMINATION AND MODIFICATION OF REPORTS

(a) Deletes the legislative requirement to transmit annual reports to Congress for three years, beginning January 20, 1979, on domestic travel restrictions being imposed by the U.S. Government on citizens of other countries and vice versa, and efforts to eliminate these restrictions, because the requirement has been fulfilled.

(b) Deletes the legislative requirement to transmit a report to Congress on orientation and language training programs for family members of U.S. Government employees assigned abroad, because the requirement has been fulfilled.

(c) Deletes the legislation requirement to transmit a report to Congress every six months during the two years beginning on April 10, 1979, describing and reviewing economic relations between the United States and Taiwan, because the requirement has been fulfilled.

(d) Deletes the legislative requirement to transmit to Congress within 60 days of November 13, 1979, a report showing the estimated total costs to the U.S. Government during FY '80 and FY '81 of domestic and foreign assistance to refugees under all programs of the U.S. Government and the estimated costs of such programs to state and local governments, because the requirement has been fulfilled.

(e) Deletes the legislative requirement to transmit to Congress by January 31, 1978, a report on the Office of the Assistant Secretary for Human Rights and Humanitarian Affairs, including the current mandate and operations and proposals for reorganization that would strengthen human rights in U.S. foreign policy, because the requirement has been fulfilled.

(f) Deletes the requirement for a complete and detailed report of the Institute for Scientific and Technical Cooperation's operations. Since the ISTC has never been funded, it has never been established. No report is therefore possible, and this requirement should be eliminated.

(g) Deletes an annual report by five agencies (State, USIA, AID, Agriculture and Commerce) on the status of professional development in the Foreign Service. The reports require substantial preparatory effort. Because other mechanisms exist for interagency coordination, the reporting requirement provides little benefit or information for the management of the five agencies. No congressional interest has been elicited from previous reports.

(h) Deletes the requirement for the President to report annually in international science and technology activities, which is largely duplicated in the international affairs section of the President's Annual Science and Technology Report to the Congress required by the National Science and Technology Policy, Organization, and Priorities Act of 1976.

(i) Deletes the requirement to report periodically on efforts to arrive at international agreements to develop standards and regulations which protect the stratosphere. If and when such international agreements are reached, they will be reported to the Congress under other legislation.

(j) Deletes the requirement that every vessel application for fishery permits be sent to three Congressional committees. The information supplied by this requirement is not in a useful form; the same information, when needed, is readily retrievable from the Commerce computer system. Since the costs of labor, duplication, and mailing required to comply with this law are high, the requirement should be eliminated.

(k) Deletes the requirement to transmit to Congress no later than March 1, 1981, a study of which agency is best able to administer the refugee resettlement program, since the requirement has been fulfilled.

By Mr. ARMSTRONG:

S. 662. A bill to provide for confirmation of the repayment contract of the Dallas Creek participating project of the Upper Colorado storage project; to the Committee on Energy and Natural Resources.

REPAYMENT CONTRACT OF DALLAS CREEK PROJECT

● Mr. ARMSTRONG. Mr. President, in 1968, Congress authorized the construction of the Dallas Creek project, Colorado River Basin Project Act, Public Law 90-537. In November 1976, the definite plan report for the project was completed. The repayment contract was approved in late 1976 at an election of the residents of the Tri-County Water Conservancy District, the contracting and marketing local governmental agency for the project. In January 1977, the contract was signed by the Department of Interior and the Conservancy District. In September 1977, the Commissioner of Reclamation authorized the start of construction.

Thus, final designs and specifications for stage I were not completed until mid-1979.

Due to dam safety design considerations prompted by the Teton Dam failure, the Bureau of Reclamation decided to proceed with construction in two phases. Invitations for bids on the first phase were not issued until August 1979. In turn, a contract was not awarded to the successful bidder until December 1979, the Bureau having obtained an extension of time from the bidders for the awarding of the contract. As soon as the contract was awarded, the contractor commenced work on the first phase and has proceeded on schedule to date. Construction on the first phase is scheduled for completion later in 1981.

At the time the repayment contract was signed, the estimated costs allocable to municipal and industrial water supply were $27,966,000 based on January 1976 prices and the interest rate provided for fiscal year 1976. As of June 1981, the Bureau of Reclamation estimates that the costs allocable to municipal and industrial water supply will be approximately $69 million. Approximately 60 percent of the increase from $28 million to $69 million has resulted from increases in construction costs caused by design changes, state of the art considerations, dam safety considerations, and added instrumentation, all of which were unanticipated at the time the repayment contract was negotiated. The remaining 40 percent of the cost increase is attributable to inflation.

The repayment contract does not obligate the Conservancy District to renegotiate, or make any other adjustments in its contractual obligation should the costs allocable to municipal and industrial water supply exceed $38 million. To the contrary, the $38 million figure is an absolute ceiling.

This provision stands in marked contrast to the terms of all other repayment contracts, which typically provide for ceilings that must be increased to cover the costs allocable to municipal and industrial water supply should such costs prove to be in excess of those contemplated at the time of the execution of a contract. The lack of this renegotiation provision in the repayment contract executed by the Conservancy District indicates, and

the record reflects, that the matter of a renegotiation provision was specifically discussed during the contract negotiations. The Federal Government agreed with the Conservancy District's position during the negotiations that there should be no renegotiation clause in the repayment contract, the $38 million being a fixed amount. This clearly indicates that the United States has obligated itself, pursuant to a binding contractural agreement, to complete the construction of the Dallas Creek project and provide the 28,100 acre-feet of municipal and industrial water supply therefrom at a cost to the conservancy district not exceeding the $38 million ceiling provided for in the repayment contract.

It would not benefit the Federal Government or the affected water users to halt construction of the project. Stage I of the project is nearing completion, and the overall project is 50 percent completed. Contracts have been consummated for the sale of all the project water. Municipal and industrial needs, including future energy development, are dependent on water from the storage project.

For these reasons, Mr. President, I am today introducing a bill to reaffirm the terms of the original contract. This measure would neither add to nor detract from the bargain struck between local water users and the Federal Government; it would, however, preserve the specific legal content of that bargain and eliminate the confusion and speculation that has surrounded it for several years now.

My bill is identical to the one I introduced in the last Congress; it was reported to the full Senate by the Energy and Natural Resources Committee by a large margin, which I take as an indication of its reasonableness. I am hopeful that we will be able to solve this problem in the current session and I would commend this measure to the attention of my colleagues.●

By Mr. ARMSTRONG (for himself, Mr. LUGAR, Mr. HATCH, Mr. BAUCUS, Mr. BUMPERS, Mrs. HAWKINS, Mr. ZORINSKY, Mr. CHAFEE, Mr. MCCLURE, Mr. HART, Mr. NICKLES, Mr. PRESSLER, Mr. LEVIN, Mrs. KASSEBAUM, Mr. KASTEN, Mr. GRASSLEY, Mr. HATFIELD, Mr. JEPSEN, Mr. WARNER, and Mr. QUAYLE):

S. 663. A bill to prohibit the payment of certain agriculture incentives to persons who produce certain agricultural commodities on highly erodible land; to the Committee on Agriculture, Nutrition, and Forestry.

PROHIBITING PAYMENTS FOR COMMODITIES PRODUCED ON HIGHLY ERODIBLE LAND

● Mr. ARMSTRONG. Mr. President, I am introducing a measure designed to lessen the growing threat of another dust bowl like the one that severely damaged our agriculture system in the 1930's. It seems hard to believe that we would fail to take the steps necessary to avoid such severe erosion, especially in light of dramatically increased knowledge and technology that enables us to conserve our soil better than ever before.

But we are losing more topsoil to wind and water erosion today than at any time in the 1930's. The Soil Conservation Service of the Department of Agriculture estimates that we are losing more than 5 billion tons of our best crop-producing topsoil each year. Some 40,000 tons of this topsoil floats down the Mississippi River every hour, hour after hour, day after day, week after week, month after month, year after year.

National Association of Conservation Districts, executive vice president Neil Sampson, in the excellent book "Farmland or Wasteland," estimates that every day 26 square miles of American topsoil wash and blow away. For each acre of corn an Iowa farmer grows each year, up to 15 tons of topsoil are lost; for each acre of wheat, up to 20 tons of soil will vanish.

In spite of the overwhelming surpluses of many agricultural commodities, surpluses which are choking our system, depressing prices, and making it increasingly difficult for farmers to eke out a living, the plows continue to add more land to our already over-expanded base. And increasingly, the plows are turning under the kind of land that should be left alone: Fragile grasslands, highly erodible land that is simply not suitable to sustained cultivation. In many areas of the arid West, the natural cover of sod that took centuries to develop is destroyed in hours, and the damage is virtually permanent and irreversible.

Incredible as it seems, the Federal Government is encouraging this plowing. At a time when we are already producing so much food that we cannot give away some of these surpluses, we are encouraging the additional plowing that expands production. Our price support system was intended to insure that our farmers could make a living, while assuring consumers of a stable price for food products. But the same system is encouraging this destructive plowing because it gives no consideration to the importance of conservation.

The first Chief of the U.S. Soil Conservation Service, Hugh Hammond Bennett, made it clear that:

> Conservation is possible only if we use every acre according to its capability, and treat every acre according to its need. You can't farm a flat Indiana field like you would a rolling Georgia slope, or a Vermont mountainside like a Texas river bottom. It's that simple, and that complex.

Government price supports, crop insurance, disaster payments, farm storage facility loans, and other incentives being made available to all crops grown on this newly plowed, marginal land amounts to using the Public Treasury to destroy our soil resources. I am not arguing here for any major reforms in that price support system, though good arguments can be made. I am simply arguing that this system should not encourage new plowing of bad farmland that will add to our erosion problem.

The bill I am introducing will not stop erosion. It will not end all plowing of bad lands. And it will not solve the economic problem confronting our Nation's farmers. But it will get the Government out of the business of subsidizing soil erosion. I do not believe Government should tell farmers what they can and cannot do on their own land. But I do believe that we should stop asking the taxpayers to support a practice clearly not in the best interests of the United States.

This bill is very simple. It uses existing definitions for highly erodible land, written long ago by the Soil Conservation Service. These are classifications already understood by the Nation's farmers and conservation officers, and they are readily accepted because they were based on a local decisionmaking process in the first place, when most of the Nation's private lands were classified.

The bill provides simply that if a farmer plows land that has not been farmed during the last 10 years, and it is classified as highly erodible land, he cannot be eligible for Government assistance for crops grown on that land. Recognizing that all lands are not the same, I know that there are certain areas—though not very many—where such land can be carefully cultivated without causing severe soil erosion. In such areas, the local soil conservation district could monitor the situation and determine that the bill does not apply if a soil conservation system can solve the problem. In the highly erodible classes of land addressed by this bill, there are few such instances. But where they exist, the local conservation districts can make appropriate exceptions to deal with them. There are nearly 3,000 conservation districts, one in almost every county in the United States. They are established by State law, and they are made up entirely of local people who understand local problems.

This bill will stop the payment of price supports, FmHA loans, farm storage facility loans, disaster payments, and crop insurance for crops grown on newly plowed highly erodible land. This legislation is supported by nearly every farm and conservation group in America, as well as the administration, and has received a great deal of favorable attention.

Mr. President, I first introduced a measure similar to this bill as an

amendment to the 1981 farm bill. I said at that time that we were creating the conditions under which another dust bowl could occur, and that we needed to act to stop subsidizing such erosion before it was too late. It is not too late, but we are losing valuable time and valuable topsoil. While my bill was pending in the Agriculture Committee during the 97th Congress, more than 100,000 acres of fragile lands were put to the plow in my State of Colorado alone, bringing the total of such highly erodible lands which have already been plowed in Colorado to nearly 5 million.

The measure pending before the Agriculture Committee was, at first, a very limited bill. It applied to lands west of 100th meridian, which roughly bisects Dodge City, Kans. But a number of organizations involved in early discussions made it clear that this is a national problem, not a Western one. The administration, the Farm Bureau, the National Association of Conservation Districts, and a number of others told me that the bill should apply to the entire country. This improved version does, because the problem we seek to correct is national.

Nationwide, more than 40 million acres of these fragile lands have been plowed under—nearly 10 percent of our entire farm base. But there are another 250 million acres of marginal lands waiting to be plowed. If all these acres, representing half again as much as our entire cultivated land base, were plowed, our farm system and a great deal of the world's food supply could be severely damaged.

The American farmer is by far the world's most productive. Each one of them produces enough food for himself and 78 other people. Our agriculture system has produced for many years the world's most abundant, low-cost food supply. The system generates about 20 percent of the Nation's gross national product and employs, directly or indirectly, over 20 percent of the labor force—23 million people. More people work in American agriculture, and the industries that depend on it, than in any other industry in this country, or anywhere in the world. We cannot afford Government policies that encourage erosion of this critical asset.

We must remember that despite all man's accomplishments, we owe our very existence to a thin layer of topsoil and the fact that it sometimes rains. It is long past time to stop encouraging the destruction of that topsoil. I ask unanimous consent that the bill, and some supporting material, be included in the RECORD at this point, and I urge speedy adoption. In the race for the soil and against time, literally, we are losing ground.

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

S. 663

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

(a) For purposes of this section—

(1) the term "agricultural commodity" means any agricultural commodity normally produced by annual tilling of the soil, including one-trip planters; and

(2) the term "highly erodible land" means land classified by the Soil Conservation Service of the Department of Agriculture as class IVe, VIe, VII, or VIII land under the Land Capability Classification systems as in effect on the date of enactment of this bill. The land capability class for a field shall be that determined to be the "predominant" class under regulations issued by the Secretary of Agriculture.

(b) Except as provided in subsection (c) and notwithstanding any other provision of law, following the enactment of this Act any person who produces an agricultural commodity on highly erodible land shall be ineligible for—

(1) any type of price support assistance on such commodity made available under the Agricultural Act of 1949 (7 USC 1421 et seq), the Commodity Credit Corporation Charter Act (15 USC 714 et seq), or any other Act;

(2) a loan for the construction or purchase of a facility for the storage of such commodity made under section 4 of the Commodity Credit Corporation Charter Act (15 USC 714b(h));

(3) crop insurance for such commodity under the Federal Crop Insurance Act (7 USC 1501 et seq);

(4) a disaster payment for such commodity made under the Agricultural Act of 1949 (7 USC 1421 et seq); or

(5) a new loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 USC 1921 et seq) or any other provision of law administered by the Farmers Home Administration, if the Secretary determines that such loan will be used for a purpose which will contribute to excessive erosion of highly erodible land.

(c) Subsection (b) shall not apply to—

(1) any agricultural commodity planted by a person to produce any of the 1973 through 1982 crops of agricultural commodities;

(2) any agricultural commodity planted by a person before the date of enactment of this Act;

(3) any agricultural commodity planted by a person during any crop year beginning before such date;

(4) any loan described in subsection (b) made before such date; or

(5) any agricultural commodity produced using a conservation system which has been approved by a soil conservation district, which is based on technical standards set forth in the Soil Conservation Service technical guide for that Soil Conservation District. In areas where no soil conservation district exists the Secretary shall determine the adequacy of a conservation system.

IMPACT OF THE ARMSTRONG SODBUSTER BILL

The potential effects of the sodbuster bill are best analyzed by considering the amount of land which could be brought under cultivation during the next few years, and how erodible that land would be. This information, when compared with the amount of highly erodible land already under cultivation in the same parts of the country gives a clear picture of the devastating effects of continued plowing on our nation's agricultural system.

First, it is important to note that only 10% of the 413 million acres of land currently being cultivated fall into land capability classes IVe, VIe, VII, and VIII, which are regarded as highly erodible. However, these lands result in 23% of the nation's erosion. The average erosion rate on all cultivated cropland is about five tons per acre per year. But the average for class IVe land is 10 tons per acre, for class VIe 18 tons, for class VII more than 30 tons! So cultivating such land is almost certain to cause severe erosion and often has damaging effects on neighboring land, too.

The Department of Agriculture estimates that as many as 248 million acres of land not currently under cultivation fall into land capability classes IVe, VIe, VII, and VIII. The vast majority of these acres are privately owned and could be plowed any time, though only 20 million acres could be cultivated with a suitable conservation system that would prevent severe erosion. The sodbuster bill would allow for the exemption of those acres, but stop payments from encouraging the other 230 million to be plowed.

Of these 248 million acres of highly erodible land with potential for conversion to cropland, most lies in the Mountain states, the Northern and Southern Plains. Particularly vulnerable, according to USDA, are Montana, Wyoming, Colorado, Nebraska, South Dakota, California, New Mexico, Arizona, Texas and Oklahoma. It is these acres that the sodbuster bill would affect—highly erodible land that is not suitable to cultivation and could add millions of tons of topsoil to our already serious erosion problems. And when added to the 41 million acres of this highly erodible land already under cultivation, it could under drought conditions create the worst dust bowl in our nation's history.

Attached is a chart showing the areas of the nation where sodbusting presents the greatest danger. The first column shows the amount of highly erodible land already under cultivation. The sodbuster amendment would not affect this land. The second column shows the amount of land with potential for conversion that is highly erodible. If we encourage the plowing of these fragile lands, together with the fragile acreage already plowed, the resulting erosion could threaten the long-term economic viability of our nation's agricultural system.

Also attached is a map highlighting the states where this legislation is most needed to avoid catastrophic erosion. The sodbuster amendment probably won't stop all of these acres from being converted to cropland, but it would at least stop the government from encouraging the conversion. It makes no sense to pay speculators to add land which is simply not suitable for cultivation to our already over-expanded farm base. If this bill is not passed now, another full year of plowing will occur before Congress has time to act again.

HIGHLY-ERODIBLE CROPLAND IN THE UNITED STATES
(CLASSES 4e, 6e, 7, AND 8)

[In thousands of acres]

State	Already plowed acres*	Potential new acres
Alabama	379	5,548
Arkansas	93	4,200
Arizona	36	10,706
California	1,100	11,755
Connecticut	22	13
Colorado	4,732	16,133

HIGHLY-ERODIBLE CROPLAND IN THE UNITED STATES (CLASSES 4e, 6e, 7, AND 8)—Continued

[In thousands of acres]

State	Already plowed acres*	Potential new acres
Delaware	13	0
Florida	161	156
Georgia	367	5,600
Hawaii	14	378
Iowa	1,722	1,687
Idaho	1,123	3,563
Illinois	1,267	1,873
Indiana	683	1,542
Kansas	2,872	9,002
Kentucky	824	4,126
Louisiana	0	2,259
Massachusetts	7	11
Maryland	181	411
Maine	54	293
Michigan	421	1,022
Minnesota	559	1,431
Mississippi	602	3,550
Missouri	1,099	3,032
Montana	1,743	20,984
Nebraska	3,745	16,089
Nevada	94	372
New Hampshire	20	90
New Jersey	59	77
New Mexico	567	14,999
New York	459	1,946
North Carolina	339	3,480
North Dakota	1,833	4,171
Ohio	606	3,132
Oklahoma	1,652	10,721
Oregon	552	9,061
Pennsylvania	780	2,155
Puerto Rico	130	262
South Carolina	106	1,447
South Dakota	1,696	10,222
Tennessee	748	4,168
Texas	2,573	25,078
Utah	265	1,861
Vermont	109	732
Virginia	481	3,854
Washington	1,432	6,480
Wisconsin	1,387	3,049
West Virginia	285	2,609
Wyoming	812	13,077
Total	40,804	248,407

*Sodbuster bill does to affect these lands already under cultivation, but would affect lands in the second column.

Source: U.S. Department of Agriculture.

ADMINISTRATION SUPPORT FOR THE ARMSTRONG SODBUSTER BILL

(Excerpt from an address by Richard D. Siegel, Deputy Assistant Secretary of Agriculture for Natural Resources and Environment, at the District Operations Forum, National Association of Conservation District Annual Convention, New Orleans, Louisiana, February 9, 1983)

We do have a legitimate Federal role in conservation. We don't want to add regulations to farm programs, but we also do not want these programs to be part of the soil and water resource problem. When a particular farm program can be linked to a resource problem, when it would advance conservation to add certain carefully limited conservation requirements to these farm programs, and where the farm community involved is ready to accept these requirements, then this Administration is ready to consider them. * * * The plow-out of grassland in Colorado is a graphic illustration of how a Federal price support, in this case for wheat, has led directly to exploitation of fragile soil. The wheat price support program never asks the farmer how much new cropland he will plow and on what kind of soil. Senator Armstrong's remedy, and he is no radical socialist, is to make those farmers who would plow up fragile soil either live with a conservation plan on that fragile soil or forego their price supports and other farm benefits. * * *

The Administration supported Senator Armstrong's bill last December and intends to continue supporting it because it is aimed at a specific soil abuse for which farm programs have some responsibility. Moreover, the Western farm community supports it. The farm community sees that there is a direct connection between the degradation of fragile soil and the wheat price supports that are freely available for this kind of activity. And so this farm community is ready to accept this cross-compliance. The Armstrong bill, after all, came about from their own grass-roots response. The Colorado folks came to Washington, to their Senator, with this problem. The Colorado Cattlemen's Association and the Colorado Farm Bureau Federation both supported the bill, along with the Colorado Association of Soil Conservation Districts. Even the normally conservative American Farm Bureau Federation supported the bill, with a modification to apply it to fragile soil nationwide. We in Washington did not go to the farm community bearing a heavy-handed compulsory conservation scheme for each and every farmer. The farm community came to Washington. This is the crucial difference. * * * If the Armstrong bill is "cross-compliance," then it's the type of cross-compliance that is fair and reasonable to farmers, that is aimed at specific results and that does not intrude on any farmers except those that want to participate in a Government farm program and are putting soil and water at risk in a clearly defined way."●

● Mr. PRESSLER. Mr. President, today I am joining Senator ARMSTRONG from Colorado in introducing legislation to eliminate the economic incentive for farmers to break up certain highly erodible land. The so-called sodbuster bill will make Government price supports, crop insurance, disaster payments, FmHA loans, and farm storage facility loans unavailable for crops grown on newly plowed fragile lands. The amendment will not apply to land that has been plowed or land where erosion is not a problem. The legislation was approved by the Senate last year as an amendment to the fiscal year 1983 agriculture appropriations bill, but was unfortunately deleted in the House-Senate conference committee.

This measure does not prohibit farmers from plowing their land, but does prohibit Government subsidization for breaking up land in four highly erodible land capability classifications. This would allow farmers and USDA to direct their efforts to reclaim land that is currently being damaged by erosion. The Federal Government must not encourage the plowing of land that is vulnerable to erosion.

With grain surpluses at record levels and USDA encouraging farmers to divert farmland both through cash and grain payments, it is contradictory to encourage farmers to break up new land. Increased acreage planted in grain on these highly erodible lands will only incease grain production and soil erosion. Most of this rangeland converted to marginal farmland may produce wheat for a time. However, erosion quickly destroys the land for years to come. Topsoil, America's most valuable natural resource, must be protected.

In my State of South Dakota, last year 8.5 million acres of land were eroding at an unacceptable rate. Much of this erosion is occurring on land that should never have been broken. Between July 1, 1974, and June 30, 1982, almost 1 million acres of native grassland was converted to farmland in South Dakota alone. While much of this land is not fragile and susceptible to erosion, many acres are. In summary, almost 2 million of the 12 million total acres of vulnerable grassland in South Dakota have been broken. To an extent, this has been done to earn a short-term profit and with the support of USDA programs. Without Federal programs, there would be less incentive to farm these marginal lands.

To illustrate the erosion problem of this fragile land, nationwide only 10 percent of the land now under cultivation is in the highly vulnerable category, but it accounts for one-fourth of the soil lost to erosion every year. Farmers are having great economic difficulties, but continued Federal support to plow these lands will only hurt farmers in the long run. It is irresponsible to allow Federal support to grow crops on these lands.

Mr. President, I urge my colleagues to join me in support of this legislation and to work for early consideration of this measure.●

At the request of Mr. BYRD the following statement was ordered printed:

● Mr. HART. Mr. President, I am pleased to join my distinguished colleague from the State of Colorado, Senator ARMSTRONG, in cosponsoring the so-called sodbuster legislation. When enacted, this legislation will become an instrumental part of our efforts to effectively address the very real and threatening problem of soil erosion in this country. When enacted, this legislation will prohibit price and other Federal crop supports on lands which have not been cultivated for agricultural purposes in the past 10 years.

This legislation is a needed step toward addressing one of the most severe and devastating problems facing America's farm productivity in Colorado and throughout the Midwestern farm belt. Soil erosion is on the increase and threatens the very structure of the agricultural industry in this country, the industry that is and will remain the cornerstone of the American economy.

The intent of this measure is sound. The facts have been gathered. In Colorado alone, more than 450,000 acres of fragile grassland have been plowed in the past 3 years, more acreage than that destroyed in Colorado during the Dust Bowl years. Once plowed, this land is extremely vulnerable to wind and water erosion and, in most instances, proves to be only marginally productive cropland. The Colorado As-

sociation of Soil Conservation Districts has estimated soil erosion is above acceptable limits on more than 4.5 million acres of Colorado cropland and 488,000 acres of rangelands. The problem is most acute in areas that lack vegetative cover because of plowing.

It is imperative that we curtail indiscriminate plowing of Colorado and other Western range and grasslands. Prime agricultural lands are a limited and diminishing resource which, if improperly managed, threaten to disrupt both the fundamental tenets of the farm economy and this country's position as a leading world agricultural producer. When enacted, this legislation will provide us with an additional tool to enhance our efforts at preventing soil erosion and encouraging progressive and effective land conservation techniques. In short, this legislation will discourage the indiscriminate plowing of marginal lands by speculators and others whose primary motivations are not farming.

But, Mr. President, we must be careful not to expect this or any other piece of legislation, wise as it is, to be viewed as the cure-all for erosion problems across the country. We must continue to support established soil conservation efforts in all 50 States and turn back attempts to reduce the Federal commitment in this area. For the third consecutive year, this administration has sent us budget recommendations which propose significant cuts in soil and water conservation programs. This proposal, if adopted, would drop the Soil Conservation Service's funding far below that which is necessary to prevent further deterioration of our natural resource base. In its place, this administration urges farmers to voluntarily implement prudent conservation measures on their farms. Unfortunately for all of us, this attitude overlooks the fact that conservation practices cost money and require Federal assistance where possible. Today's farm economy is in a tailspin unequalled since the 1930's. Current conditions on the farm and the lack of cash flow on many farms within my own State prevent farmers from voluntarily adopting necessary conservation measures.

Mr. President, much of America's farm productivity today has been achieved by replacing natural methods of building soil fertility with artificial methods. Crop rotations that included soil-building grasses and legumes every third year or so were a common feature of agriculture years ago. Today, rotations are used on only a small percentage of our farms. The primary reason these rotation systems have been abandoned has been the availability of cheap fuel and fertilizers. The message to our farmers was clear: "Land is simply too valuable to waste one-third of it growing hay and green manure—you can buy cheaper nitrogen in a bag." Today, that nitrogen is not as cheap. But because of continuing economic pressure to maximize production on each acre of land, most farmers are hooked into the system that demands its use. As bills and debt have become harder and harder to meet, the farmer has had less and less incentive to do anything but maximize production.

Mr. President, soil and water conservation are public goods, benefitting all Americans. Any sincere discussion of reindustrializing America must incorporate efforts to conserve, improve and revitalize agricultural lands. Without a committed effort to improve the condition of our soil and water, other attempts to hold down inflation, improve the quality of our defense and rebuild America's economic strength can be only temporary.

It is imperative that we look to the land that sustained us. We must move quickly to implement this and other legislation establishing preventive and curative measures to address the decline in soil productivity that threatens every State. Farmers cannot be expected to do the job alone. Nor can efforts by States, such as that in Iowa, or counties, such as that in Weld County, Colo., get the job done satisfactorily. The Federal Government has a vital role in this effort and we must continue to adequately fund Federal conservation programs on an annual basis.

This country cannot afford the consequences of continuing to ignore soil and water conservation measures. This Congress must take the steps necessary to begin addressing the problem of soil erosion, thereby ensuring the long-term viability of our agricultural industry and the farmers that depend upon it. It is time that Congress and the administration acknowledge that our strength in this country rests as much on the sustained productivity of our soil as on our ability to amass the largest defense arsenal in the world.

I intend to work with Senator ARMSTRONG and other cosponsors to see this legislation gets the prompt consideration it is due and I encourage all Senators to join us in this effort.●

By Mr. SIMPSON:

S. 667. A bill to enhance the benefits available under the contributory education program and to eliminate the termination date for the GI bill education program, and for other purposes; to the Committee on Veterans' Affairs.

GI BILL EDUCATION PROGRAMS

● Mr. SIMPSON. Mr. President, I am today introducing a bill which is designed to enhance the benefits available under the current contributory education program administered by the Veterans' Administration, to eliminate the termination date for the GI bill education program, and for other purposes, to be known as the proposed Veterans' Administration Education Amendments of 1983. I ask unanimous consent that this bill be printed in the RECORD. This proposed legislation is designed to fine-tune the current contributory post-Vietnam-era educational assistance program, known as VEAP with kickers, or ultra-VEAP. Contrary to some rather negative early public comment ultra-VEAP is currently doing a very good job of attracting high-quality enlistees to the Army's combat arms. The Army is not the only service authorized to use ultra-VEAP, but is the only one which has used this attractive recruiting option. The program has the advantage of allowing the Army to pay a bonus for enlisting or reenlisting, but assuring that the bonus money goes for educational expenses only. According to a recent study, these same young men and women who enlist to receive bonuses in the form of educational benefits are of a higher intelligence category than might otherwise be attracted for a cost-effective expenditure of its dollars, the Army has found ultra-VEAP to be a highly satisfactory recruitment device. The Army would not like to see it repealed. Senator ARMSTRONG's new GI bill which he sincerely embraced during the 97th Congress, proposed to repeal ultra-VEAP and leave the Army with no competitive advantage for attracting high quality enlistees. I do feel that instead of designing a program to improve recruitment for the services, that proposal would instead create a new recruitment problem for the Army in particular.

The improvements to ultra-VEAP contained in my proposed legislation are as follows:

First, increase the matching contribution from DOD from $2 to $3. Since 1977 when VEAP was enacted, the basic educational benefit paid to a serviceperson has been $2 from the VA or DOD for every $1 the servicemember contributed. The maximum amount available for an education after an enlistment is $8,100. Many veterans use their educational benefits to study for a college degree. I propose that the matching amount contributed by DOD be raised to $3. Thus, $10,300 would be available for a veterans' education upon separation. We all are well aware that the cost of a college education moves upward annually, so assuredly this modest raise in the basic benefit for our servicemembers' educations is warranted.

Second, to pay interest on the servicemember's contribution. Currently, the servicemember's contribution to VEAP does not earn any interest. During recent times when even savings accounts have been paying relatively high interest rates, making monthly

contributions to VEAP has represented a very inadequate way to save money year after year, and this has actually provided a disincentive to participate in the program. I propose to allow the serviceperson's contribution, a maximum of $2,700 by the end of an enlistment, to earn interest from the time it is deposited until the veteran starts his formal schooling for a period up to 7 years after separation from the service, the rate of interest would be determined by the Secretary of the Treasury based on the current market rate. Again, it is difficult to argue against removing such a disincentive to participate in a program as the lack of being able to receive interest earning on savings.

According to CBO estimates, these two changes would cost approximately $5 million in 1984, and about $130 million in 1995 when the program would be fully in effect. If the costs are indexed to inflation, they are estimated to be about $330 million. (That compares to over $2 billion by the same 1995 date for the Armstrong bill's costs indexed, "with kickers.") For a modest cost, a significant additional achievement might be expected of my proposal: The Army should experience a doubling in the number of its high-quality VEAP participants. This improvement in VEAP is designed to assist the Army in keeping its competitive edge during coming times when we all are aware that competition for 18 and 19 year olds will only intensify among the services, educational institutions, and the labor market.

This proposed legislation has three other provisions which are without added cost consequences for VEAP:

First, change the name of the program to "Servicepersons' Account for Veterans' Education" (SAVE). VEAP unfortunately and unfairly began with a negative image, as I previously mentioned, and I feel it would benefit from a new program title which focuses on the added benefit of earned interest on the individual's investment.

Second, allow the rate of educational benefit payout to be determined by the VA Administrator when necessary. At present, VEAP participants who wish to complete a 2-year master's program, for example, have difficulty having their benefits paid out in 2 years instead of 3. Clearly, that is a frustration we can easily remove.

Third, remove the December 31, 1989, termination date on the Vietnam-era GI bill. When VEAP was passed, Congress legislated the end of the last GI bill benefits. As a result, some career servicepersons who enlisted before 1977, and who wish to remain in the services, will lose their GI bill eligibility. The termination date is a source of great and very real concern for them. Many feel that Congress has not been equitable toward them. Some will leave the service in order to use their benefits, to the services' detriment. DOD has testified repeatedly in favor of this proposed repeal of the 1989 termination date. All of the services would feel disposed to pay the additional expenses to be required in 1990, in order to remove this source of irritation, and loss of incentive in some of their most valued personnel.

This proposed legislation would become effective October 1, 1983.

I urge all of my colleagues to consider the excellent provisions of this modest and relatively inexpensive item of proposed legislation. It seems to me to be highly appropriate for the occasion—fair and adequate.●

By Mr. KENNEDY (for himself, Mr. BIDEN, Mr. THURMOND, Mr. LAXALT, Mr. BAUCUS, Mr. HATCH, Mr. ABDNOR, Mrs. HAWKINS, Mr. LEAHY, Mr. COHEN, Mr. D'AMATO, Mr. CHILES, Mr. GLENN, Mr. SPECTER, Mr. HUDDLESTON, Mr. LUGAR, Mr. DECONCINI, Mr. ZORINSKY, Mr. MOYNIHAN, Mr. METZENBAUM, Mr. SASSER, Mr. SIMPSON, and Mr. STEVENS.

S. 668. A bill to reform Federal criminal sentencing procedures; to the Committee on the Judiciary.

SENTENCING REFORM ACT OF 1983

Mr. KENNEDY. Mr. President, I am pleased to join Senators BIDEN, THURMOND, LAXALT, BAUCUS, HATCH, ABDNOR, HAWKINS, LEAHY, COHEN, D'AMATO, CHILES, GLENN, SPECTER, HUDDLESTON, LUGAR, DECONCINI, ZORINSKY, MOYNIHAN, METZENBAUM, SASSER, SIMPSON, and STEVENS in introducing the Sentencing Reform Act of 1983. This legislation revises Federal sentencing procedures to achieve a rationality, uniformity, and fairness that does not exist in the current system.

This sentencing reform proposal has a long history of strong bipartisan support in the Senate. In 1978, this legislation passed the Senate unanimously as part of the comprehensive Criminal Code legislation. In the 96th Congress, it was reported unanimously by the Senate Judiciary Committee. Last fall, sentencing reform passed the Senate 95 to 1, as part of S. 2572. The 97th Congress ended before the House-Senate conference reached agreement on sentencing reform. But I received assurances from the distinguished chairman of the House Judiciary Committee, Mr. RODINO, that the House committee will act early this year to report sentencing reform legislation.

Federal criminal sentencing is in desperate need of reform. Under current procedures, judges mete out an unjustifiably wide range of sentences to offenders convicted of similar crimes. One offender may receive a sentence of probation, while another—convicted of the very same crime and possessing a comparable criminal history—may be sentenced to a lengthy term of imprisonment. In one well-known study conducted in 1974, 50 Federal district court judges from the Second Circuit were given 20 identical files based on actual cases and were asked what sentence they would impose on each defendant. The sentencing disparities were astonishing. Mr. President, I ask unanimous consent that the results of the study be printed in the RECORD at the conclusion of my statement (appendix A).

In one extortion case, for example, the range of sentence varied from 20 years imprisonment and a $65,000 fine to 3 years imprisonment and no fine.

Sentencing disparities are the direct result of the unfettered discretion the law confers on those judges and correctional authorities responsible for imposing and implementing criminal sentences. This sweeping discretion flows from the lack of any meaningful statutory guidelines or review procedures to which courts and parole boards might look for guidance. Even where offenders are sentenced to similar terms of imprisonment for similar offenses, their time actually served may differ widely. One may be sentenced to a relatively short term and be released after serving most of the sentence while the other may be sentenced to a relatively long term and be denied parole indefinitely.

Mr. President, the current system is actually a nonsystem. It is unfair to the defendant, the victim, and society. It defeats the reasonable expectation of the public that a reasonable penalty will be imposed at the time of the defendant's conviction, and that a reasonable sentence actually will be served.

The reforms needed to achieve a workable, rational sentencing system are neither too complicated to legislate nor too difficult to implement. The legislation which I introduce today clearly articulates the purposes of sentencing, establishes a Sentencing Commission to develop guidelines for sentencing, abolishes parole, and provides for appellate review of sentences which are outside the guidelines.

The bill sets our four generally accepted purposes of sentencing—deterrence; protection of the public; assurance of just punishment; and, in non-jail cases, rehabilitation. The guidelines created by the Sentencing Commission will take into consideration factors such as the purposes of sentencing, the characteristics of the offender, and the aggravating or mitigating circumstances of the offense.

In a given case, a judge will be expected to impose a sentence within the range established in the guidelines. If the judge believes that the guideline range is inappropriate in a particular case, he may impose a sentence above or below the range, provided that he

explains his reasons for doing so. If an offender is sentenced below the range specified in the guidelines, the Government may seek appellate review of the sentence. If an offender is sentenced above the range, the offender may seek appeal. These overdue reforms will insure greater uniformity and fairness in sentencing, while retaining necessary judicial flexibility. Most important, the gross disparities in sentencing that are so pervasive in current law will be significantly reduced.

This new approach will also end the use of indeterminate sentences. In such cases in the past, a convicted bank robber could be sentenced anywhere from a term of probation to 25 years in prison; a rapist could be sentenced anywhere from probation to life imprisonment. Under this bill, determinate sentences, announced at the outset, will tell the offender and society the actual prison time that will be served.

With fixed sentences, the current system of parole release will be eliminated. The sentence a defendant gets is the sentence he must serve. Both society and defendants favor the elimination of parole. Too often, it is an arbitrary device for arbitrarily keeping an offender in jail.

Mr. President, I ask unanimous consent that a more detailed analysis of the bill (appendix B) be printed in the RECORD at the conclusion of my statement.

This sentencing reform proposal enjoys the strong support of the administration. The Attorney General's Task Force on Violent Crime endorsed it in its final report of August 17, 1981. The administration's commitment to sentencing reform recently was reaffirmed in Attorney General Smith's testimony before the Senate Judiciary Committee on the subject of organized crime.

Federal sentencing reform is long overdue. During the several years that this proposal has been pending in Congress, it has served as a model for sentencing reform at the State and local level. I look forward to early action on sentencing reform by both the Senate and the House of Representatives.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 668

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this title may be cited as the "Sentencing Reform Act of 1983".

SEC. 2. (a) Title 18 of the United States Code is amended by—

(1) redesignating sections 3577, 3578, 3579, 3580, 3611, 3612, 3615, 3617, 3618, 3619, 3620, and 3656 as sections 3661, 3662, 3663, 3664, 3665, 3666, 3667, 3668, 3669, 3670, 3671, and 3672 of a new chapter 232 of title 18 of the United States Code, respectively;

(2) repealing chapters 227, 229, and 231 and substituting the following new chapters:

"CHAPTER 227—SENTENCES

"Subchapter
"A. General Provisions 3551
"B. Probation 3561
"C. Fines 3571
"D. Imprisonment 3581

"SUBCHAPTER A—GENERAL PROVISIONS

"Sec.
"3551. Authorized sentences.
"3552. Presentence reports.
"3553. Imposition of a sentence.
"3554. Order of criminal forfeiture.
"3555. Order of notice to victims.
"3556. Order of restitution.
"3557. Review of a sentence.
"3558. Implementation of a sentence.
"3559. Sentencing classification of offenses.

"SUBCHAPTER A—GENERAL PROVISIONS

"§ 3551. Authorized sentences

"(a) IN GENERAL.—Except as otherwise specifically provided, a defendant who has been found guilty of an offense described in any Federal statute, other than an Act of Congress applicable exclusively in the District of Columbia or the Uniform Code of Military Justice, shall be sentenced in accordance with the provisions of this chapter so as to achieve the purposes set forth in subparagraphs (A) through (D) of section 3553(a)(2) to the extent that they are applicable in light of all the circumstances of the case.

"(b) INDIVIDUALS.—An individual found guilty of an offense shall be sentenced, in accordance with the provisions of section 3553, to—

"(1) a term of probation as authorized by subchapter B;

"(2) a fine as authorized by subchapter C; or

"(3) a term of imprisonment is authorized by subchapter D.

A sentence to pay a fine may be imposed in addition to any other sentence. A sanction authorized by section 3554, 3555, or 3556 may be imposed in addition to the sentence required by this subsection.

"(c) ORGANIZATIONS.—An organization found guilty of an offense shall be sentenced, in accordance with the provisions of section 3553, to—

"(1) a term of probation as authorized by subchapter B; or

"(2) a fine as authorized by subchapter C.

A sentence to pay a fine may be imposed in addition to a sentence to probation. A sanction authorized by section 3554, 3555, or 3556 may be imposed in addition to the sentence required by this subsection.

"§ 3552. Presentence reports

"(a) PRESENTENCE INVESTIGATION AND REPORT BY PROBATION OFFICER.—A United States probation officer shall, pursuant to the provisions of Rule 32(c) of the Federal Rules of Criminal Procedure, make a presentence investigation of a defendant, and shall, before the imposition of sentence, report the results of the investigation to the court.

"(b) PRESENTENCE STUDY AND REPORT BY BUREAU OF PRISONS.—If the court, before or after its receipt of a report specified in subsection (a) or (c), desires more information than is otherwise available to it as a basis for determining the sentence to be imposed on a defendant found guilty of a felony, it may order that the defendant, for the purpose of a study, be committed to the custody of the Bureau of Prisons for a period of not more than sixty days. The order shall specify the additional information that the court needs before determining the sentence to be imposed. Such an order shall be treated for administrative purposes as a provisional sentence of imprisonment for the maximum term authorized by section 3581(b) for the offense committed. The Bureau shall conduct a complete study of the defendant during such period, inquiring into such matters as are specified by the court and any other matters that it believes are pertinent to the factors set forth in section 3553(a). The period of commitment may, in the discretion of the court, be extended for an additional period of not more than sixty days. By the expiration of the period of commitment, or by the expiration of any extension granted by the court, the United States Marshal shall return the defendant to the court for final sentencing, and the Bureau shall provide the court with a written report of the pertinent results of the study, and make to the court whatever recommendations the Bureau believes will be helpful to a proper resolution of the case. The report shall include recommendations of the Bureau concerning the guidelines and policy statements, promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994(a), that it believes are applicable to the defendant's case. After receiving the report and the recommendations, the court shall proceed finally to sentence the defendant in accordance with the sentencing alternatives and procedures available under this chapter.

"(c) PRESENTENCE EXAMINATION AND REPORT BY PSYCHIATRIC OR PSYCHOLOGICAL EXAMINERS.—If the court, before or after its receipt of a report specified in subsection (a) or (b) desires more information than is otherwise available to it as a basis for determining the mental condition of the defendant, it may order that the defendant undergo a phychiatric or psychological examination and that the court be provided with a written report of the results of the examination pursuant to the provisions of section 4247.

"(d) DISCLOSURE OF PRESENTENCE REPORTS.—The court shall assure that a report filed pursuant to this section is disclosed to the defendant, the counsel for the defendant, and the attorney for the government in a timely manner, pursuant to the provisions of Rule 32(c) of the Federal Rules of Criminal Procedure.

"§ 3553. Imposition of a sentence

"(a) FACTORS TO BE CONSIDERED IN IMPOSING A SENTENCE.—The court, in determining the particular sentence to be imposed, shall consider—

"(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

"(2) the need for the sentence imposed—

"(A) to reflect the seriousness of the offense, to promote respect for law, and to provide just punishment for the offense;

"(B) to afford adequate deterrence to criminal conduct;

"(C) to protect the public from further crimes of the defendant; and

"(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

"(3) the kinds of sentences available;

"(4) the kinds of sentence and the sentencing range established for the applicable

category of offense committed by the applicable category of defendant as set forth in the guidelines that are issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1) and that are in effect on the date the defendant is sentenced;

"(5) any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2) that is in effect on the date the defendant is sentenced; and

"(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.

"(b) APPLICATION OF GUIDELINES IN IMPOSING A SENTENCE.—The court shall impose a sentence of the kind, and within the range, referred to in subsection (a)(4) unless the court finds that an aggravating or mitigating circumstance exists that was not adequately taken into consideration by the Sentencing Commission in formulating the guidelines and that should result in a sentence different from that described.

"(c) STATEMENT OF REASONS FOR IMPOSING A SENTENCE.—The court, at the time of sentencing, shall state in open court the reasons for its imposition of the particular sentence, and, if the sentence—

"(1) is of the kind, and within the range, described in subsection (a)(4), the reason for imposing a sentence at a particular point within the range; or

"(2) is not of the kind, or is outside the range, described in subsection (a)(4), the specific reason for the imposition of a sentence different from that described.

If the sentence does not include an order of restitution, the court shall include in the statement the reason therefor. The clerk of the court shall provide a transcription of the court's statement of reasons to the Probation System, and, if the sentence includes a term of imprisonment, to the Bureau of Prisons.

"(d) PRESENTENCE PROCEDURE FOR AN ORDER OF NOTICE.—Prior to imposing an order of notice pursuant to section 3555, the court shall give notice to the defendant and the government that it is considering imposing such an order. Upon motion of the defendant or the government, or on its own motion, the court shall—

"(1) permit the defendant and the government to submit affidavits and written memoranda addressing matters relevant to the imposition of such an order;

"(2) afford counsel an opportunity in open court to address orally the appropriateness of the imposition of such an order; and

"(3) include in its statement of reasons pursuant to subsection (c) specific reasons underlying its determinations regarding the nature of such an order.

Upon motion of the defendant or the government, or on its own motion, the court may in its discretion employ any additional procedures that it concludes will not unduly complicate or prolong the sentencing process.

"§ 3554. Order of criminal forfeiture

The court, in imposing a sentence on a defendant who has been found guilty of an offense described in section 1962 of this title or in title II or III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 shall order, in addition to the sentence that is imposed pursuant to the provisions of section 3551, that the defendant forfeit property to the United States in accordance with the provisions of section 1963 of this title or section 413 of the Comprehensive Drug Abuse and Control Act of 1970.

"§ 3555. Order of notice to victims

"The court, in imposing a sentence on a defendant who has been found guilty of an offense involving fraud or other intentionally deceptive practices, may order, in addition to the sentence that is imposed pursuant to the provisions of section 3551, that the defendant give reasonable notice and explanation of the conviction, in such form as the court may approve, to the victims of the offense. The notice may be ordered to be given by mail, by advertising in designated areas or through designated media, or by other appropriate means. In determining whether to require the defendant to give such notice, the court shall consider the factors set forth in section 3553(a) to the extent that they are applicable and shall consider the cost involved in giving the notice as it relates to the loss caused by the offense, and shall not require the defendant to bear the costs of notice in excess of $20,000.

"§ 3556. Order of restitution

"The court, in imposing a sentence on a defendant who has been found guilty of an offense under this title, or an offense under section 902 (h), (i), (j), or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472), may order, in addition to the sentence that is imposed pursuant to the provisions of section 3551, that the defendant make restitution to any victim of the offense in accordance with the provisions of sections 3663 and 3664.

"§ 3557. Review of a sentence

"The review of a sentence imposed pursuant to section 3551 is governed by the provisions of sections 3742.

"§ 3558. Implementation of a sentence

"The implementation of a sentence imposed pursuant to section 3551 is governed by the provisions of chapter 229.

"§ 3559. Sentencing classification of offenses

"(a) CLASSIFICATION.—An offense that is not specifically classified by a letter grade in the section defining it, is classified—

"(1) if the maximum term of imprisonment authorized is—

"(A) life imprisonment, or if the maximum penalty is death, as a Class A felony;

"(B) twenty years or more, as a Class B felony;

"(C) less than twenty years but ten or more years, as a Class C felony;

"(D) less than ten years but five or more years, as a Class D felony;

"(E) less than five years but more than one year, as a Class E felony;

"(F) one year or less but more than six months, as a Class A misdemeanor;

"(G) six months or less but more than thirty days, as a Class B misdemeanor;

"(H) thirty days or less but more than five days, as a Class C misdemeanor; or

"(I) five days or less, or if no imprisonment is authorized, as an infraction.

"(b) EFFECT OF CLASSIFICATION.—An offense classified under subsection (a) carries all the incidents assigned to the applicable letter designation except that the maximum fine that may be imposed is the fine authorized by the statute describing the offense, or by this chapter, whichever is the greater.

"SUBCHAPTER B—PROBATION

"Sec.
"3561. Sentence of probation.
"3562. Imposition of a sentence of probation.
"3563. Conditions of probation.
"3564. Running of a term of probation.
"3565. Revocation of probation.
"3566. Implementation of a sentence of probation.

"SUBCHAPTER B—PROBATION

"§ 3561. Sentence of probation

"(a) IN GENERAL.—A defendant who has been found guilty of an offense may be sentenced to a term of probation unless—

"(1) the offense is a Class A felony;

"(2) the offense is an offense for which probation has been expressly precluded; or

"(3) the defendant is sentenced at the same time to a term of imprisonment for the same or a different offense.

"(b) AUTHORIZED TERMS.—The authorized terms of probation are—

"(1) for a felony, not less than one nor more than five years;

"(2) for a misdemeanor, not more than two years; and

"(3) for an infraction, not more than one year.

"§ 3562. Imposition of a sentence of probation

"(a) FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF PROBATION.—The court, in determining whether to impose a term of probation, and, if a term of probation is to be imposed, in determining the length of the term and the conditions of probation, shall consider the factors set forth in section 3553(a) to the extent that they are applicable.

"(b) EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence of probation can subsequently be—

"(1) modified or revoked pursuant to the provisions of section 3564 or 3565;

"(2) corrected pursuant to the provisions of rule 35 and section 3742; or

"(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

"§ 3563. Conditions of probation

"(a) MANDATORY CONDITIONS.—The court shall provide, as an explicit condition of a sentence of probation—

"(1) for a felony, a misdemeanor, or an infraction, that the defendant not commit another federal, State, or local crime during the term of probation; and

"(2) for a felony, that the defendant also abide by at least one condition set forth in subsection (b)(2), (b)(3), or (b)(13).

"(b) DISCRETIONARY CONDITIONS.—The court may provide, as further conditions of a sentence of probation, to the extent that such conditions are reasonably related to the factors set forth in section 3553 (a)(1) and (a)(2) and to the extent that such conditions involve only such deprivations of liberty or property as are reasonably necessary for the purposes indicated in section 3553(a)(2), that the defendant—

"(1) support his dependents and meet other family responsibilities;

"(2) pay a fine imposed pursuant to the provisions of subchapter C;

"(3) make restitution to a victim of the offense pursuant to the provisions of section 3556;

"(4) give to the victims of the offense the notice ordered pursuant to the provisions of section 3555;

"(5) work conscientiously at suitable employment or pursue conscientiously a course of study or vocational training that will equip him for suitable employment;

"(6) refrain, in the case of an individual, from engaging in a specified occupation, business, or profession bearing a reasonably direct relationship to the conduct constitut-

ing the offense, or engage in such a specified occupation, business, or profession only to a stated degree or under stated circumstances;

"(7) refrain from frequenting specified kinds of places or from associating unnecessarily with specified persons;

"(8) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

"(9) refrain from possessing a firearm, destructive device, or other dangerous weapon;

"(10) undergo available medical, psychiatric, or psychological treatment, including treatment for drug or alcohol dependency, as specified by the court, and remain in a specified institution if required for that purpose;

"(11) remain in the custody of the Bureau of Prisons during nights, weekends, or other intervals of time, totaling no more than the lesser of one year or the term of imprisonment authorized for the offense in section 3581(b), during the first year of the term of probation;

"(12) reside at, or participate in the program of, a community correction facility for all or part of the term of probation;

"(13) work in community service as directed by the court;

"(14) reside in a specified place or area, or refrain from residing in a specified place or area;

"(15) remain within the jurisdiction of the court, unless granted permission to leave by the court or a probation officer;

"(16) report to a probation officer as directed by the court or the probation officer;

"(17) permit a probation officer to visit him at his home or elsewhere as specified by the court;

"(18) answer inquiries by a probation officer and notify the probation officer promptly of any change in address or employment;

"(19) notify the probation officer promptly if arrested or questioned by a law enforcement officer; or

"(20) satisfy such other conditions as the court may impose.

"(c) MODIFICATION OF CONDITIONS.—The court may, after a hearing, modify, reduce, or enlarge the conditions of a sentence of probation at any time prior to the expiration or termination of the term of probation, pursuant to the provisions applicable to the initial setting of the conditions of probation.

"(d) WRITTEN STATEMENT OF CONDITIONS.—The court shall direct that the probation officer provide the defendant with a written statement that sets forth all the conditions to which the sentence is subject, and that is sufficiently clear and specific to serve as a guide for the defendant's conduct and for such supervision as is required.

"§ 3564. Running of a term of probation

"(a) COMMENCEMENT.—A term of probation commences on the day that the sentence of probation is imposed, unless otherwise ordered by the court.

"(b) CONCURRENCE WITH OTHER SENTENCES.—Multiple terms of probation, whether imposed at the same time or at different times, run concurrently with each other. A term of probation runs concurrently with any federal, State, or local term of probation, or supervised release, or parole for another offense to which the defendant is subject or becomes subject during the term of probation, except that it does not run during any period in which the defendant is imprisoned, other than during limited intervals as a condition of probation or supervised release, in connection with a conviction for a federal, State, or local crime.

"(c) EARLY TERMINATION.—The court, after considering the factors set forth in section 3553(a) to the extent that they are applicable, may terminate a term of probation previously ordered and discharge the defendant at any time in the case of a misdemeanor or an infraction or at any time after the expiration of one year of probation in the case of a felony, if it is satisfied that such action is warranted by the conduct of the defendant and the interest of justice.

"(d) EXTENSION.—The court may, after a hearing, extend a term of probation, if less than the maximum authorized term was previously imposed, at any time prior to the expiration or termination of the term of probation, pursuant to the provisions applicable to the initial setting of the term of probation.

"(e) SUBJECT TO REVOCATION.—A sentence of probation remains conditional and subject to revocation until its expiration or termination.

"§ 3565. Revocation of probation

"(a) CONTINUATION OR REVOCATION.—If the defendant violates a condition of probation at any time prior to the expiration or termination of the term of probation, the court may, after a hearing pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure, and after considering the factors set forth in section 3553(a) to the extent that they are applicable—

"(1) continue him on probation, with or without extending the term or modifying or enlarging the conditions; or

"(2) revoke the sentence of probation and impose any other sentence that was available under subchapter A at the time of the initial sentencing.

"(b) DELAYED REVOCATION.—The power of the court to revoke a sentence of probation for violation of a condition of probation, and to impose another sentence, extends beyond the expiration of the term of probation for any period reasonably necessary for the adjudication of matters arising before its expiration if, prior to its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.

"§ 3566. Implementation of a sentence of probation

"The implementation of a sentence of probation is governed by the provisions of subchapter A of chapter 229.

"SUBCHAPTER C—FINES

"Sec.
"3571. Sentence of fine.
"3572. Imposition of a sentence of fine.
"3573. Modification or remission of fine.
"3574. Implementation of a sentence of fine.

"SUBCHAPTER C—FINES

"§ 3571. Sentence of fine

"(a) IN GENERAL.—A defendant who has been found guilty of an offense may be sentenced to pay a fine.

"(b) AUTHORIZED FINES.—Except as otherwise provided, the authorized fines are—

"(1) if the defendant is an individual—

"(A) for a felony, or for a misdemeanor resulting in the loss of human life, not more than $250,000;

"(B) for any other misdemeanor, not more than $25,000; and

"(C) for an infraction, not more than $1,000; and

"(2) if the defendant is an organization—

"(A) for a felony, or for a misdemeanor resulting in the loss of human life, not more than $500,000;

"(B) for any other misdemeanor, not more than $100,000; and

"(C) for an infraction, not more than $10,000.

"§ 3572. Imposition of a sentence of fine

"(a) FACTORS TO BE CONSIDERED IN IMPOSING FINE.—The court, in determining whether to impose a fine, and, if a fine is to be imposed, in determining the amount of the fine, the time for payment, and the method of payment, shall consider—

"(1) the factors set forth in section 3553(a), to the extent they are applicable, including, with regard to the characteristics of the defendant under section 3553(a), the ability of the defendant to pay the fine in view of the defendant's income, earning capacity, and financial resources and, if the defendant is an organization, the size of the organization;

"(2) the nature of the burden that payment of the fine will impose on the defendant, and on any person who is financially dependent upon the defendant;

"(3) any restitution or reparation made by the defendant to the victim of the offense, and any obligation imposed upon the defendant to make such restitution or reparation to the victim of the offense;

"(4) if the defendant is an organization, any measure taken by the organization to discipline its employees or agents responsible for the offense or to insure against a recurrence of such an offense; and

"(5) any other pertinent equitable consideration.

"(b) LIMIT ON AGGREGATE OF MULTIPLE FINES.—Except as otherwise expressly provided, the aggregate of fines that a court may impose on a defendant at the same time for different offenses that arise from a common scheme or plan, and that do not cause separable or distinguishable kinds of harm or damage, is twice the amount imposable for the most serious offense.

"(c) EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence to pay a fine can subsequently be—

"(1) modified or remitted pursuant to the provisions of section 3573;

"(2) corrected pursuant to the provisions of rule 35 and section 3742; or

"(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

"(d) TIME AND METHOD OF PAYMENT.—At the time a defendant is sentenced to pay a fine, the court may provide for the payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, payment is due immediately.

"(e) ALTERNATIVE SENTENCE PRECLUDED.—At the time a defendant is sentenced to pay a fine, the court may not impose an alternative sentence to be served in the event that the fine is not paid.

"(f) INDIVIDUAL RESPONSIBILITY FOR PAYMENT.—If a fine is imposed on an organization, it is the duty of each individual authorized to make disbursement of the assets of the organization to pay the fine from assets of the organization. If a fine is imposed on an agent or shareholder of an organization, the fine shall not be paid, directly or indirectly, out of the assets of the or-

ganization, unless the court finds that such payment is expressly permissible under applicable State law.

"§ 3573. Modification or remission of fine

"(a) PETITION FOR MODIFICATION OR REMISSION.—A defendant who has been sentenced to pay a fine, and who—

"(1) has paid part but not all thereof, and concerning whom the circumstances no longer exist that warranted the imposition of the fine in the amount imposed or payment by the time or method specified, may petition the court for—

"(A) an extension of the time for payment;

"(B) a modification in the method of payment; or

"(C) a remission of all or part of the unpaid portion; or

"(2) has thereafter voluntarily made restitution or reparation to the victim of the offense, may petition the court for a remission of the unpaid portion of the fine in an amount not exceeding the amount of such restitution or reparation.

"(b) ORDER OF MODIFICATION OR REMISSION.—If, after the filing of a petition as provided in subsection (a), the court finds that the circumstances warrant relief, the court may enter an appropriate order.

"§ 3574. Implementation of a sentence of fine

"The implementation of a sentence to pay a fine is governed by the provisions of subchapter B of chapter 229.

"SUBCHAPTER D—IMPRISONMENT

"Sec.
"3581. Sentence of imprisonment.
"3582. Imposition of a sentence of imprisonment.
"3583. Inclusion of a term of supervised release after imprisonment.
"3584. Multiple sentences of imprisonment.
"3585. Calculation of a term of imprisonment.
"3586. Implementation of a sentence of imprisonment.

"SUBCHAPTER D—IMPRISONMENT

"§ 3581. Sentence of imprisonment

"(a) IN GENERAL.—A defendant who has been found guilty of an offense may be sentenced to a term of imprisonment.

"(b) AUTHORIZED TERMS.—The authorized terms of imprisonment are—

"(1) for a Class A felony, the duration of the defendant's life or any period of time;

"(2) for a Class B felony, not more than twenty-five years;

"(3) for a Class C felony, not more than twelve years;

"(4) for a Class D felony, not more than six years;

"(5) for a Class E felony, not more than three years;

"(6) for a Class A misdemeanor, not more than one year;

"(7) for a Class B misdemeanor, not more than six months;

"(8) for a Class C misdemeanor, not more than thirty days; and

"(9) for an infraction, not more than five days.

"§ 3582. Imposition of a sentence of imprisonment

"(a) FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF IMPRISONMENT.—The court, in determining whether to impose a term of imprisonment, and, if a term of imprisonment is to be imposed, in determining the length of the term, shall consider the factors set forth in section 3553(a) to the extent that they are applicable, recognizing that imprisonment is not an appropriate means of promoting correction and rehabilitation. In determining whether to make a recommendation concerning the type of prison facility appropriate for the defendant, the court shall consider any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2).

"(b) EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence to imprisonment can subsequently be—

"(1) modified pursuant to the provisions of subsection (c);

"(2) corrected pursuant to the provisions of rule 35 and section 3742; or

"(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

"(c) MODIFICATION OF AN IMPOSED TERM OF IMPRISONMENT.—The court may not modify a term of imprisonment once it has been imposed except that—

"(1) in any case—

"(A) the court, upon motion of the Director of the Bureau of Prisons, may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that extraordinary and compelling reasons warrant such a reduction and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission; and

"(B) the court may modify an imposed term of imprisonment to the extent otherwise expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure;

"(2) in the case of a defendant who has been sentenced to a term of imprisonment in excess of six years, the court, upon motion of the defendant or the Director of the Bureau of Prisons, may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that extraordinary and compelling reasons require such a reduction and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission; but the court may consider only two such motions with respect to a particular defendant, one, after the defendant has served at least six years of his sentence, and a second, after the defendant has served at least the maximum term of imprisonment specified in the applicable guideline issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1); and

"(3) in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(n), upon motion of the defendant or the Director of Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

"(d) INCLUSION OF AN ORDER TO LIMIT CRIMINAL ASSOCIATION OF ORGANIZED CRIME AND DRUG OFFENDERS.—The court, in imposing a sentence to a term of imprisonment upon a defendant convicted of a felony set forth in chapter 95 (racketeering) or 96 (racketeer influenced and corrupt organizations) of this title or in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.), or at any time thereafter upon motion by the Director of the Bureau of Prisons or a United States attorney, may include as a part of the sentence an order that requires that the defendant not associate or communicate with a specified person, other than his attorney, upon a showing of probable cause to believe that association or communication with such person is for the purpose of enabling the defendant to control, manage, direct, finance, or otherwise participate in an illegal enterprise.

"§ 3583. Inclusion of a term of supervised release after imprisonment

"(a) IN GENERAL.—The court, in imposing a sentence to a term of imprisonment for a felony or a misdemeanor, may include as a part of the sentence a requirement that the defendant be placed on a term of supervised release after imprisonment.

"(b) AUTHORIZED TERMS OF SUPERVISED RELEASE.—The authorized terms of supervised release are—

"(1) for a Class A or Class B felony, not more than three years;

"(2) for a Class C or Class D felony, not more than two years; and

"(3) for a Class E felony, or for a misdemeanor, not more than one year.

"(c) FACTORS TO BE CONSIDERED IN INCLUDING A TERM OF SUPERVISED RELEASE.—The court, in determining whether to include a term of supervised release, and, if a term of supervised release is to be included, in determining the length of the term and the conditions of supervised release, shall consider the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(D), (a)(4), (a)(5), and (a)(6).

"(d) CONDITIONS OF SUPERVISED RELEASE.—The court shall order, as an explicit condition of supervised release, that the defendant not commit another Federal, State, or local crime during the term of supervision. The court may order, as a further condition of supervised release, to the extent that such condition—

"(1) is reasonably related to the factors set forth in section 3553(a)(1), (a)(2)(B), and (a)(2)(D);

"(2) involves no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B) and (a)(2)(D); and

"(3) is consistent with any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a);

any condition set forth as a discretionary condition of probation in section 3563(b)(1) through (b)(10) and (b)(12) through (b)(19), and any other condition it considers to be appropriate. If an alien defendant is subject to deportation, the court may provide, as a condition of supervised release, that he be deported and remain outside the United States, and may order that he be delivered to a duly authorized immigration official for such deportation.

"(e) MODIFICATION OF TERM OR CONDITIONS.—The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(D), (a)(4), (a)(5), and (a)(6)—

"(1) terminate a term of supervised release previously ordered and discharge the person released at any time after the expiration of one year of supervised release, if it is satisfied that such action is warranted by the conduct of the person released and the interest of justice; or

"(2) after a hearing, extend a term of supervised release if less than the maximum authorized term was previously imposed,

and may modify, reduce, or enlarge the conditions of supervised release, at any time prior to the expiration or termination of the term of supervised release, pursuant to the provisions applicable to the initial setting of the term and conditions of post-release supervision.

"(f) WRITTEN STATEMENT OF CONDITIONS.—The court shall direct that the probation officer provide the defendant with a written statement that sets forth all the conditions to which the term of supervised release is subject, and that is sufficiently clear and specific to serve as a guide for the defendant's conduct and for such supervision as is required.

"§ 3584. Multiple sentences of imprisonment

"(a) IMPOSITION OF CONCURRENT OR CONSECUTIVE TERMS.—If multiple terms of imprisonment are imposed on a defendant at the same time, or if a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment, the terms may run concurrently or consecutively, except that the terms may not run consecutively for an attempt and for another offense that was the sole objective of the attempt. Multiple terms of imprisonment imposed at the same time run concurrently unless the court orders or the statute mandates that the terms are to run consecutively. Multiple terms of imprisonment imposed at different times run consecutively unless the court orders that the terms are to run concurrently.

"(b) FACTORS TO BE CONSIDERED IN IMPOSING CONCURRENT OR CONSECUTIVE TERMS.—The court, in determining whether the terms imposed are to be ordered to run concurrently or consecutively, shall consider, as to each offense for which a term of imprisonment is being imposed, the factors set forth in section 3553(a).

"(c) TREATMENT OF MULTIPLE SENTENCES AS AN AGGREGATE.—Multiple terms of imprisonment ordered to run consecutively or concurrently shall be treated for administrative purposes as a single, aggregate term of imprisonment.

"§ 3585. Calculation of a term of imprisonment

"(a) COMMENCEMENT OF SENTENCE.—A sentence to a term of imprisonment commences on the date the defendant is received in custody awaiting transportation to, or arrives voluntarily to commence service of sentence at, the official detention facility at which the sentence is to be served.

"(b) CREDIT FOR PRIOR CUSTODY.—A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences—

"(1) as a result of the offense for which the sentence was imposed; or

"(2) as a result of any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed;

that has not been credited against another sentence.

"§ 3586. Implementation of a sentence of imprisonment

"The implementation of a sentence of imprisonment is governed by the provisions of subchapter C of chapter 229 and, if the sentence includes a term of supervised release, by the provisions of subchapter A of chapter 229.

"CHAPTER 229—POSTSENTENCE ADMINISTRATION

"Subchapter
"A. Probation 3601
"B. Fines 3611
"C. Imprisonment 3621

"SUBCHAPTER A—PROBATION

"Sec.
"3601. Supervision of probation.
"3602. Appointment of probation officers.
"3603. Duties of probation officers.
"3604. Transportation of a probationer.
"3605. Transfer of jurisdiction over a probationer.
"3606. Arrest and return of a probationer.
"3607. Special probation and expungement procedures for drug possessor.

"SUBCHAPTER A—PROBATION

"§ 3601. Supervision of probation

"A person who has been sentenced to probation pursuant to the provisions of subchapter B of chapter 227, or placed on probation pursuant to the provisions of chapter 403, or placed on supervised release pursuant to the provisions of section 3583, shall, during the term imposed, be supervised by a probation officer to the degree warranted by the conditions specified by the sentencing court.

"§ 3602. Appointment of probation officers

"(a) APPOINTMENT.—A district court of the United States shall appoint qualified persons to serve, with or without compensation, as probation officers within the jurisdiction and under the direction of the court making the appointment. The court may, for cause, remove a probation officer appointed to serve with compensation, and may, in its discretion, remove a probation officer appointed to serve without compensation.

"(b) RECORD OF APPOINTMENT.—The order of appointment shall be entered on the records of the court, a copy of the order shall be delivered to the officer appointed, and a copy shall be sent to the Director of the Administrative Office of the United States Courts.

"(c) CHIEF PROBATION OFFICER.—If the court appoints more than one probation officer, one may be designated by the court as chief probation officer and shall direct the work of all probation officers serving in the judicial district.

"§ 3603. Duties of probation officers

"A probation officer shall—

"(a) instruct a probationer or a person on supervised release, who is under his supervision as to the conditions specified by the sentencing court, and provide him with a written statement clearly setting forth all such conditions;

"(b) keep informed, to the degree required by the conditions specified by the sentencing court, as to the conduct and condition of a probationer or a person on supervised release, who is under his supervision, and report his conduct and condition to the sentencing court;

"(c) use all suitable methods, not inconsistent with the conditions specified by the court, to aid a probationer or a person on supervised release who is under his supervision, and to bring about improvements in his conduct and condition;

"(d) be responsible for the supervision of any probationer or a person on supervised release who is known to be within the judicial district;

"(e) keep a record of his work, and make such reports to the Director of the Administrative Office of the United States Courts as the Director may require;

"(f) upon request of the Attorney General or his designee, supervise and furnish information about a person within the custody of the Attorney General while on work release, furlough, or other authorized release from his regular place of confinement, or while in prerelease custody pursuant to the provisions of section 3624(c); and

"(g) perform any other duty that the court may designate.

"§ 3604. Transportation of a probationer

"A court, after imposing a sentence of probation, may direct a United States marshal to furnish the probationer with—

"(a) transportation to the place to which he is required to proceed as a condition of his probation; and

"(b) money, not to exceed such amount as the Attorney General may prescribe, for subsistence expenses while traveling to his destination.

"§ 3605. Transfer of jurisdiction over a probationer

"A court, after imposing a sentence, may transfer jurisdiction over a probationer or person on supervised release to the district court for any other district to which the person is required to proceed as a condition of his probation or release, or is permitted to proceed, with the concurrence of such court. A later transfer of jurisdiction may be made in the same manner. A court to which jurisdiction is transferred under this section is authorized to exercise all powers over the probationer or releasee that are permitted by this subchapter or subchapter B or D of chapter 227.

"§ 3606. Arrest and return of a probationer

"If there is probable cause to believe that a probationer or a person on supervised release has violated a condition of his probation or release, he may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him.

"§ 3607. Special probation and expungement procedures for drug possessors

"(a) PRE-JUDGMENT PROBATION.—If a person found guilty of an offense described in section 404 of the Controlled Substances Act (21 U.S.C. 844)—

"(1) has not, prior to the commission of such offense, been convicted of violating a federal or State law relating to controlled substances; and

"(2) has not previously been the subject of a disposition under this subsection;

the court may, with the consent of such person, place him on probation for a term of not more than one year without entering a judgment of conviction. At any time before the expiration of the term of probation, if the person has not violated a condition of his probation, the court may, without entering a judgment of conviction, dismiss the proceedings against the person and discharge him from probation. At the expiration of the term of probation, if the person has not violated a condition of his probation the court shall, without entering a judgment of conviction, dismiss the proceedings against the person and discharge him from probation. If the person violates a condition of his probation, the court shall proceed in accordance with the provisions of section 3565.

"(b) RECORD OF DISPOSITION.—A nonpublic record of a disposition under subsection (a), or a conviction that is the subject of an expungement order under subsection (c), shall be retained by the Department of Justice solely for the purpose of use by the courts in determining in any subsequent proceeding whether a person qualifies for the disposition provided in subsection (a) or the ex-

pungement provided in subsection (c). A disposition under subsection (a), or a conviction that is the subject of an expungement order under subsection (c), shall not be considered a conviction for the purpose of a disqualification or a disability imposed by law upon conviction of a crime, or for any other purpose.

"(c) EXPUNGEMENT OF RECORD OF DISPOSITION.—If the case against a person found guilty of an offense under section 404 of the Controlled Substances Act (21 U.S.C. 844) is the subject of a disposition under subsection (a), and the person was less than twenty-one years old at the time of the offense, the court shall enter an expungement order upon the application of such person. The expungement order shall direct that there be expunged from all official records, except the nonpublic records referred to in subsection (b), all references to his arrest for the offense, the institution of criminal proceedings against him, and the results thereof. The effect of the order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or institution of criminal proceedings. A person concerning whom such an order has been entered shall not be held thereafter under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of his failure to recite or acknowledge such arrests or institution of criminal proceedings, or the results thereof, in response to an inquiry made of him for any purpose.

"SUBCHAPTER B—FINES

"Sec.
"3611. Payment of a fine.
"3612. Collection of an unpaid fine.
"3613. Lien provisions for satisfaction of an unpaid fine.

"SUBCHAPTER B—FINES

"§ 3611. Payment of a fine

"A person who has been sentenced to pay a fine pursuant to the provisions of subchapter C of chapter 227 shall pay the fine immediately, or by the time and method specified by the sentencing court, to the clerk of the court. The clerk shall forward the payment to the United States Treasury.

"§ 3612. Collection of an unpaid fine

"(a) CERTIFICATION OF IMPOSITION.—If a fine is imposed, the sentencing court shall promptly certify to the Attorney General—
"(1) the name of the person fined;
"(2) his last known address;
"(3) the docket number of the case;
"(4) the amount of the fine imposed;
"(5) the time and method of payment specified by the court;
"(6) the nature of any modification or remission of the fine; and
"(7) the amount of the fine that is due and unpaid.

The court shall thereafter promptly certify to the Attorney General the amount of any subsequent payment that the court may receive with respect to, and the nature of any subsequent remission or modification of, a fine concerning which certification has previously been issued.

"(b) RESPONSIBILITY FOR COLLECTION.—The Attorney General shall be responsible for collection of an unpaid fine concerning which a certification has been issued as provided in subsection (a). An order of restitution, pursuant to section 3556, does not create any right of action against the United States by the person to whom restitution is ordered to be paid.

"§ 3613. Lien provisions for satisfaction of an unpaid fine

"(a) LIEN.—A fine imposed pursuant to the provisions of subchapter C of chapter 227 is a lien in favor of the United States upon all property belonging to the person fined. The lien arises at the time of the entry of the judgment and continues until the liability is satisfied, remitted, or set aside, or until it becomes unenforceable pursuant to the provisions of subsection (b). On application of the person fined, the Attorney General shall—

"(1) issue a certificate of release, as described in section 6325 of the Internal Revenue Code of 1954, of any lien imposed pursuant to this section, upon his acceptance of a bond described in section 6325(a)(2) of the Internal Revenue Code of 1954; or

"(2) issue a certificate of discharge, as described in section 6325 of the Internal Revenue Code of 1954, of any part of the person's property subject to a lien imposed pursuant to this section, upon his determination that the fair market value of that part of such property remaining subject to and available to satisfy the lien is at least three times the amount of the fine.

"(b) EXPIRATION OF LIEN.—A lien becomes unenforceable and liability to pay a fine expires—

"(1) twenty years after the entry of the judgment; or

"(2) upon the death of the individual fined.

The period set forth in paragraph (1) may be extended, prior to its expiration, by a written agreement between the person fined and the Attorney General. The running of the period set forth in paragraph (1) is suspended during any interval for which the running of the period of limitations for collection of a tax would be suspended pursuant to section 6503(b), 6503(c), 6503(f), or 7508(a)(1)(I) of the Internal Revenue Code of 1954 (26 U.S.C. 6503(b), 6503(c), 6503(g), or 7508(a)(1)(I)), or section 513 of the Act of October 17, 1940, 54 Stat. 1190.

"(c) APPLICATION OF OTHER LIEN PROVISIONS.—The provisions of sections 6323, other than 6323(f)(4), 6331 through 6343, 6901, 7402, 7403, 7405, 7423 through 7426, 7505(a), 7506, 7508, 7602 through 7605, 7622, 7701, and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 6323, 6331 through 6343, 6901, 7402, 7403, 7405, 7423 through 7426, 7505(a), 7506, 7508, 7602 through 7605, 7609, 7610, 7622, 7701, and 7805) and of section 513 of the Act of October 17, 1940, 54 Stat. 1190, apply to a fine and to the lien imposed by subsection (a) as if the liability of the person fined were for an internal revenue tax assessment, except to the extent that the application of such statutes is modified by regulations issued by the Attorney General to accord with differences in the nature of the liabilities. For the purposes of this subsection, references in the preceding sections of the Internal Revenue Code of 1954 to 'the Secretary' shall be construed to mean 'the Attorney General,' and references in those sections to 'tax' shall be construed to mean 'fine.'

"(d) EFFECT OF NOTICE OF LIEN.—A notice of the lien imposed by subsection (a) shall be considered a notice of lien for taxes payable to the United States for the purposes of any State or local law providing for the filing of a notice of a tax lien. The registration, recording, docketing, or indexing, in accordance with 28 U.S.C. 1962, of the judgment under which a fine is imposed shall be considered for all purposes as the filing prescribed by section 6323(f)(1)(A) of the Internal Revenue Code of 1954 (26 U.S.C. 6323(f)(1)(A)) and by subsection (c).

"SUBCHAPTER C—IMPRISONMENT

"Sec.
"3621. Imprisonment of a convicted person.
"3622. Temporary release of a prisoner.
"3623. Transfer of a prisoner to state authority.
"3624. Release of a prisoner.
"3625. Inapplicability of the Administrative Procedure Act.

"SUBCHAPTER C—IMPRISONMENT

"§ 3621. Imprisonment of a convicted person

"(a) COMMITMENT TO CUSTODY OF BUREAU OF PRISONS.—A person who has been sentenced to a term of imprisonment pursuant to the provisions of subchapter D of chapter 227 shall be committed to the custody of the Bureau of Prisons until the expiration of the term imposed, or until earlier released for satisfactory behavior pursuant to the provisions of section 3624.

"(b) PLACE OF IMPRISONMENT.—The Bureau of Prisons shall designate the place of the prisoner's imprisonment. The Bureau may designate any available penal or correctional facility that meets minimum standards of health and habitability established by the Bureau, whether maintained by the federal government or otherwise and whether within or without the judicial district in which the person was convicted, that the Bureau determines to be appropriate and suitable, considering—

"(1) the resources of the facility contemplated;

"(2) the nature and circumstances of the offense;

"(3) the history and characteristics of the prisoner;

"(4) any statement by the court that imposed the sentence—

"(A) concerning the purposes for which the sentence to imprisonment was determined to be warranted; or

"(B) recommending a type of penal or correctional facility as appropriate; and

"(5) any pertinent policy statement issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28.

The Bureau may at any time, having regard for the same matters, direct the transfer of a prisoner from one penal or correctional facility to another.

"(c) DELIVERY OF ORDER OF COMMITMENT.—When a prisoner, pursuant to a court order, is placed in the custody of a person in charge of a penal or correctional facility, a copy of the order shall be delivered to such person as evidence of this authority to hold the prisoner, and the original order, with the return endorsed thereon, shall be returned to the court that issued it.

"(d) DELIVERY OF PRISONER FOR COURT APPEARANCES.—The United States Marshal shall, without charge, bring a prisoner into court or return him to a prison facility on order of a court of the United States or on written request of an attorney for the government.

"§ 3622. Temporary release of a prisoner

"The Bureau of Prisons may release a prisoner from the place of his imprisonment for a limited period, if such release appears to be consistent with the purposes for which the sentence was imposed and any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2), if such release otherwise appears to be consistent with the public interest and if there is reasonable cause to believe that the prisoner will honor the trust to be imposed in

him, by authorizing him, under prescribed conditions, to—

"(a) visit a designated place for a period not to exceed thirty days, and then return to the same or another facility, for the purpose of—

"(1) visiting a relative who is dying;

"(2) attending a funeral of a relative;

"(3) obtaining medical treatment not otherwise available;

"(4) contacting a prospective employer;

"(5) establishing or reestablishing family or community ties; or

"(6) engaging in any other significant activity consistent with the public interest;

"(b) participate in a training or educational program in the community while continuing in official detention at the prison facility; or

"(c) work at paid employment in the community while continuing in official detention at the penal or correctional facility if—

"(1) the rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the community; and

"(2) the prisoner agrees to pay to the Bureau such costs incident to his official detention as the Bureau finds appropriate and reasonable under all the circumstances, such costs to be collected by the Bureau and deposited in the Treasury to the credit of the appropriation available for such costs at the time such collections are made.

"§ 3623. Transfer of a prisoner to state authority

"The Director of the Bureau of Prisons shall order that a prisoner who has been charged in an indictment or information with, or convicted of, a State felony, be transferred to an official detention facility within such State prior to his release from a federal prison facility if—

"(1) the transfer has been requested by the Governor or other executive authority of the State;

"(2) the State has presented to the Director a certified copy of the indictment, information, or judgment of conviction; and

"(3) the Director finds that the transfer would be in the public interest.

If more than one request is presented with respect to a prisoner, the Director shall determine which request should receive preference. The expenses of such transfer shall be borne by the State requesting the transfer.

"§ 3624. Release of a prisoner

"(a) DATE OF RELEASE.—A prisoner shall be released by the Bureau of Prisons on the date of the expiration of his term of imprisonment, less any time credited toward the service of his sentence as provided in subsection (b). If the date for a prisoner's release falls on a Saturday, a Sunday, or a legal holiday at the place of confinement, the prisoner may be released by the Bureau on the last preceding weekday.

"(b) CREDIT TOWARD SERVICE OF SENTENCE FOR SATISFACTORY BEHAVIOR.—A prisoner who is serving a term of imprisonment of more than one year, other than a term of imprisonment for the duration of his life, shall receive credit toward the service of his sentence, beyond the time served, of thirty-six days at the end of each year of his term of imprisonment, beginning after the first year of the term, unless the Bureau of Prisons determines that, during that year, he has not satisfactorily complied with such institutional disciplinary regulations as have been approved by the Attorney General and issued to the prisoner. If the Bureau determines that, during that year, the prisoner has not satisfactorily complied with such institutional regulations, he shall receive no such credit toward service of his sentence or shall receive such lesser credit as the Bureau determines to be appropriate. The Bureau's determination shall be made within fifteen days after the end of each year of the sentence. Such credit toward service of sentence vests at the time that it is received. Credit that has vested may not later be withdrawn, and credit that has not been earned may not later be granted.

"(c) PRE-RELEASE CUSTODY.—The Bureau of Prisons shall, to the extent practicable, assure that a prisoner serving a term of imprisonment spends a reasonable part, not to exceed six months, of the last ten percent of the term to be served under conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for his reentry into the community. The United States Probation System shall, to the extent practicable, offer assistance to a prisoner during such pre-release custody.

"(d) ALLOTMENT OF CLOTHING, FUNDS, AND TRANSPORTATION.—Upon the release of a prisoner on the expiration of his term of imprisonment, the Bureau of Prisons shall furnish him with—

"(1) suitable clothing;

"(2) an amount of money, not more than $500, determined by the Director to be consistent with the needs of the offender and the public interest, unless the Director determines that the financial position of the offender is such that no sum should be furnished; and

"(3) transportation to the place of his conviction, to his bona fide residence within the United States, or to such other place within the United States as may be authorized by the Director.

"(e) SUPERVISION AFTER RELEASE.—A prisoner whose sentence includes a term of supervised release after imprisonment shall be released by the Bureau of Prisons to the supervision of a probation officer who shall, during the term imposed, supervise the person released to the degree warranted by the conditions specified by the sentencing court. The term of supervised release commences on the day the person is released from imprisonment. The term runs concurrently with any federal, State, or local term of probation or supervised release or parole for another offense to which the person is subject or becomes subject during the term of supervised release, except that it does not run during any period in which the person is imprisoned, other than during limited intervals as a condition of probation or supervised release, in connection with a conviction for a federal, State, or local crime.

"§ 3625. Inapplicability of the Administrative Procedure Act

"The provisions of sections 554 and 555 and 701 through 706 of title 5, United States Code, do not apply to the making of any determination, decision, or order under this subchapter."; and

(3) adding the following new section at the end of chapter 232:

"§ 3673. Definitions for sentencing provisions

"As used in chapters 227 and 229—

"(a) 'found guilty' includes acceptance by a court of a plea of guilty or nolo contendere;

"(b) 'commission of an offense' includes the attempted commission of an offense, the consummation of an offense, and any immediate flight after the commission of an offense; and

"(c) 'law enforcement officer' means a public servant authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of an offense."; and

(4) adding the following caption and sectional analysis at the beginning of new chapter 232:

"CHAPTER 232—MISCELLANEOUS SENTENCING PROVISIONS

"Sec.
"3661. Use of information for sentencing.
"3662. Conviction records.
"3663. Order of restitution.
"3664. Procedure for issuing order of restitution.
"3665. Firearms possessed by convicted felons.
"3666. Bribe moneys.
"3667. Liquors and related property; definitions.
"3668. Remission or mitigation of forfeitures under liquor laws; possession pending trial.
"3669. Conveyance carrying liquor.
"3670. Disposition of conveyances seized for violation of the Indian liquor laws.
"3671. Vessels carrying explosives and steerage passengers.
"3672. Duties of Director of Administrative Office of the United States Courts.
"3673. Definitions for sentencing provisions.".

(b) The chapter analysis of Part II of title 18, United States Code, is amended by striking out the items relating to chapters 227, 229, and 231, and inserting in lieu thereof the following:

"Sec.
"227. Sentences 3551
"229. Post-Sentence Administration .. 3601
"231. Repealed .....
"232. Miscellaneous Sentencing Provisions ..... 3661".

SEC. 3. (a) Chapter 235 of title 18, United States Code, is amended by adding the following new section at the end thereof:

"§ 3742. Review of a sentence

"(a) APPEAL BY A DEFENDANT.—A defendant may file a notice of appeal in the district court for review of an otherwise final sentence if the sentence—

"(1) was imposed in violation of law;

"(2) was imposed as a result of an incorrect application of the sentencing guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a); or

"(3) was imposed for a felony or a class A misdemeanor and is greater than—

"(A) the sentence specified in the applicable sentencing guideline issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1), to the extent that the sentence includes a greater fine or term of imprisonment or term of supervised release than the maximum established in the guideline, or includes a more limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the maximum established in the guideline; and

"(B) the sentence, if any, specified in a plea agreement under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure.

"(b) APPEAL BY THE GOVERNMENT.—The government may file a notice of appeal in the district court for review of an otherwise final sentence if the sentence—

"(1) was imposed in violation of law;

"(2) was imposed as a result of an incorrect application of the sentencing guidelines

issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a); or

"(3) was imposed for a felony or a Class A misdemeanor and is less than—

"(A) the sentence specified in the applicable sentencing guideline issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1), to the extent that the sentence includes a lesser fine or term of imprisonment or term of supervised release than the minimum established in the guideline, or includes a less limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the minimum established in the guideline; and

"(B) the sentence, if any, specified in a plea agreement under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure;

and the Attorney General or the Solicitor General personally approves the filing of the notice of appeal.

"(c) RECORD ON REVIEW.—If a notice of appeal is filed in the district court pursuant to subsection (a) or (b), the clerk shall certify to the court of appeals—

"(1) that portion of the record in the case that is designated as pertinent by either of the parties;

"(2) the presentence report; and

"(3) the information submitted during the sentencing proceeding.

"(d) CONSIDERATION.—Upon review of the record, the court of appeals shall determine whether the sentence—

"(1) was imposed in violation of law;

"(2) was imposed as a result of an incorrect application of the sentencing guidelines; or

"(3) is outside the range of the applicable sentencing guideline, and is unreasonable, having regard for—

"(A) the factors to be considered in imposing a sentence, as set forth in chapter 227 of this title; and

"(B) the reasons for the imposition of the particular sentence, as stated by the district court pursuant to the provisions of section 3553(c).

The court of appeals shall give due regard to the opportunity of the district court to judge the credibility of the witnesses, and shall accept the findings of fact of the district court unless they are clearly erroneous.

"(e) DECISION AND DISPOSITION.—If the court of appeals determines that the sentence—

"(1) was imposed in violation of law or imposed as a result of an incorrect application of the sentencing guidelines, it shall—

"(A) remand the case for further sentencing proceedings; or

"(B) correct the sentence;

"(2) is outside the range of the applicable sentencing guideline and is unreasonable, it shall state specific reasons for its conclusions and—

"(A) if it determines that the sentence is too high and the appeal has been filed under subsection (a), it shall set aside the sentence and—

"(i) remand the case for imposition of a lesser sentence;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a lesser sentence;

"(B) if it determines that the sentence is too low and the appeal has been filed under subsection (b), it shall set aside the sentence and—

"(i) remand the case for imposition of a greater sentence;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a greater sentence; or

"(3) was not imposed in violation of law or imposed as a result of an incorrect application of the sentencing guidelines, and is not unreasonable, it shall affirm the sentence.".

(b) The sectional analysis of chapter 235 of title 18, United States Code, is amended by adding the following new item after the item relating to section 3741:

"3742. Review of a sentence.".

SEC. 4. Chapter 403 of title 18, United States Code, is amended as follows:

(a) Section 5037 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking out subsections (a) and (b) and inserting the following new subsections in lieu thereof:

"(a) If the court finds a juvenile to be a juvenile delinquent, the court shall hold a disposition hearing concerning the appropriate disposition no later than twenty court days after the juvenile delinquency hearing unless the court has ordered further study pursuant to subsection (e). After the disposition hearing, and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994, the court may suspend the findings of juvenile delinquency, enter an order of restitution pursuant to section 3556, place him on probation, or commit him to official detention. With respect to release or detention pending an appeal or a petition for a writ of certiorari after disposition, the court shall proceed pursuant to the provisions of chapter 207.

"(b) The term for which probation may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than seventeen years old, beyond the lesser of—

"(A) the date when the juvenile becomes twenty-one years old; or

"(B) the maximum term that would be authorized by section 3561(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between seventeen and twenty-one years old, beyond the lesser of—

"(A) three years; or

"(B) the maximum term that would be authorized by section 3561(b) if the juvenile had been tried and convicted as an adult.

The provisions dealing with probation set forth in sections 3563, 3564, and 3565 are applicable to an order placing a juvenile on probation.

"(c) The term for which official detention may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than seventeen years old, beyond the lesser of—

"(A) the date when the juvenile becomes twenty-one years old; or

"(B) the maximum term of imprisonment that would be authorized by section 3581(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between seventeen and twenty-one years old—

"(A) who is convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

"(B) in any other case beyond the lesser of—

"(i) three years; or

"(ii) the maximum term of imprisonment that would be authorized by section 3581(b) if the juvenile had been tried and convicted as an adult.".

(b) Section 5041 is repealed.

(c) Section 5042 is amended by—

(1) striking out "parole or" each place it appears in the caption and text; and

(2) striking out "parolee or".

(d) The sectional analysis is amended by striking out the items relating to sections 5041 and 5042 and inserting in lieu thereof the following:

"5041. Repealed.

"5042. Revocation of probation.".

SEC. 5. The Federal Rules of Criminal Procedure are amended as follows:

(a) Rule 32 is amended—

(1) by deleting subdivision (a)(1) and inserting in lieu thereof the following:

"(1) IMPOSITION OF SENTENCE.—Sentence shall be imposed without unnecessary delay, but the court may, upon a motion that is jointly filed by the defendant and by the attorney for the government and that asserts a factor important to the sentencing determination is not capable of being resolved at that time, postpone the imposition of sentence for a reasonable time until the factor is capable of being resolved. Prior to the sentencing hearing, the court shall provide the counsel for the defendant and the attorney for the government with notice of the probation officer's determination, pursuant to the provisions of subdivision (c)(2)(B), of the sentencing classifications and sentencing guideline range believed to be applicable to the case. At the sentencing hearing, the court shall afford the counsel for the defendant and the attorney for the government an opportunity to comment upon the probation officer's determination and on other matters relating to the appropriate sentence. Before imposing sentence, the court shall also afford counsel for the defendant an opportunity to speak on behalf of the defendant and shall address the defendant personally and ask him if he wishes to make a statement in his own behalf and to present any information in mitigation of the sentence. The attorney for the government shall have an equivalent opportunity to speak to the court. Upon a motion that is jointly filed by the defendant and by the attorney for the government, the court may hear in camera such a statement by the defendant, counsel for the defendant, or the attorney for the government.";

(2) by adding after the words "right to appeal" in the first sentence of subdivision (a)(2) the words "from the conviction, of his right, if any, to obtain review of the sentence,";

(3) by deleting "right of appeal" in the second sentence of subdivision (a)(2) and inserting in lieu thereof "right to appeal or right to obtain review";

(4) by amending the first sentence of subdivision (c)(1) to read as follows:

"A probation officer shall make a presentence investigation and report to the court before the imposition of sentence unless the court finds that there is in the record information sufficient to enable the meaningful exercise of sentencing authority pursuant to 18 U.S.C. 3553, and the court explains this finding on the record.";

"(5) by amending subdivision (c)(2) to read as follows:

"(2) REPORT.—The report of the presentence investigation shall contain—

"(A) information about the history and characteristics of the defendant, including his prior criminal record, if any, his financial condition, and any circumstances affecting his behavior that may be helpful in imposing sentence or in the correctional treatment of the defendant;

"(B) the classification of the offense and of the defendant under the categories established by the Sentencing Commission pursuant to section 994(a) of title 28, that the probation officer believes to be applicable to the defendant's case; the kinds of sentence and the sentencing range suggested for such a category of offense committed by such a category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1); and an explanation by the probation officer of any factors that may indicate that a sentence of a different kind or of a different length than one within the applicable guideline would be more appropriate under all the circumstances;

"(C) any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2);

"(D) information concerning any harm, including financial, social, psychological, and physical harm, done to or loss suffered by any victim of the offense; and

"(E) any other information that may aid the court in sentencing, including the restitution needs of any victim of the offense.".

(6) in subdivision (c)(3)(A), by deleting "exclusive of any recommendations as to sentence" and inserting in lieu thereof ", including the information required by subdivision (c)(2) but not including any final recommendation as to sentence,";

(7) by deleting "or the Youth Correction Division of the Board of Parole pursuant to 18 U.S.C. 4208(b), 4252, 5010(e)" in subdivision (c)(3)(B) and inserting in lieu thereof "pursuant to 18 U.S.C. 3552(b)"; and

(8) by deleting "or imposition of sentence is suspended;" in subdivision (d) and inserting in lieu thereof a comma.

(b) Rule 35 is amended to read as follows:

"Rule 35. Correction of Sentence

"(a) CORRECTION OF A SENTENCE ON REMAND.—The court shall correct a sentence that is determined on appeal under 18 U.S.C. 3742 to have been imposed in violation of law, to have been imposed as a result of an incorrect application of the sentencing guidelines, or to be unreasonable, upon remand of the case to the court—

"(1) for imposition of a sentence in accord with the findings of the court of appeals; or

"(2) for further sentencing proceedings if, after such proceedings, the court determines that the original sentence was incorrect.

"(b) CORRECTION OF SENTENCE FOR CHANGED CIRCUMSTANCES.—The court, on motion of the government, may within one year after the imposition of sentence, lower a sentence to reflect a defendant's subsequent, substantial assistance in the investigation or prosecution of another person who has committed an offense, to the extent that such assistance is a factor in applicable guidelines or policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a).".

(c) Rule 38 is amended—

(1) by amending the caption to read: "Stay of Execution" and deleting "(a) STAY OF EXECUTION.";

(2) by deleting subdivisions (b) and (c);

(3) by redesignating subdivisions (a)(1) through (a)(4) as subdivisions (a) through (d), respectively;

(4) in subdivision (a), by adding "from the conviction or sentence" after "is taken";

(5) in the first sentence of subdivision (b), by adding "from the conviction or sentence" after "is taken";

(6) by deleting "or a fine and costs" in the first sentence of subdivision (c);

(7) by deleting "and costs" in the second sentence of subdivision (c);

(8) by amending subdivision (d) to read as follows:

"(d) PROBATION.—A sentence of probation may be stayed if an appeal from the conviction or sentence is taken. If the sentence is stayed, the court shall fix the terms of the stay."; and

(9) by adding new subdivisions (e) and (f) as follows:

"(e) CRIMINAL FORFEITURE, NOTICE TO VICTIMS, AND RESTITUTION.—A sanction imposed as part of the sentence pursuant to 18 U.S.C. 3554, 3555, or 3556 may, if an appeal of the conviction or sentence is taken, be stayed by the district court or by the court of appeals upon such terms as the court finds appropriate. The court may issue such orders as may be reasonably necessary to ensure compliance with the sanction upon disposition of the appeal, including the entering of a restraining order or an injunction, or requiring a deposit in whole or in part of the monetary amount involved into the registry of the district court or execution of a performance bond.

"(f) DISABILITIES.—A civil or employment disability arising under a Federal statute by reason of the defendant's conviction or sentence, may, if an appeal is taken, be stayed by the district court or by the court of appeals upon such terms as the court finds appropriate. The court may enter a restraining order or an injunction, or take any other action that may be reasonably necessary to protect the interest represented by the disability pending disposition of the appeal.".

(d) Rule 40 is amended by deleting "3653" in subdivision (d)(1) and inserting in lieu thereof "3605".

(e) Rule 54 is amended—

(1) by amending the definition of "Petty offense" in subdivision (c) to read as follows: " 'Petty offense' means a class B or C misdemeanor or an infraction."; and

(2) by adding a new definition as follows: " 'Grade' includes the issue whether, for the purposes of section 3571 (Sentence of Fine), a misdemeanor resulted in the loss of human life.".

(f) The Table of Rules that precedes Rule 1 is amended as follows:

(1) The item relating to Rule 35 is amended by deleting the words "or Reduction";

(2) The item relating to Rule 38 is amended to read as follows:

"38. Stay of Execution.
"(a) Death.
"(b) Imprisonment.
"(c) Fine.
"(d) Probation.
"(e) Criminal forfeiture, notice to victims, and restitution.
"(f) Disabilities.".

SEC. 6. The Rules of Procedure for the Trial of Misdemeanors Before United States Magistrates are amended as follows:

(a) Rule 1 is amended by deleting "(including petty offenses)".

(b) Rule 9 is amended by deleting "as defined in title 18, U.S.C., § 1(3)".

(c) A new Rule 12 is added at the end thereof to read as follows:

"Rule 12. Definitions

"As used in these rules—

"(1) 'minor offense' means a misdemeanor or an infraction;

"(2) 'petty offense' means a Class B or C misdemeanor or an infraction.".

(d) The Table of Rules that precedes Rule 1 is amended by adding at the end thereof the following new item:

"12. Definitions".

SEC. 7. (a) Title 28 of the United States Code is amended by adding the following new chapter after chapter 57:

"CHAPTER 58—UNITED STATES SENTENCING COMMISSION

"Sec.
"991. United States Sentencing Commission; Establishment and Purpose.
"992. Terms of Office; Compensation.
"993. Powers and Duties of Chairman.
"994. Duties of the Commission.
"995. Powers of the Commission.
"996. Director and Staff.
"997. Annual Report.
"998. Definitions.

"§ 991. United States Sentencing Commission; establishment and purpose

"(a) There is established as an independent commission in the judicial branch of the United States a United States Sentencing Commission which shall consist of seven voting members and one nonvoting member. The President, after consultation with representatives of judges, prosecuting attorneys, defense attorneys, law enforcement officials, senior citizens, victims of crime, and others interested in the criminal justice process, shall appoint the voting members of the Commission, by and with the advice and consent of the Senate, one of whom shall be appointed, by and with the advice and consent of the Senate, as the Chairman. Not more than four of the members of the Commission shall be members of the same political party. The Attorney General, or his designee, shall be an ex officio, nonvoting member of the Commission. The Chairman and members of the Commission shall be subject to removal from the Commission by the President only for neglect of duty or malfeasance in office or for other good cause shown.

"(b) The purposes of the United States Sentencing Commission are to—

"(1) establish sentencing policies and practices for the federal criminal justice system that—

"(A) assure the meeting of the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

"(B) provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct while maintaining sufficient flexibility to permit individualized sentences when warranted by mitigating or aggravating factors not taken into account in the establishment of general sentencing practices;

"(C) reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process; and

"(2) develop means of measuring the degree to which the sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

"§ 992. Terms of office; compensation

"(a) The voting members of the United States Sentencing Commission shall be appointed for six-year terms, except that the initial terms of the first members of the Commission shall be staggered so that—

"(1) two members, including the chairman, serve terms of six years;

"(2) three members serve terms of four years; and

"(3) two members serve terms of two years.

"(b) No voting member may serve more than two full terms. A voting member appointed to fill a vacancy that occurs before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(c) Each voting member of the Commission shall be compensated during the term of office as a member of the Commission at the rate at which judges of the United States courts of appeals are compensated. A Federal judge may serve as a member of the Commission without resigning his appointment as a Federal judge.

"§ 993. Powers and duties of Chairman

"The Chairman shall—

"(a) call and preside at meetings of the Commission; and

"(b) direct—

"(1) the preparation of requests for appropriations for the Commission; and

"(2) the use of funds made available to the Commission.

"§ 994. Duties of the Commission

"(a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of this title and title 18, United States Code, shall promulgate and distribute to all courts of the United States and to the United States Probation System—

"(1) guidelines, as described in this section, for use of a sentencing court in determining the sentence to be imposed in a criminal case, including—

"(A) a determination whether to impose a sentence to probation, a fine, or a term of imprisonment;

"(B) a determination as to the appropriate amount of a fine or the appropriate length of a term of probation or a term of imprisonment;

"(C) a determination whether a sentence to a term of imprisonment should include a requirement that the defendant be placed on a term of supervised release after imprisonment, and, if so, the appropriate length of such a term; and

"(D) a determination whether multiple sentences to terms of imprisonment should be ordered to run concurrently or consecutively;

"(2) general policy statements regarding application of the guidelines or any other aspect of sentencing or sentence implementation that in the view of the Commission would further the purposes set forth in section 3553(a)(2) of title 18, United States Code, including the appropriate use of—

"(A) the sanctions set forth in sections 3554, 3555, and 3556 of title 18;

"(B) the conditions of probation and supervised release set forth in sections 3563(b) and 3583(d) of title 18;

"(C) the sentence modification provisions set forth in sections 3563(c), 3573, and 3582(c) of title 18;

"(D) the authority granted under rule 11(e)(2) of the Federal Rules of Criminal Procedure to accept or reject a plea agreement entered into pursuant to rule 11(e)(1); and

"(E) the temporary release provisions set forth in section 3622 of title 18, and the prerelease custody provisions set forth in section 3624(c) of title 18; and

"(3) guidelines or general policy statements regarding appropriate use of the probation revocation provisions set forth in section 3565 of title 18, and the provisions for modification of the term or conditions of probation or supervised release set forth in sections 3563(c), 3564(d), and 3583(e) of title 18.

"(b) The Commission, in the guidelines promulgated pursuant to subsection (a)(1), shall, for each category of offense involving each category of defendant, establish a sentencing range that is consistent with all pertinent provisions of title 18, United States Code. If a sentence specified by the guidelines includes a term of imprisonment, the maximum of the range established for such a term shall not exceed the minimum of that range by more than 25 percent.

"(c) The Commission, in establishing categories of offenses for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, have any relevance to the nature, extent, place of service, or other incidents of an appropriate sentence, and shall take them into account only to the extent that they do have relevance—

"(1) the grade of the offense;

"(2) the circumstances under which the offense was committed which mitigate or aggravate the seriousness of the offense;

"(3) the nature and degree of the harm caused by the offense, including whether it involved property, irreplaceable property, a person, a number of persons, or a breach of public trust;

"(4) the community view of the gravity of the offense;

"(5) the public concern generated by the offense;

"(6) the deterrent effect a particular sentence may have on the commission of the offense by others; and

"(7) the current incidence of the offense in the community and in the nation as a whole.

"(d) The Commission in establishing categories of defendants for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, with respect to a defendant, have any relevance to the nature, extent, place of service, or other incidents of an appropriate sentence, and shall take them into account only to the extent that they do have relevance—

"(1) age;

"(2) education;

"(3) vocational skills;

"(4) mental and emotional condition to the extent that such condition mitigates the defendant's culpability or to the extent that such condition is otherwise plainly relevant;

"(5) physical condition, including drug dependence;

"(6) previous employment record;

"(7) family ties and responsibilities;

"(8) community ties;

"(9) role in the offense;

"(10) criminal history; and

"(11) degree of dependence upon criminal activity for a livelihood.

The Commission shall assure that the guidelines and policy statements are entirely neutral as to the race, sex, national origin, creed, and socioeconomic status of offenders.

"(e) The Commission shall assure that the guidelines and policy statements, in recommending a term of imprisonment or length of a term of imprisonment, reflect the general inappropriateness of considering the education, vocational skills, employment record, family ties and responsibilities, and community ties of the defendant.

"(f) The Commission, in promulgating guidelines pursuant to subsection (a)(1), shall promote the purposes set forth in section 991(b)(1), with particular attention to the requirements of subsection 991(b)(1)(B) for providing certainty and fairness in sentencing and reducing unwarranted sentence disparities.

"(g) The Commission, in the course of promulgating guidelines pursuant to subsection (a)(1) to meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code, shall review the nature and capacity of the penal, correctional, and other facilities and services available, and shall make recommendations concerning any change or expansion in the nature or capacity of such facilities and services that might become necessary as a result of the guidelines promulgated pursuant to the provisions of this chapter.

"(h) The Commission shall assure that the guidelines will specify a sentence to a term of imprisonment at or near the maximum term authorized by section 3581(b) of title 18, United States Code, for categories of defendants in which the defendant is eighteen years old or older and—

"(1) has been convicted of a felony that is—

"(A) a crime of violence; or

"(B) an offense described in section 841, 952(a), 955, or 959 of title 21, United States Code; and

"(2) has previously been convicted of two or more prior felonies, each of which is—

"(A) a crime of violence; or

"(B) an offense described in section 841, 952(a), 955, or 959 of title 21, United States Code.

"(i) The Commission shall assure that the guidelines will specify a sentence to a substantial term of imprisonment for categories of defendants in which the defendant—

"(1) has a history of two or more prior Federal or State felony convictions for offenses committed on different occasions;

"(2) committed the offense as part of a pattern of criminal conduct from which he derived a substantial portion of his income;

"(3) committed the offense in furtherance of a conspiracy with three or more persons engaging in a pattern of racketeering activity in which the defendant participated in a managerial or supervisory capacity;

"(4) committed a crime of violence that constitutes a felony while on release pending trial, sentence, or appeal from a Federal, State, or local felony for which he was ultimately convicted; or

"(5) committed a felony that is set forth in section 401 or 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 841 and 960), and that involved trafficking in a substantial quantity of a controlled substance.

"(j) The Commission shall insure that the guidelines reflect the general appropriateness of imposing a sentence other than imprisonment in many cases in which the defendant is a first offender who has not been

convicted of a crime of violence or an otherwise serious offense, and the general appropriateness of imposing a term of imprisonment on a person convicted of a crime of violence that results in serious bodily injury.

"(j) The Commission shall insure that the guidelines reflect the inappropriateness of imposing a sentence to a term of imprisonment for the purpose of rehabilitating the defendant or providing the defendant with needed educational or vocational training, medical care, or other correctional treatment.

"(k) The Commission shall insure that the guidelines promulgated pursuant to subsection (a)(1) reflect—

"(1) the appropriateness of imposing an incremental penalty for each offense in a case in which a defendant is convicted of—

"(A) multiple offenses committed in the same course of conduct that result in the exercise of ancillary jurisdiction over one or more of the offenses; and

"(B) multiple offenses committed at different times, including those cases in which the subsequent offense is a violation of section 3146 (Penalty for failure to appear) or is committed while the person is released pursuant to the provisions of section 3147 (Penalty for an offense committed while on release) of title 18; and

"(2) the general inappropriateness of imposing consecutive terms of imprisonment for an offense of conspiring to commit an offense or soliciting commission of an offense and for an offense that was the sole object of the conspiracy or solicitation.

"(l) The Commission shall insure that the guidelines reflect the fact that, in many cases current sentences do not accurately reflect the seriousness of the offense. This will require that, as a starting point in its development of the initial sets of guidelines for particular categories of cases, the Commission ascertain the average sentences imposed in such categories of cases prior to the creation of the Commission, and in cases involving sentences to terms of imprisonment, the length of such terms actually served. The Commission shall not be bound by such average sentences, and shall independently develop a sentencing range that is consistent with the provisions of this section and with the purposes of sentencing described in section 3553(a)(2) of title 18, United States Code.

"(m) The Commission periodically shall review and revise, in consideration of comments and data coming to its attention, the guidelines promulgated pursuant to the provisions of this section. In fulfilling its duties and in exercising its powers, the Commission shall consult with authorities on, and individual and institutional representatives of, various aspects of the Federal criminal justice system. The United States Probation System, the Bureau of Prisons, the Judicial Conference of the United States, the Criminal Division of the United States Department of Justice, and a representative of the Federal Public Defenders shall submit to the Commission any observations, comments, or questions pertinent to the work of the Commission whenever it believes such communication would be useful, and shall, at least annually, submit to the Commission a written report commenting on the operation of the Commission's guidelines, suggesting changes in the guidelines that appear to be warranted, and otherwise assessing the Commission's work.

"(n) The Commission, at or after the beginning of a regular session of Congress but not later than the first day of May, shall report to the Congress any amendments of the guidelines promulgated pursuant to subsection (a)(1), and a report of the reasons therefor, and the amended guidelines shall take effect one hundred and eighty days after the Commission reports them, except to the extent the effective date is enlarged or the guidelines are disapproved or modified by Act of Congress.

"(o) The Commission and the Bureau of Prisons shall submit to Congress an analysis and recommendations concerning maximum utilization of resources to deal effectively with the Federal prison population. Such report shall be based upon consideration of a variety of alternatives, including—

"(1) modernization of existing facilities;

"(2) inmate classification and periodic review of such classification for use in placing inmates in the least restrictive facility necessary to ensure adequate security; and

"(3) use of existing Federal facilities, such as those currently within military jurisdiction.

"(p) The Commission shall evaluate the impact of the sentencing guidelines on prosecutorial discretion, plea bargaining, disparities in sentencing, and the use of incarceration, and shall, by affirmative vote of a majority of the voting members of the Commission, issue a report of its findings to all appropriate courts, the Department of Justice, and the Congress.

"(q) The Commission, within three years of the date of enactment of the Sentencing Reform Act of 1982, and thereafter whenever it finds it advisable, shall recommend to the Congress that it raise or lower the grades, or otherwise modify the maximum penalties, of those offenses for which such an adjustment appears appropriate.

"(r) The Commission shall give due consideration to any petition filed by a defendant requesting modification of the guidelines utilized in the sentencing of such defendant, on the basis of changed circumstances unrelated to the defendant, including changes in—

"(1) the community view of the gravity of the offense;

"(2) the public concern generated by the offense; and

"(3) the deterrent effect particular sentences may have on the commission of the offense by others.

Within one hundred and eighty days of the filing of such petition the Commission shall provide written notice to the defendant whether or not it has approved the petition. If the petition is disapproved the written notice shall contain the reasons for such disapproval. The Commission shall submit to the Congress at least annually an analysis of such written notices.

"(s) The Commission, in promulgating general policy statements regarding the sentencing modification provisions in section 3582(c)(2) of title 18, shall describe what should be considered extraordinary and compelling reasons for sentence reduction, including the criteria to be applied and a list of specific examples. Rehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason.

"(t) If the Commission reduces the term of imprisonment recommended in the guidelines applicable to a particular offense or category of offenses, it shall specify by what amount the sentences of prisoners serving terms of imprisonment that are outside the applicable guideline ranges for the offense may be reduced in order to carry out the purpose of the reduction.

"(u) The Commission shall ensure that the general policy statements promulgated pursuant to subsection (a)(2) include a policy limiting consecutive terms of imprisonment for an offense involving a violation of a general prohibition and for an offense involving a violation of a specific prohibition encompassed within the general prohibition.

"(v) The appropriate judge or officer shall submit to the Commission in connection with each sentence imposed a written report of the sentence, the offense for which it is imposed, the age, race, and sex of the offender, information regarding factors made relevant by the guidelines, and such other information as the Commission finds appropriate. The Commission shall submit to Congress at least annually an analysis of these reports and any recommendation for legislation that the Commission concludes is warranted by that analysis.

"(w) The provisions of section 553 of title 5, relating to publication in the Federal Register and public hearing procedure, shall apply to the promulgation of guidelines pursuant to this section.

"§ 995. Powers of the Commission

"(a) The Commission, by vote of a majority of the members present and voting, shall have the power to—

"(1) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this chapter;

"(2) appoint and fix the salary and duties of the Staff Director of the Sentencing Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332);

"(3) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chairman;

"(4) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code;

"(5) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(6) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

"(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 655(b));

"(8) request such information, data, and reports from any federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law;

"(9) monitor the performance of probation officers with regard to sentencing recommendations, including application of the Sentencing Commission guidelines and policy statements;

"(10) issue instructions to probation officers concerning the application of Commission guidelines and policy statements;

"(11) arrange with the head of any other federal agency for the performance by such agency of any function of the Commission, with or without reimbursement;

"(12) establish a research and development program within the Commission for the purpose of—

"(A) serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on federal sentencing practices;

"(B) assisting and serving in a consulting capacity to federal courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

"(13) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing process;

"(14) publish data concerning the sentencing process;

"(15) collect systematically and disseminate information concerning sentences actually imposed, and the relationship of such sentences to the factors set forth in section 3553(a) of title 18, United States Code;

"(16) collect systematically and disseminate information regarding effectiveness of sentences imposed;

"(17) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

"(18) devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

"(19) study the feasibility of developing guidelines for the disposition of juvenile delinquents;

"(20) make recommendations to Congress concerning modification or enactment of statutes relating to sentencing, penal, and correctional matters that the Commission finds to be necessary and advisable to carry out an effective, humane, and rational sentencing policy;

"(21) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties; and

"(22) perform such other functions as are required to permit federal courts to meet their responsibilities under section 3553(a) of title 18, United States Code, and to permit others involved in the federal criminal justice system to meet their related responsibilities.

"(b) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this chapter, and may delegate to any member or designated person such powers as may be appropriate other than the power to establish general policy statements and guidelines pursuant to section 994(a) (1) and (2), the issuance of general policies and promulgation of rules and regulations pursuant to subsection (a)(1) of this section, and the decisions as to the factors to be considered in establishment of categories of offenses and offenders pursuant to section 994(b). The Commission shall coordinate its activities under subsections (a)(9), (a)(10), (a)(11), (a)(12), (a)(13), (a)(14), (a)(15), (a)(16), (a)(17), and (a)(18), to the extent practicable, with any related activities of the Administrative Office of the United States Courts and the Federal Judicial Center for the purpose of avoiding unnecessary duplication.

"(c) Upon the request of the Commission, each federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

"(d) A simple majority of the membership then serving shall constitute a quorum for the conduct of business. Other than for the promulgation of guidelines and policy statements pursuant to section 994, the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the members present.

"(e) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member of any action taken by it.

"§ 996. Director and staff

"(a) The Staff Director shall supervise the activities of persons employed by the Commission and perform other duties assigned to him by the Commission.

"(b) The Staff Director shall, subject to the approval of the Commission, appoint such officers and employees as are necessary in the execution of the functions of the Commission. The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, United States Code, except the following chapters: 81 (Compensation for Work Injuries), 83 (Retirement), 85 (Unemployment Compensation), 87 (Life Insurance), 89 (Health Insurance), and 91 (Conflicts of Interest).

"§ 997. Annual report

"The Commission shall report annually to the Judicial Conference of the United States, the Congress, and the President of the United States on the activities of the Commission.

"§ 998. Definitions

"As used in this chapter—

"(a) 'Commission' means the United States Sentencing Commission;

"(b) 'Commissioner' means a member of the United States Sentencing Commission;

"(c) 'guidelines' means the guidelines promulgated by the Commission pursuant to section 994(a) of this title; and

"(d) 'rules and regulations' means rules and regulations promulgated by the Commission pursuant to section 995 of this title.".

(b) The chapter analysis of part III of title 28, United States Code, is amended by adding after the item relating to chapter 57 the following new item:

"58. United States Sentencing Commission ..... 991".

REPEALERS

SEC. 8. (a) The following provisions of title 18, United States Code, are repealed:

(1) section 1;

(2) chapter 309;

(3) chapter 311;

(4) chapter 314;

(5) sections 4281, 4283, and 4284; and

(6) chapter 402.

(b) The item relating to section 1 in the sectional analysis of chapter 1 of title 18, United States Code, is amended to read: "1. Repealed.".

(c) The chapter analysis of part III of title 18, United States Code, is amended by amending the items relating to—

(1) chapters 309 and 311 to read as follows:

"309. Repealed.

"311. Repealed.";

and

(2) chapter 314 to read as follows:

"314. Repealed.".

(d) The sectional analysis of chapter 315 of title 18, United States Code, is amended by amending the items relating to—

(1) section 4281 to read:

"4281. Repealed.";

and

(2) sections 4283 and 4284 to read as follows:

"4283. Repealed.

"4284. Repealed.".

(e) The item relating to chapter 402 in the chapter analysis of Part IV of title 18, United States Code, is amended to read as follows:

"402. Repealed.".

SEC. 9. (a) Sections 404(b) and 409 of the Controlled Substances Act (21 U.S.C. 844(b) and 849) are repealed.

(b) Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by deleting the designation "(a)" at the beginning of the subsection.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 10. The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended as follows:

(a) The second sentence of section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended to read: "An alien who would be excludable because of the conviction of an offense for which the sentence actually imposed did not exceed a term of imprisonment in excess of six months, or who would be excludable as one who admits the commission of an offense for which a sentence not to exceed one year's imprisonment might have been imposed on him, may be granted a visa and admitted to the United States if otherwise admissible: *Provided*, That the alien has committed only one such offense, or admits the commission of acts which constitute the essential elements of only one such offense.".

(b) Section 242(h) (8 U.S.C. 1252(h)) is amended by adding "supervised release," after "parole,".

SEC. 11. Section 4 of the Act of September 28, 1962 (16 U.S.C. 460k-3) is amended by deleting "petty offense (18 U.S.C. 1)" and substituting "misdemeanor".

SEC. 12. Section 9 of the Act of October 8, 1964 (16 U.S.C. 460n-8) is amended—

(a) in the first paragraph, by deleting "commissioner" each place it appears and substituting "magistrate"; and

(b) in the second paragraph, by amending the first sentence to read: "The functions of the magistrate shall include the trial and sentencing of persons charged with the commission of misdemeanors and infractions as defined in section 3581 of title 18, United States Code."

SEC. 13. Title 18 of the United States Code is amended as follows:

(a) Section 924(a) is amended by deleting ", and shall become eligible for parole as the Board of Parole shall determine".

(b) Section 1161 is amended by deleting "3618" and inserting in lieu thereof "3669".

(c) Section 1761(a) is amended by adding ", supervised release," after "parole".

(d) Section 1963 is amended—

(1) in subsection (a), by deleting "(1) any interest he has acquired" and all through the end of the subsection and substituting "the property described in section 3554 in accord with the provisions of that section."; and

(2) by repealing subsections (b) and (c).

(e) Section 3006A is amended—

(1) in subsections (a)(1) and (b), by deleting "misdemeanor (other than a petty offense as defined in section 1 of this title)" each place it appears and substituting "Class A misdemeanor"; and

(2) in subsections (a)(3) and (g), deleting "subject to revocation of parole," each place it appears.

(f) Section 3156(b)(2) is amended by deleting "petty offense as described in section 1(3) of this title" and substituting "Class B or C misdemeanor or an infraction".

(g) Section 3172(2) is amended by deleting "petty offense as defined in section 1(3) of this title" and substituting "Class B or C misdemeanor or an infraction".

(h) Section 3401 is amended—

(1) by repealing subsection (g); and

(2) in subsection (h), by deleting "petty offense case" and substituting "Class B or C misdemeanor case, or infraction case,".

(i)(1) Section 3664(a) (formerly section 3580(a)) is amended by deleting "3579" and substituting "3663".

(2) Section 3670 (formerly section 3619) is amended by deleting "3617" and "3618" and substituting "3668" and "3669", respectively.

(j) Section 4004 is amended by deleting "record clerks, and parole officers" and substituting "and record clerks".

(k) Chapter 306 is amended as follows:

(1) Section 4101 is amended—

(A) in subsection (f), by adding ", including a term of supervised release pursuant to section 3583" after "supervision"; and

(B) in subsection (g), by deleting "to a penalty of imprisonment the execution of which is suspended and" and substituting "under which", and by deleting "the suspended" and substituting "a".

(2) Section 4105(c) is amended—

(A) in paragraph (1), by deleting "for good time" the second place it appears and substituting "toward service of sentence for satisfactory behavior";

(B) in paragraphs (1) and (2), by deleting "section 4161" and substituting "section 3624(b)";

(C) in paragraph (1), by deleting "section 4164" and substituting "section 3624(a)";

(D) by repealing paragraph (3); and

(E) by amending paragraph (4) to read as follows:

"(4) Credit toward service of sentence may be withheld as provided in section 3624(b) of this title.".

(3) Section 4106 is amended—

(A) in subsection (a), by deleting "Parole Commission" and substituting "Probation System";

(B) by amending subsection (b) to read as follows:

"(b) An offender transferred to the United States to serve a sentence of imprisonment shall be released pursuant to section 3624(a) of this title after serving the period of time specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1). He shall be released to serve a term of supervised release for any term specified in the applicable guideline. The provisions of section 3742 of this title apply to a sentence under this subsection, and the United States court of appeals for the district in which the offender is imprisoned or under supervision after transfer to the United States has jurisdiction to review the sentence as though it had been imposed by the United States district court."; and

(C) by repealing subsection (c).

(4) Section 4108(a) is amended by adding ", including any term of imprisonment or term of supervised release specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1)," after "consequences thereof".

(l) Section 4321 is amended by deleting "parole or".

(m) Section 4351(b) is amended by deleting "Parole Board" and substituting "Sentencing Commission".

(n) Section 5002 is amended by deleting "Board of Parole, the Chairman of the Youth Division," and substituting "United States Sentencing Commission,".

SEC. 14. The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended as follows:

(a) Section 401 (21 U.S.C. 841) is amended—

(1) in subsection (b)(1)(A), by deleting the last sentence;

(2) in subsection (b)(1)(B), by deleting the last sentence;

(3) in subsection (b)(2), by deleting the last sentence;

(4) in subsection (b)(4), by deleting "subsections (a) and (b) of", and by adding "and section 3607 of title 18, United States Code" after "404";

(5) in subsection (b)(5), by deleting the last sentence; and

(6) by repealing subsection (c).

(b) Section 405 (21 U.S.C. 845) is amended—

(1) in subsection (a), by deleting "(1)" the second place it appears, and by deleting ", and (2) at least twice any special parole term authorized by section 401(b), for a first offense involving the same controlled substance and schedule"; and

(2) in subsection (b), by deleting "(1)" the second place it appears, and by deleting ", and (2) at least three times any special parole term authorized by section 401(b), for a second or subsequent offense involving the same controlled substance and schedule".

(c) Section 408(c) (21 U.S.C. 848(c)) is amended by deleting "and section 4202 of title 18 of the United States Code".

SEC. 15. The Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended as follows:

(a) Section 1010 (21 U.S.C. 960) is amended—

(1) in subsection (b)(1), by deleting the last sentence;

(2) in subsection (b)(2), by deleting the last sentence; and

(b) Section 1012(a) (21 U.S.C. 962(a)) is amended by deleting the last sentence.

SEC. 16. Section 114(b) of title 23, United States Code, is amended by adding ", supervised release," after "parole".

SEC. 17. Section 5871 of the Internal Revenue Code of 1954 (26 U.S.C. 5871) is amended by deleting ", and shall become eligible for parole as the Board of Parole shall determine".

SEC. 18. Title 28 of the United States Code is amended as follows:

(a) Section 509 is amended—

(1) in paragraph (3), by deleting "; and" and substituting a period; and

(2) by repealing paragraph (4).

(b) Section 591(a) is amended by deleting "petty offense" and substituting "Class B or C misdemeanor or an infraction".

(c) Section 2901 is amended—

(1) in subsection (e), by deleting "section" and substituting "section 3581"; and

(2) in subsection (g)(3), by adding ", supervised release," after "parole", and by adding "supervised release," after "parole,".

SEC. 19. Section 504(a) of the Labor Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504(a)) and section 411(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(a)) are amended—

(a) by deleting "Board of Parole of the United States Department of Justice" and substituting "if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, on motion of the attorney for the government, the district court of the United States for the district in which the offense was committed";

(b) by adding ", pursuant to sentencing guidelines and policy statements issued pursuant to 28 U.S.C. 994(a),";

(c) by deleting "Board" and "Board's" and substituting "court" and "court's", respectively; and

(d) by deleting "an administrative" and substituting "a".

SEC. 20. Section 411(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(c)(3)) is amended by adding "or supervised release" after "parole".

SEC. 21. Section 454(b) of the Comprehensive Employment and Training Act of 1973, as added by section 2 of the Act of October 27, 1978 (29 U.S.C. 927(b)), is amended by deleting "or parole" the first place it appears and substituting ", parole, or supervised release".

SEC. 22. The Public Health Service Act (42 U.S.C. et seq.) is amended as follows:

(a) Section 341(a) (42 U.S.C. 257(a)) is amended by deleting "or convicted of offenses against the United States and sentenced to treatment" and "addicts who are committed to the custody of the Attorney General pursuant to provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code),".

(b) Section 343(d) (42 U.S.C. 259(d)) is amended by adding "or supervised release" after "parole".

SEC. 23. Section 11507 of title 49, United States Code, is amended by adding ", supervised release," after "parole".

SEC. 24. Section 10(b)(7) of the Military Selective Service Act (50 U.S.C. App. 460(b)(7)) is amended by deleting "parole" and substituting "release".

EFFECTIVE DATE

SEC. 25. (a)(1) This title shall take effect on the first day of the first calendar month beginning twenty-four months after the date of enactment, except that—

(A) the repeal of chapter 402 of title 18, United States Code, shall take effect on the date of enactment; and

(B)(i) chapter 58 of title 28, United States Code, shall take effect on the date of enactment of this Act or October 1, 1982, whichever occurs later, and the United States Sentencing Commission shall submit the initial sentencing guidelines promulgated pursuant to section 994(a)(1) of title 28 to the Congress within eighteen months of the effective date of the chapter; and

(ii) the sentencing guidelines promulgated pursuant to section 994(a)(1), and the provisions of sections 3581, 3583, and 3624 of title 18, United States Code, shall not go into effect until the day after—

(a) the United States Sentencing Commission has submitted the initial set of sentencing guidelines to the Congress pursuant to subparagraph (B)(i), along with a report stating the reasons for the Commission's recommendations;

(b) the General Accounting Office has undertaken a study of the guidelines, and their potential impact in comparison with the operation of the existing sentencing and parole release system, and has, within three months of the submission of the guidelines,

reported to the Congress the results of its study; and

(c) the Congress has had six months after the date described in subclause (a) in which to examine the guidelines and consider the reports.

(2) For the purposes of section 992(a) of title 28, the terms of the first members of the United States Sentencing Commission shall not begin to run until the sentencing guidelines go into effect pursuant to paragraph (1)(B)(ii).

"(b)(1) The following provisions of law in effect on the day before the effective date of this Act shall remain in effect for five years after the effective date as to an individual convicted of an offense or adjudicated to be a juvenile delinquent before the effective date and as to a term of imprisonment during the period described in subsection (a)(1)(B):

(A) Chapter 311 of title 18, United States Code.

(B) Chapter 309 of title 18, United States Code.

(C) Sections 4254 through 4255 of title 18, United States Code.

(D) Sections 5041 and 5042 of title 18, United States Code.

(E) Sections 5017 through 5020 of title 18, United States Code, as to a sentence imposed before the date of enactment.

(F) The maximum term of imprisonment in effect on the effective date for an offense committed before the effective date.

(G) Any other law relating to a violation of a condition of release or to arrest authority with regard to a person who violates a condition of release.

(2) Notwithstanding the provisions of section 4202 of title 18, United States Code, as in effect on the day before the effective date of this Act, the term of office of a Commissioner who is in office on the effective date is extended to the end of the five-year period after the effective date of this Act.

(3) The United States Parole Commission shall set a release date, for an individual who will be in its jurisdiction the day before the expiration of five years after the effective date of this Act, that is the earliest date that applies to the prisoner under the applicable parole guideline. A release date set pursuant to this paragraph shall be set early enough to permit consideration of an appeal of the release date, in accordance with Parole Commission procedures, before the expiration of five years following the effective date of this Act.

(4) Notwithstanding the other provisions of this subsection, all laws in effect on the day before the effective date of this Act pertaining to an individual who is—

(A) released pursuant to a provision listed in paragraph (1); and

(B)(i) subject to supervision on the day before the expiration of the five-year period following the effective date of this Act; or

(ii) released on a date set pursuant to paragraph (3);

including laws pertaining to terms and conditions of release, revocation of release, provision of counsel, and payment of transportation costs, shall remain in effect as to that individual until the expiration of his sentence, except that the district court shall determine, in accord with the Federal Rules of Criminal Procedure, whether release should be revoked or the conditions of release amended for violation of a condition of release.

(5) Notwithstanding the provisions of section 991 of title 28, United States Code, and sections 4351 and 5002 of title 18, United States Code, the Chairman of the United States Parole Commission or his designee shall be a member of the National Institute of Corrections, and the Chairman of the United States Parole Commission shall be a member of the Advisory Corrections Council and a nonvoting member of the United States Sentencing Commission, ex officio, until the expiration of the five-year period following the effective date of this Act. Notwithstanding the provisions of section 4351 of title 18, during that five-year period the National Institute of Corrections shall have seventeen members, including seven ex officio members.

REVIEW BY CONGRESS

SEC. 26. (a)(1) Four years after the sentencing guidelines promulgated pursuant to section 994(a)(1), and the provisions of sections 3581, 3583, and 3624 of title 18, United States Code, go into effect, the General Accounting Office shall undertake a study of the guidelines in order to determine their impact and compare the guideline system with the operation of the previous sentencing and parole release system, and, within six months of the undertaking of such study, report to the Congress the results of its study.

(2) Within one month of the start of the study required under subsection (a), the United States Sentencing Commission shall submit a report to the General Accounting Office detailing the operation of the sentencing guideline system and discussing any problems with the system or reforms needed.

(b) The Congress shall review the study submitted pursuant to subsection (a) in order to determine—

(1) whether the sentencing guideline system has been effective;

(2) whether any changes should be made in the sentencing guideline system; and

(3) whether the parole system should be reinstated in some form and the life of the Parole Commission extended.

SECOND CIRCUIT SENTENCING STUDY

[20 cases]

	Most severe sentence	6th most severe sentence	12th most severe sentence	Median sentence	12th least severe sentence	6th least severe sentence	Least severe sentence	Number of sentences ranked
Case 1—Extorionate credit transaction; income tax violations.	20 yr pris; $65,000	15 yr pris; $50,000	15 yr pris	10 yr pris; $50,000	8 yr pris; $20,000	5 yr pris; 3 yr prob; $10,000.	3 yr pris	45
Case 2—Bank robbery	18 yr pris; $5,000	15 yr pris	15 yr pris [(a)(2)]	10 yr pris	7.5 yr pris [(a)(2)]	5 yr pris	5 yr pris	48
Case 3—Sale of heroin	10 yr pris; 5 yr prob	6 yr pris; 5 yr prob	5 yr pris; 5 yr prob	5 yr pris; 3 yr prob	3 yr pris; 3 yr prob	3 yr pris; 3 yr prob	1 yr pris; 5 yr prob	46
Case 4—Theft and possession of stolen goods	7.5 yr pris	5 yr pris	4 yr pris	3 yr pris	3 yr pris	2 yr pris	4 yr prob	45
Case 5—Possession of barbiturates with intent to sell	5 yr pris; 3 yr prob	3 yr pris; 3 yr prob	3 yr pris; 3 yr prob	2 yr pris; 3yr prob	1.5 yr pris; 3 yr prob	5 yr prob; $500	2 yr prob	42
Case 6—Filing false income tax returns	3 yr pris; $5,000	3 yr pris; $5,000	2 yr pris; $5,000	1 yr pris; $5,000	6 mo pris; 2.5 yr prob; $3,000.	6 mo pris; $5,000	3 mo pris; $5,000	48
Case 7—Possession of heroin	2 yr pris	2 yr pris	1.5 yr pris	1 yr pris	6 mo pris; 18 mos prob.	3 mo pris	1 yr prob	39
Case 8—Mail fraud	YCA indet	YCA indet	6 mo pris; 5 yr prob [§ 4209].	5 mo pris; 5 yr prob [§ 4209].	2 mo pris; 2 yr prob [§ 4209].	3 yr prob	1 yr prob	41
Case 9—Eluding examination and inspection by immigration officers; illegal entry after deporation.	3 yr pris	6 mos pris; 2 yr unsup prob.	6 mo pris	3 mo pris; 21 mo unsup prob.	1 mo pris; 2 yr unsup prob.	2 yr unsup prob	Susp if leave U.S.	49
Case 10—Postal embezzlement	1 yr pris	6 mo pris; 1 yr prob	3 mo pris; 27 mo prob.	2 mo pris; 1 yr prob	3 yr prob	2 yr prob	1 yr prob	48
Case 11—Bribery	6 mo pris; 6 mo prob; $5,000.	6 mo pris; $2,500	2 mo pris; 22 mo prob; $5,000.	1 mo pris; 11 mo prob; $5,000.	2 yr prob; $7,500	$7,500; 2 yr unsup prob.	$2,500	43
Case 12—Possession of unregistered firearm	1 yr pris	6 mo pris; 3 yr prob	3 mo pris; 21 mo prob.	1 mo pris; 11 mo prob.	2 yr prob	1 yr prob	6 mo prob	44
Case 13—Possession of counterfeit currency	1.5 yr pris	6 mo pris; 2 yr prob	6 mo pris; 18 mo prob.	5 yr prob	2 yr prob	2 yr prob	2 yr prob	48
Case 14—Altering a forged U.S. Treasury check	YCA indet	YCA indet	1 yr pris	4 yr prob	2 yr prob	2 yr prob	1 yr prob	39
Case 15—Operating an illegal gambling business	1 yr pris; $3,000	6 mo pris; 3 yr prob; $10,000.	3 mo pris; 2 yr prob; $5,000.	3 yr prob; $10,000	2 yr prob; $5,000	2 yr prob; $1,000	1 yr prob; $1,000	45
Case 16—Bank embezzlement	YCA indet	5 yr prob	3 yr prob	3 yr prob	2 yr prob	2 yr prob	2 yr unsup prob	42
Case 17—Interstate transportation of stolen securities	3 yr pris	6 mo pris; 4.5 yr prob	6 mo pris	3 yr prob	3 yr prob	2 yr prob	1 yr prob	46
Case 18—Mail theft	6 mo pris; 18 mo prob.	5 yr prob	3 yr prob; $100	3 yr prob	2 yr prob	2 yr prob	1 yr prob	48
Case 19—Conspiracy to commit securities fraud	2 yr pris; $2,500	6 mo pris; 2 yr prob	3 mo pris; 33 mo prob; $7,500.	2 yr prob; $15,000	2 yr prob; $400	1 yr prob; $7,500	$2,500	47
Case 20—Perjury	1 yr pris; $1,000	3 mos pris; $1,000	3 yrs prob; $1,000	2 yrs prob; $500	1 yr prob; $1,500	1 yr prob; $500	$1,000	48

Note.—References to "(a)(2)" signify a sentence pursuant to former 18 U.S.C. § 4208(a)(2); under which the defendant is given an indeterminate sentence and is eligible for parole at any time determined by the Board of Parole. References to "§ 4209" signify a sentence pursuant to former 18 U.S.C. § 4209, under which young adult offenders (under age 26) are given specialized treatment. References to "YCA indet." signify an indeterminate sentence for young offenders under age 22 pursuant to 18 U.S.C. § 5010.

THE SENTENCING REFORM ACT OF 1983—SUMMARY AND ANALYSIS

The bill completely revises current law as to the purposes of sentencing, the process by which the judge determines the appropriate sentence in a particular case, and review of sentence to assure its legality and reasonableness.

A. LEGISLATIVE PRESCRIBED PURPOSES

The bill gives legislative recognition for the first time to the appropriate purposes of sentencing. The stated purposes specifically include assurance of just punishment, deterrence of criminal conduct by others, protection of the public, and rehabilitation. (Proposed 18 U.S.C. 3553(a)(2).)

B. THE SENTENCING PROCESS

Judges are directed to sentence with the above purposes in mind, pursuant to guidelines established by a Sentencing Commission.

1. The Sentencing Commission

The Sentencing Commission is to be an independent agency in the judicial branch consisting of seven voting members appointed by the President with advice and consent of the Senate and one ex-officio, non-voting member, the Attorney General. The Commission is directed to draft guidelines for use by Federal judges, taking into consideration all offender and offense characteristics that appear relevant to the specified purposes of sentencing. For each Federal offense, the guidelines will be expected to specify a variety of appropriate sentencing ranges, depending upon different combinations of offender and offense characteristics. Development of the guidelines is subject to the public hearing process of the Administrative Procedure Act. The initial guidelines, and all subsequent modifications, are to be transmitted by the Commission to the Congress for review and possible modification. Absent Congressional rejection of the guidelines, they will be officially promulgated. (Proposed chapter 58 of Title 28, U.S.C.)

In a few areas (involving, e.g., recidivists, organized crime offenders, first offenders) the bill provides general legislatable guidance to the Commission as to the kind of sentence and degree of severity that would seem to be appropriate for inclusion in the guidelines. These provisions are intended to accord some direction to the Commission without so circumscribing its consideration of occasional countervailing factors as to prove unduly rigid. The provisions are limited to subject areas that otherwise would be considered likely candidates for legislatively directed mandatory sentences to imprisonment, or legislatively directed presumptions in favor of probation.

2. The guidelines

For each Federal offense, the guidelines will specify a variety of appropriate sentencing ranges—encompassing imprisonment, fines, and probation—depending upon the particular history and characteristics of the defendant in the case and the particular circumstances under which the offense is committed. Each offense, therefore, may have a dozen or so sentencing ranges specified, only one of which will fit a given case. (Proposed 28 U.S.C. 994 (a).)

3. Judicial application of the guidelines

After a sentencing hearing, a judge will determine the particular guideline range that is applicable to the offender and the offense. He will then be expected to sentence within the narrow range specified. The judge may, however, sentence above or below the specified guideline range in unusual circumstances, but must give specific reasons for such a sentence.

C. SENTENCING OPTIONS

1. Probation

Probation is cast by the bill as a penalty in itself, rather than as a deferred penalty. A judge is required to impose as a condition of probation in a felony case a condition that the defendant pay a fine or make restitution to the victim or that he engage in community service. The judge is required, for every crime, to impose a prohibition against the defendant's committing another crime during the probationary period. A variety of potentially useful discretionary conditions of probation (including undertaking vocational training or undergoing medical or psychiatric treatment) are set forth in the bill for the consideration of the Sentencing Commission and the judges. (Proposed subchapter B of chapter 227 of Title 18, U.S.C.)

2. Fines

The maximum fine levels under the bill are dramatically increased. The maximums specified for felonies are up to a quarter of a million dollars for an individual defendant, and up to half a million dollars for an organizational defendant, although the actual amount imposed is to be predicated upon the defendant's ability to pay as well as upon the gravity of the offense and related considerations. (Proposed subchapter C of chapter 227 of Title 18 U.S.C.) Lien procedures, like those in the tax laws, are provided to assure an effective means of collecting imposed fines. (Proposed subchapter B of chapter 229 of Title 18 U.S.C.)

3. Imprisonment

The bill makes a major change in sentences to imprisonment. It moves to a determinate system, abolishing early release on parole and providing for the first time that the sentence announced by the sentencing judge will be for almost all cases the sentence actually served by the defendant (except for a potential 10 percent credit for "good time"). Such sentences will not need to involve the artificially lengthy terms that are imposed today in the expectation that they will be shortened later by parole authorities. Although early release on parole is abolished, in a case in which a judge believes that a defendant should be supervised for a period after the expiration of his term of imprisonment, he may order a term of post-release supervision. (Proposed subchapter D of chapter 227 of Title 18 U.S.C.)

Terms of imprisonment ordinarily will not be subject to later adjustment. However, an exception is made in the case of an unusually long term of imprisonment. A defendant serving a term of imprisonment longer than six years will be entitled after six years to petition the sentencing judge for reexamination of the sentence, and the judge will be empowered to reduce the sentence upon a finding of the existence of extraordinary and compelling reasons and a finding of compatibility of such a reduction with Sentencing Commission standards. A defendant sentenced to an unusually long sentence that is above the applicable guideline will be able to obtain a second review, for which the same standards will apply, after he has served the maximum time specified in the applicable guideline. (Proposed 18 U.S.C. 3582 (c).)

4. Collateral sentencing orders

In addition to the penalties traditionally applicable, a court is empowered by the bill to order a convicted defendant found guilty of an offense causing bodily injury, or property damage or loss, to make direct restitution to the victim of the offense, even if a term of imprisonment is also imposed. (Proposed 18 U.S.C. 3556.) This is not possible under current law. A court is further empowered to order a defendant convicted of a fraud (a situation in which an appropriate amount of restitution might be difficult to ascertain in an ordinary sentencing hearing) to give notice of the conviction to the victims of the offense (who may not be known to anyone other than the defendant) in order to facilitate their bringing of whatever private recovery actions might prove to be appropriate. (Proposed 18 U.S.C. 3555.)

D. REVIEW PROCESS

The bill contains an appellate process to review sentence propriety in questionable cases. By incorporating the appeal procedures into the general structure of the guideline sentencing system, the amendments assure that the extremes of sentencing that most deserve review may be called to the attention of an appellate court, without overburdening the court with a flood of challenges to sentences well within the bounds of what would generally be considered reasonable under all of the circumstances. The defendant is permitted to appeal a term of imprisonment, a restrictive condition of probation, or a fine, that falls above the range specified in the applicable guideline, and to appeal a restitution order or a notice order. Recognizing that sentence disparity reaches in two directions, the bill also permits the government, on behalf of the public, to seek review of a sentence that falls below the applicable guideline range in a case in which the Attorney General approves the filing of such an appeal. In both situations, the question on appeal is whether the sentence imposed is, under the circumstance, "clearly unreasonable". (Proposed 18 U.S.C. 3742.)

SENTENCING REFORM LEGISLATION

Mr. BIDEN. Mr. President, I am this morning cosponsoring sentencing reform legislation introduced by the Senator from Massachusetts (Mr. KENNEDY).

Mr. President, the bill we are introducing today is not new. It is the product of many years of work by the Senate Judiciary Committee and the Senate approved the bill by an overwhelming vote of 95 to 1 in the last Congress. The substantial progress we made toward final enactment of a bill in the last Congress makes this one of the most important pieces of criminal law legislation before us in this Congress.

A recent Washington Post editorial, February 28, 1983, stressed the need for the bill. It stated:

One burglar comes before Judge A, who doesn't think crimes against property are serious and who believes that rehabilitation is the goal of sentencing. He puts the offender on probation and orders psychiatric treatment and job training. A second burglar of similar background comes before Judge B, who takes the crime very seriously and believes that judges must penalize wrongdoing, protect the community by incapacitating the miscreant, and set an example for other would-be burglars. Sentence: Eight to 12 years.

Rightly dismayed by such results, certain States, Maryland among them, have begun to adjust criminal sentencing procedures to reduce sentence disparity while leaving judges some discretion. Congress has wrestled with this question as part of an effort to revise the entire Federal criminal code. But the revision has been stalled for so long that legislators have begun to think of salvaging some sections by considering them separately. Members of the House and Senate Judiciary Committees tried to fashion a separate bill on sentencing guidelines in the lame-duck session. Time ran out, but the bipartisan leadership of both committees agreed to consider a bill early in this session.

The purpose is to provide objective guidelines to assist judges in sentencing. In the Maryland experiment, for example, a manual has been prepared that assigns points to offenses based on the seriousness of the crime and gives points to offenders based on such things as prior record and bail or parole status. The judge then cross-indexes these points to find the range of sentences best suited to that offender for that crime.

The bill before Congress would simply authorize a commission to establish guidelines. But many questions remain to be settled: Should the commission consists of judges or a varied group chosen by the President? Should judges be required, or just urged, to follow the guidelines? If discretion is allowed, should a defendant be able to appeal a sentence greater than the maximum in the guidelines? Should prosecutors be able to appeal sentences below the minimum? Should parole be abolished, and if so, should mandatory minimums be low? What should be done if the increased imposition of mandatory minimum sentences overcrowds prisons? Should corrections officials then be authorized to release nonviolent offenders early?

These are hard questions, but compromises on each were considered by Federal legislators last December. The Judiciary Committees have a full plate this session: Bankruptcy courts, immigration reform, and help for the Supreme Court are priority items. Sentencing legislation belongs on that list. If the progress made during the last hours of the 97th Congress is any indication, the job can be done.

At the end of the last Congress we spent many hours in an effort to answer those questions. In fact, we also made substantial progress in most of the major areas in which the members of the House Judiciary Committee saw a need for change in the bill. I believe that had we processed legislation earlier in the Congress, we could have reached final agreements with the Members of the House and sentencing reform legislation would be law today, assuming the President did not veto it as he did the crime bill.

While there may be some debate and need for compromise on certain provisions of the bill, it is clear that sentencing reform legislation is long overdue. We have the information we need to make needed changes in the law. For example:

We know that incarceration for rehabilitation does not work. Jails do not cure so imprisonment until a prisoner has been "cured" is a waste of resources. Instead, the severity of a punishment should be directly related to the seriousness of the crime—a punishment which fits the crime is a fair sentence.

We know that different judges too often impose different sentences for the same crime. As the Post editorial points out, we must provide greater direction to judges to prevent such disparity.

We know that our present parole system, while it fulfills important goals including reducing sentence disparity and relieving prison overcrowding, nevertheless has resulted in actual prison sentences which are too often much shorter than the sentence imposed. Under a fair and rational system the sentence imposed should be fair and correct and served in full.

Finally, we know that prison is a more appropriate and effective punishment for some offenders than for others. Those repeat or career offenders commit a significant portion of all violent crimes. Dr. Marvin Wolfgang documented the existence of this group in a study which began in 1945 and which found that 6 percent of the group studied committed 70 percent of the total number of serious crimes committed by the entire group in that study.

Subsequent studies by the Rand Corp. in California and others in other cities found a hard core of about 10 percent of the criminal population were responsible for up to 50 percent of these type of offenses.

The bill we are introducing today had its origins in legislation introduced over a decade ago. It has been carefully drafted to insure that it addresses these and other changes which we know are urgently needed.

In the last Congress the Democratic Task Force on Crime included sentencing reform legislation in the National Security and Violent Crime Control Act of 1981 (S. 1455) which had the unanimous support of my Democratic colleagues.

The sentencing provisions of that bill were subsequently incorporated into consensus bipartisan legislation which subsequently passed the Senate by an overwhelming vote of 95 to 1.

As a result of the substantial progress we made in negotiating our differences with the House, Chairman RODINO gave us his assurance that he would process sentencing reform legislation early in this Congress.

I urge my colleagues to consider this legislation at the earliest possible date so we can continue to progress from where we were at the end of the last Congress, and see legislation enacted into law in this Congress.

Mr. President, we have made significant progress, and I believe the time is ripe again because we have the full assurance from the chairman of the House Judiciary Committee that he will process this legislation early.

Mr. President, once again, I sincerely hope that my colleagues will look closely at this bill. I can assure you as the ranking minority member of the Judiciary Committee, and on behalf of the Judiciary Committee chairman, Senator THURMOND, that we will process this legislation rapidly. It is nothing new. We have been around the horn for a number of years on this legislation. I hope we can move on it quickly.

Also, I hope that the chairman of the House Judiciary Committee will be able to move as expeditiously as I know he would like to.

Mr. THURMOND. Mr. President, I am pleased to join today with the senior Senator from Massachusetts (Mr. KENNEDY), the ranking minority member of the Committee on the Judiciary (Mr. BIDEN), the distinguished chairman of the Subcommittee on Criminal Laws (Mr. LAXALT), and others on a major legislative initiative to rationalize the Federal criminal justice sentencing system.

Mr. President, this bill is virtually identical to the sentencing provisions of S. 2572—the Violent Crime and Drug Enforcement Improvements Act of 1982—which passed the Senate on September 30, 1982, by a vote of 95 to 1. It was desirable to make a few minor or technical changes, particularly to conform the measure to the recently enacted Victim-Witness Protection Act.

Briefly, Mr. President, this measure seeks to make fundamental changes in the Federal sentencing system to enhance accomplishing the basic purposes of sentencing.

The major features of this bill include for the first time setting forth the purposes of sentencing and changing the sentencing system to a determinative system, with no parole and with limited good time credits. A seven-member sentencing commission would be responsible for promulgating sentencing guidelines, subject to review by the Congress, for courts to use in determining an appropriate sentence. The court must explain on the trial record the basis for passing sentences which are outside of guidelines. The Government may appeal a sentence which is more lenient than the applicable guideline, and the defendant may appeal a sentence more severe than the applicable guideline. So-called safety-net provisions are included to provide, after service of a specified portion of the sentence, an opportunity for review and modification of a

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long sentence in unusual circumstances.

Mr. President, I believe we have an opportunity this Congress—with the cooperation of Congressman RODINO and FISH, chairman and ranking member of the House Committee on the Judiciary, respectively, and the administration—to accomplish the long-sought-after goals of this legislation to improve Federal sentencing. I anticipate that the Senate Judiciary Subcommittee on Criminal Laws, chaired by Senator LAXALT, will plan and execute expeditious hearings on the bill so that we may approach the subject again with the ideas and observations of the experts and other interested groups concerned with the subject of criminal justice and corrections policy. After due deliberation, I sincerely hope we can successfully proceed with this important bill.

By Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. GORTON, Mr. JACKSON, Mr. BAUCUS, Mr. MELCHER, and Mr. MCCLURE):

S. 669. A bill to authorize the construction of the project for navigation at the Bonneville lock and dam, Oregon and Washington; to the Committee on Environment and Public Works.

NAVIGATION PROJECT AT BONNEVILLE LOCK AND DAM

● Mr. HATFIELD. Mr. President, today, along with Senators PACKWOOD, MELCHER, BAUCUS, GORTON, and JACKSON, I am introducing a bill which would authorize the construction of a replacement lock at Bonneville Dam on the Columbia River. This may be one of the most straightforward pieces of legislation introduced in this session of Congress.

The current lock was built in 1938, and without any substantial rehabilitation for 20 years, it is the prime bottleneck on the entire Columbia River system. Under current conditions, barge traffic must split up into smaller sections to traverse this lock, causing unneeded delays and increased costs. A new lock could save shippers $2.50 per ton, substantially improving their market position in the world market.

The Columbia/Snake River system moves nearly 3.2 billion tons of waterborne cargo each year, including wheat, forest products, sand, gravel, and other bulk commodities that are moved more efficiently and economically on the river than by truck or rail. Any significant increase in this volume is severely hampered by the tieup at Bonneville lock. Oregon and Washington are extremely dependent on international trade, and particularly on dry-bulk commodities such as wheat. Nearly 25 percent of all U.S. exports of grain pass down the Columbia River system. Nearly $1.6 billion worth of cargo passed through the Bonneville lock in 1981. Estimates indicate that for every billion dollars of export, 23,700 jobs are created. Construction of this new lock should vastly improve our ability to move cargo and significantly increase exports.

Construction must begin soon, as the Corps of Engineers' projection is that the lock will be unable to handle any additional traffic above the 13 million tons that should be reached soon after 1988. This project will take some time to complete, so time is of the essence.

Mr. President, a new Bonneville lock has the support of the Northwest delegation and would be a great boon to the entire region. I have worked with my colleagues for a number of years to get this construction project underway. The corps has studied, studied, and restudied the benefits and feasibility of the project. Each time they have supported the construction. The $167,000,000 spent on this project should generate $500,000,000 in private investment in the Pacific Northwest at a time we are desperate for new employment opportunities. If the committee fails to act promptly, I am prepared to use any available avenue to see that the project moves forward. It is my hope that Congress will see fit to authorize this project in the very near future.●

● Mr. PACKWOOD. Mr. President, I am delighted to join with my colleague from Oregon, Senator HATFIELD, in reintroducing a bill we first introduced in 1979: a bill to authorize construction of a new lock at Bonneville Dam on the Columbia River between Oregon and Washington.

The existing lock at Bonneville Dam is inadequate and in need of replacement. It is the lock closest to the mouth of the Columbia River, bears the most traffic, yet is the smallest lock on the entire Columbia/Snake River system. Consequently, the bottleneck created by the inadequate size of the lock greatly hampers the flow of interstate commerce along the Columbia/Snake River system.

Completed in January 1938, the existing lock is 76 feet wide and 500 feet long. The U.S. Corps of Engineers has estimated its maximum commercial shipping capacity to be 13 million tons per year. Each of the upstream locks currents has an estimated capacity of over 30 million tons per year, more than twice the capacity of the Bonneville lock.

In addition to its size limitations, the existing lock at Bonneville has hazardous entrances for both upstream and downstream traffic. Due to the extraordinary difficulty of entering the lock from the east, river pilots have dubbed the entrance "the gut." In April 1982 I had the opportunity to enter "the gut" aboard the river tugboat the *Oregon*. The east end of the north lock wall is scarred from many collisions by barge tows, attesting to the danger of the entrance. While the skill of the tugboat captains is impressive, it is only a matter of time before serious loss of life and/or property occurs on this stretch of the river.

The new lock, while eliminating the extremely hazardous conditions, would decrease the average time to go through the lock time-in-system from 12.7 hours to 1.9 hours. If we share the goal of increasing exports to the Pacific rim nations, we must maintain the viability of the Columbia/Snake River system by making the system of locks as efficient as possible. This river system represents a vital link between the Midwest and the Pacific coast.

Two factors have changed since Senator HATFIELD and I originally introduced the legislation in 1979. The severity of the problem and the cost of the solution have increased. The new lock needs to be built now. Delays in the construction of the new lock will only result in deterioration of the condition of the existing lock and an increase in the replacement cost.●

By Mr. PELL (for himself and Mr. STAFFORD):

S. 670. A bill to establish a New England Regional Power Planning and Distribution Authority, and for other purposes; to the Committee on Energy and Natural Resources.

NEW ENGLAND REGIONAL POWER PLANNING AND DISTRIBUTION ACT OF 1983

● Mr. PELL. Mr. President, I am pleased to introduce legislation today which authorizes the establishment of a power planning and distribution authority for the six-State New England region.

The bill I propose today would establish a power authority for the six-State region with specific responsibilities to develop a long-range energy plan for New England, provide for the maximum development of the region's indigeneous resources, including conservation, and to coordinate the importation of hydropower, natural gas and other energy sources from Canada.

Similar to other Federal power authorities, the New England Power Authority would have the ability to raise capital through the sale of reserve bonds. These funds could then be used for the development of indigeneous resources, conservation activities and the importation of Canadian energy resources.

In addition, the legislation required the General Accounting Office to study all energy development and conservation financing options for the authority and to evaluate recommendations regarding the voluntary transfer of utility rate regulation to regional/multi-States authorities. This legislation with the exception of the review of regional utility regulation and financing options for the authority is similar to the provisions of S. 957, in-

troduced by Senator CHAFEE and me early in the 97th Congress.

The importance of this legislative initiative in the 98th Congress despite the recent reduction of OPEC oil prices has not diminished. Since the oil disruption of 1972-73, the cost and reliability of energy supplies for New England remain two of the most critical problems for the region. Both factors are clearly principal impediments to efforts to encourage sustained economic growth in the New England region.

New England, despite vigorous energy conservation efforts, remains 80 percent dependent on oil as the prime energy source. This compares to a nationwide oil dependence of approximately 50 percent. In addition, 85 percent of the petroleum consumed in the region is imported with a significant percentage of this supply coming from the Persian Gulf states. This significant dependency has unfortunately subjected consumers in the New England region, including Rhode Island, to high energy prices—prices which, on the average, are 25 percent higher than those in the Nation as a whole.

It seems clear that it is in our national interest to help the New England region diversify its energy mix and reduce the use of imported oil. It is also in the regional interest to lower energy costs and make better use of indigenous energy supplies including wind, solar, conservation, low-head hydropower, and reasonably priced energy, particularly hydroelectric power imported from Canada.

The legislation I am introducing today is indeed timely as several associations, including the Northeast Public Power Association, the American Public Power Association, and the National Governors Association, have all expressed their support for the concept of regional power planning. Of considerable interest in this regard is the specific recommendation of the National Governors Association Electric Utility Task Force calling for Federal legislation authorizing voluntary multi-State agreements for regional power planning and regional regulation.

It is clear that considerable attention is now being focused on regional power planning and regulation. Such an authority would be extremely helpful for New England since we are one of the few regions which does not have a regional power planning authority such as the Bonneville Power Authority in the Northwest. Also, it would have minimal budgetary impact and would respond responsibly to the concerns of energy costs and supply reliability. I hope my colleagues will join in the support of this legislation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 670

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

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. this Act may be cited as the "New England Regional Power Planning and Distribution Act of 1983".

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Sec. 601. Regional power planning and regulation study.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the New England Region does not have an adequate coordinated and long-range plan for ascertaining and meeting the future energy service requirements of the Region;

(2) the limited existing and potential fuel resources which are indigenous to the Region do not provide the Region with long-term assurance of reasonably priced energy services; and

(3) it is in the national interest, and in the best interest of the New England Region to establish in the Region a regional energy service planning authority to plan for the energy needs of the Region and to insure, to the extent possible, that such needs can be met in an appropriate and cost-effective manner.

(b) It is the purpose of this Act to establish a New England Regional Power Planning Authority to systematically and periodically assess the long-term energy service requirements for the New England Region as a whole, to facilitate the appropriate regionwide use of existing electric power capacity, to provide financial assistance for the development, where necessary, of the additional sources of energy, including low-cost imported electric power, to maximize the efficient use of existing and potential energy resources available to the Region, and to encourage the adoption of energy conservation and efficiency measures and renewable energy programs to the extent such programs and measures are cost effective.

DEFINITIONS

SEC. 3. As used in this Act; the term—

(1) "Regional Authority" or "Authority" means the New England Regional Power Planning Authority.

(2) "Region" or "New England Region" means the area within the boundaries of the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut.

(3) "Fund" means the New England Power Fund established under section 401.

TITLE I—ESTABLISHMENT OF AUTHORITY

ESTABLISHMENT AND COMPOSITION

SEC. 101. (a) There is hereby established within the Department of Energy a New England Regional Planning Authority to be under the supervision of a Board of Directors.

(b) The Board shall be composed of twelve members appointed by the President as follows:

(1) Two members of the Board shall be appointed by the President from among nominations made by the Governor of Maine.

(2) Two members of the Board shall be appointed by the President from among nominations made by the Governor of New Hampshire.

(3) Two members of the Board shall be appointed by the President from among nominations made by the Governor of Vermont.

(4) Two members of the Board shall be appointed by the President from among nominations made by the Governor of Massachusetts.

(5) Two members of the Board shall be appointed by the President from among nominations made by the Governor of Rhode Island.

(6) Two members of the Board shall be appointed by the President from among nominations made by the Governor of Connecticut.

Nominations made by the Governors of each State shall be made in accordance with any procedures and requirements established for such purposes under State law. Any vacancy in the Board shall be filled in the manner in which the original appointment was made.

(c)(1) Except as provided in paragraph (2), members shall be appointed for terms of four years.

(2) Of the members first appointed—

(A) three shall be appointed for a term of one year;

(B) three shall be appointed for a term of two years; and

(C) three shall be appointed for a term of three years.

as designated by the President at the time of appointment. Any member of the Board appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(d) Members of the Board shall each be paid at a rate equal to the rate of basic pay payable for level IV of the Executive Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Board. While away from their homes or regular places of business in the performance of services for the Board, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Govern-

ment service are allowed expenses under section 5703 of title 5 of the United States Code.

(e) Seven members of the Board shall constitute a quorum but a lesser number may hold hearings.

(f) The Chairman of the Board shall be elected by the members of the Board and shall serve for a term of two years.

LOCATION

SEC. 102. The principal offices of the authority shall be in the New England Region.

OFFICERS AND EMPLOYEES

SEC. 103. (a) The Board shall have an Executive Director who shall be appointed by the Board and who shall be paid at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule. The duties and authorities of the Executive Director shall be prescribed by the Board. The Executive Director shall serve as a voting member of the Board in the case of any vote by the Board, which, but for the vote of the Executive Director, would be a tie vote.

(b) Subject to such rules as may be prescribed by the Board, the Executive Director may appoint and fix the pay of such personnel as he considers appropriate.

(c) Upon request of the Board, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its duties under this Act.

EXPERTS AND CONSULTANTS

SEC. 104. Subject to such rules as may be prescribed by the Board, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

GENERAL POWERS

SEC. 105. (a) The Executive Director is authorized to enter into and perform such contracts, leases, cooperative agreements, or other similar transactions with public agencies and private organizations and persons, and to make such payments as he may deem necessary or appropriate to carry out functions now or hereafter vested in him.

(b) The Executive Director may, on behalf of the Board, accept, use, and dispose of gifts or donations or services or property.

(c) The Regional Authority may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(d) The Administrator of General Services shall provide to the Regional Authority on a reimbursable basis such administrative support services as the Executive Director may request.

ANNUAL REPORT

SEC. 106. The Regional Authority shall file an annual report with the Congress respecting its operations.

TITLE II—REGIONAL PLANNING

REGIONAL ENERGY SERVICE PLAN

SEC. 201. (a) As promptly as practicable after the date of enactment of this Act, and after undertaking the necessary studies and investigations, the Regional Authority shall prepare, adopt, and publish a regional energy service plan for the New England Region. The plan shall be reviewed by the Regional Authority not less frequently than every five years and amended by the Authority from time to time as may be appropriate.

(b) Prior to the adoption of the plan or any amendment thereto, the Regional Authority shall hold a public hearing in each State within the Region which the Authority determines may be affected by the proposed action of the Authority. Such hearings shall be subject to such procedures as the Regional Authority deems necessary to insure full and complete public participation and participation by State and local authorities.

(c) The plan shall include—

(1) an energy power demand forecast for the Region;

(2) a forecast of the additional power resources, if any, estimated to be necessary to meet the projected demand;

(3) a system for determining priorities among the various alternative resources which may be available to meet energy power demand within the Region;

(4) an analysis of reserve and reliability requirements affecting electric power use and availability in the Region;

(5) guidelines respecting the rates to be applicable to the sale of power by the Authority under title III of this Act; and

(6) such other elements as the Regional Authority deems appropriate.

The plan shall emphasize conservation, recycling of municipal waste, and the development of renewable resources where cost effective and environmentally sound. The plan shall be consistent with applicable Federal energy policies, including the policies set forth in the National Energy Conservation Policy Act, the Public Utility Regulatory Policies Act of 1978, and other Federal legislation respecting the use, conservation, and development of domestic energy resources.

(d) Following adoption of the plan, action of the Authority under title III shall be consistent with the plan and any amendment thereto.

TITLE III—PURCHASE AND SALE OF GAS OR ELECTRIC POWER

PURCHASE OF GAS AND ELECTRIC POWER

SEC. 301. (a) The Executive Director of the Regional Authority is authorized to purchase from any person or authority, for purposes of resale under this Act, gas or electric power generated from imported hydroelectric facilities located in Canada or from utilities or power authorities located in other parts of the nation. Such purchases shall be consistent with this Act, with the plan adopted under title II, and with the provisions of an applicable treaty between the United States and Canada. All purchases made by the New England Power Authority shall be subject to an expedited process of approval by the Secretary of Energy under the Presidential Permit Process.

(b) For purposes of assisting in the construction of new hydroelectric capacity in Canada which will be available to the Regional Authority for purposes of resale under this title, the Regional Authority for purposes of resale under this title, the Regional Authority is authorized to enter into long-term contracts for the purchase of power from such new capacity and to commit, and make available in advance, funds to private and public persons, including foreign governmental and nongovernmental entities.

(c) No contract or other arrangement may be entered into by the Regional Authority respecting the acquisition of any power until such time as the regional plan has been adopted pursuant to title II and a treaty has been adopted by both the United States and Canada respecting the purchase by the Authority of gas or electric energy generated in Canada.

(d) International energy purchases in place as of the date of enactment of this Act shall be reviewed by the Regional Authority as part of the regional energy development plan and a treaty adopted between the United States and Canada protecting existing contracts.

SALE OF ELECTRIC POWER

SEC. 302. (a) The Authority is authorized to offer to sell, and to sell, power acquired as provided in section 301 to electric utilities for resale for use within the Region. Such sales may be made only to persons engaged in the business of selling electric power.

(b) No power may be sold by the Regional Authority under this Act to any person unless the Regional Authority determines that such sale is consistent with the plan adopted under title II and that the purposes, sales, and other operations of such person are consistent with such plan.

(c)(1) The Regional Authority shall establish, and periodically review and revise, rates for the sale of power under this Act. Such rates shall be consistent with the guidelines established in the plan prepared under title II.

(2) Rates established under this section shall become effective only upon confirmation and approval by the Federal Energy Regulatory Commission upon a finding by the Commission that such rates are adequate to cover the Authority's total system costs and amortize any obligations incurred under section 301 and produce such additional revenues as may be required to pay when due the principal of, premiums, discounts, and expenses in connection with the issuance of and interest of all bonds issued and outstanding pursuant to this Act, and amounts required to establish and maintain reserve and other funds and accounts established in connection therewith.

(d) In establishing rates under this section, the Regional Authority shall—

(1) provide public notice in an appropriate manner of the proposed rates and the date schedule for the hearing referred to in paragraph (2); and

(2) conduct a public hearing respecting the proposed rates at which interested parties are afforded an opportunity to submit oral and written data, views, and arguments and a reasonable opportunity for cross-examination and for refutation or rebuttal of material submitted by other persons.

The decision of the Authority respecting any rates established under this section shall be based upon the record of such hearing and shall include a full and complete statement of the basis and reasons for such decision.

TITLE IV—FINANCING AUTHORITY

FUND

SEC. 401. (a) There is hereby established in the Treasury of the United States a New England Power Fund. The Fund shall consist of—

BONDS

(1) all receipts, collections, and recoveries of the Authority from all sources, and

(2) all proceeds derived from the sale of bonds by the Authority.

(b) Amounts credited to the Fund shall be available, as provided in appropriations Act, for any purpose necessary or appropriate to carry out any duty or authority of the Authority, including—

(1) the development of a New England Regional Energy Power Plan in accordance with title II of this Act;

(2) the purchase and marketing of power including the advance payment of amounts pursuant to contracts entered into under section 301 providing for the construction of hydroelectric facilities in Canada, all or a part of the electric energy from which will be available to the Authority; and

(3) paying the interest, premiums, discounts, and expenses associated with the issuance of bonds under this title and paying the principal amount of such bonds when due.

(c)(1) If the Regional Authority determines that moneys in the Fund are in excess of current needs, it may request the investment of such amounts as it deems advisable by the Secretary of the Treasury in direct, general obligations of, or obligations guaranteed as to both principal and interest by, the United States of America.

(2) With the approval of the Secretary of the Treasury, the Regional Authority may deposit moneys of the Fund in any Federal Reserve bank or other depository for funds of the United States of America, or in such other banks and financial institutions and under such terms and conditions as the Regional Authority and the Secretary of the Treasury may mutually agree.

SEC. 402. (a) The Regional Authority is authorized to issue and sell to the public from time to time in the name of and for and on behalf of the Authority, bonds, notes, and other evidences of indebtedness (referred to in this Act as "bonds") to assist in carrying out the duties and responsibilities of the Authority. Such bonds shall be in such forms and denominations, bear such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary of the Treasury taking into account terms and conditions prevailing in the market for similar bonds, the term of the contract for the financing of which the bonds are issued, and the financing practices of the utility industry. Refunding provisions may be prescribed by the Regional Authority. Such bonds shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities, plus an amount in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the market for similar bonds.

(b) The Secretary of the Treasury shall purchase forthwith any bonds issued by the Regional Authority under this Act and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the bonds issued by the Regional Authority under this Act. The Secretary of the Treasury may, at any time, sell any of the bonds acquired by him under this Act. All redemptions, purchases, and sales by the Secretary of the Treasury of such bonds shall be treated as public debt transactions of the United States.

(c)(1) The principal of, premiums (if any), and interest on bonds issued by the Authority shall be payable solely from the net proceeds of the Authority.

(2) No bond, and no contract, obligation, or other action of the Regional Authority shall be construed as an obligation secured by the full faith and credit of the United States.

TITLE V—GENERAL PROVISIONS

RELATIONSHIP TO STATE LAW

SEC. 501. Nothing in this Act shall preempt the authority of any State or local authority to establish or enforce any rate for the sale of electric power (other than a rate established by the Regional Authority under title III and approved by the Federal Energy Regulatory Commission) or to exercise any other authority under State or local law respecting the construction or operation of any facility for the generation or transmission of electric energy, respecting the purchase or sale of electric energy, or respecting the financial or organizational aspects of electric utilities and other persons engaged in the generation, transmission, or distribution of electric power.

ACCOUNTS AND AUDITS

SEC. 502. The Executive Director of the Regional Authority shall, subject to the requirements of the Federal Power Act, keep complete and accurate accounts of all operations of the Authority, including all funds expended and received in connection with the purchase and sale of electric power under this Act.

OPTIONS TO BOND OPTIONS

SEC. 503. The General Accounting Office shall review and recommend alternative financing options for the New England Power Authority in addition to the bond options provided in this Act. In making its recommendations, the General Accounting Office shall focus on financing options that will ensure the New England Power Authority success in its efforts to raise funds for power exchanges and encourage indigenious renewable energy development and conservation.

TITLE VI—REGIONAL POWER PLANNING AND REGULATORY STUDY

REGIONAL POWER PLANNING AND REGULATION STUDY

SEC. 601. (a) The General Accounting Office is authorized and directed to conduct a study of the economic impact of Federal legislation—

(1) allowing States to enter voluntarily into multi-State agreements not subject to congressional approval for regional power planning and regional regulation and granting such States authority for the development of—

(A) electricity demand and supply forecasts;

(B) reliability and reserve requirements;

(C) increased power pooling and interconnections; and

(D) electricity import and export agreements; and

(2) increasing regional electric regulatory authority and reducing the current authority of the Federal Energy Regulatory Commission by—

(A) shifting FERC jurisdiction over intrastate wholesale transactions to individual States or to regional regulatory bodies, at the option of the State or States involved; and

(B) shifting FERC jurisdiction over interstate wholesale transactions to regional regulatory bodies where they exist and desire such authority.●

By Mr. McCLURE (for himself and Mr. DECONCINI):

S. 671. A bill to authorize a national program to encourage dam safety; to the Committee on Environment and Public Works.

DAM SAFETY ACT OF 1983

● Mr. McCLURE. Mr. President, I am today introducing legislation that was passed by the Senate during the 95th Congress, was considered favorably in the Committee on Environment and Public Works during the 96th Congress, but has yet to become law. This failure stems from the inability of Congress to enact comprehensive water resources legislation since 1976.

This bill authorizes an ongoing program to assist the States in developing and implementing dam safety programs. The language is nearly identical to what the Senate has passed previously. Essentially, this bill creates an opportunity for the Federal Government to assist the States in developing effective, continuing dam safety programs. In return, the States must meet certain basic criteria, such as preconstruction safety reviews and inspections every 2 years.

I recognize that modest changes in the bill could prove helpful. For example, this bill adds new sections 9 and 10 to the basic dam safety law. These sections may no longer be as necessary as they were at the time of the original passage of this bill. Yet a discussion of this insurance and Federal assistance in upgrading the safety of dams must be a vital component in any discussion of this issue. And I remain convinced that the basic components of the bill are sound, necessary, and essential.

The Federal Government, through the Army Corps of Engineers has recently inspected 9,000 dams for safety. The corps estimates that 33 percent of these dams are unsafe in varying degrees. Much of this corps activity was subcontracted to the States, which carried out the work. But the authority for this program expired at the end of fiscal year 1982. A need exists to continue such a program. This bill achieves that goal, transferring the basic responsibility to the States.

It is appropriate to transfer this responsibility to the States. But it also is appropriate to provide Federal assistance to the States in carrying out this important work.

Mr. President, I believe this bill offers a responsible approach to a difficult challenge. I ask unanimous consent that a copy of 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. 671

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 92-367 (86 Stat. 506) is amended as follows:

(a) SIZE OF DAMS.—Section 1 is amended by deleting the final sentence.

(b) RIGHT OF ENTRY.—Section 2 is amended (a) by inserting "(a)" immediately after the words "the Chief of Engineers shall

carry out a national program of inspection of dams for the purpose of protecting human life and property.", and by striking the "and" after "inspection" and striking the period after "property" and inserting the following: "and (5) dams located within a State having an approved program under section 8 of this Act." and (b) by adding at the end thereof the following new subsection:

"(b) In order to carry out the purposes of this Act, the Secretary, or his authorized, representative, upon presenting appropriate credentials to the owner, operator, or agent in charge is authorized—

"(1) to enter without delay and at reasonable times any damsite, structure, appurtenance, or any work area, or other area used in connection with operation of the dam; and

"(2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such damsite and all pertinent conditions, structures, machinery, apparatus, devices, equipment, and materials therein or thereon; and to require any owner, operator, agent or employee, or designer, contractor or builder, to provide information regarding the design, construction, operation, and maintenance of the same; and to have access to any records, blueprints, plans or other pertinent documents pertaining to the design, construction, operation, and maintenance of the same.

"(c) Except as to cases the court considers of greater importance, any judicial proceedings involving this Act before a district court of the United States, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.".

(c) CONTRACTOR LIABILITY.—Section 6 is amended by inserting a new paragraph (2) as follows, and by renumbering paragraph (2) as paragraph (3):

"(2) to create any liability for agents or contractors for damages caused by such action or failure to act in excess of the amount of the contract entered into pursuant to the Act;".

(d) STATE ASSISTANCE PROGRAM.—Following section 6, add the following new sections:

"SEC. 7. There is authorized to be appropriated to the Secretary of the Army, acting through the Chief of Engineers (hereafter in this Act referred to as the 'Secretary'), $15,000,000 for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987. Sums appropriated under this section shall be distributed annually among those States on the following basis: One-third equally among those States that have established dam safety programs approved under the terms of section 8 of this Act, and two-thirds in proportion to the number of dams located in each State that has an established dam safety program under the terms of section 8 of this Act to the number of dams in all States with such approved programs. In no event shall funds distributed to any State under this section exceed 50 per centum of the reasonable cost of implementing an approved dam safety program in such State.

"SEC. 8. (a) In order to encourage the establishment and maintenance of effective programs intended to assure dam safety to protect human life and property, the Secretary shall provide assistance under the terms of section 7 of this Act to any State that establishes and maintains a dam safety program which is approved under this section. In evaluating a State's dam safety program, under the terms of subsections (b) and (c) of this section, the Secretary shall determine that such program includes the following:

"(1) a procedure, whereby, prior to any construction, the plans for any dam will be reviewed to provide reasonable assurance of the safety and integrity of such dam over its intended life;

"(2) a procedure to determine, during and following construction and prior to operation of each dam built in the State, that such dam has been conducted and will be operated in a safe and reasonable manner;

"(3) a procedure to inspect every dam within such State at least once every two years;

"(4) a procedure for more detailed and frequent safety inspections, if warranted;

"(5) the State has or can be expected to have authority to require those changes or modifications in a dam, or its operation, necessary to assure the dam's safety;

"(6) the State has or can be expected to develop a system of emergency procedures that would be utilized in the event a dam fails or for which failure is imminent together with an identification for those dams where failure could be reasonably expected to endanger human life, of the maximum area that could be inundated in the event of the failure of such dam, as well as identification of those necessary public facilities that would be affected by such inundation;

"(7) the State has or can be expected to have the authority to assure that any repairs or other changes needed to maintain the integrity of any dam will be undertaken by the dam's owner, or other responsible party; and

"(8) the State has or can be expected to have authority and necessary funds to make immediate repairs or other changes to, or removal of, a dam in order to protect human life and property, and if the owner does not take action, to take appropriate action as expeditiously as possible.

"(b) Any program which is submitted to the Secretary under the authority of this section shall be deemed approved one hundred and twenty days following its receipt by the Secretary unless the Secretary determines that such program fails to reasonably meet the requirements of subsection (a) of this section. If the Secretary determines such a program cannot be approved, he shall immediately notify such State in writing, together with his reasons and those changes needed to enable such plan to be approved.

"(c) Utilizing the expertise of the Board established under section 11 of this Act, the Secretary shall review periodically the implementation and effectiveness of approved State dam safety programs. In the event the Board finds that a State program under this Act has proven inadequate to reasonably protect human life and property, and the Secretary agrees, the Secretary shall revoke approval of such State program and withhold assistance under the terms of section 7 of this Act until State program has been reapproved.

"SEC. 9. (a) In order to assure that owners of dams will be able to obtain liability insurance at reasonable rates, and to protect persons located downriver of dams, the Secretary, or the head of any agency of the United States designated by the Secretary, shall provide to any insurer, subject to conditions established by regulation, reinsurance or gurantees of any insurance provided to the owner of a dam to protect such owner from liabilities incurred in the event of the failure of such dam. Reinsurance or guarantess provided under this section shall reimburse an insurer for those liabilities in excess of an amount agreed upon between the Secretary, or his designee, and the insurer.

"(b) Any reinsurance or gurantees provided under this section shall be available only in a State which has an approved dam safety program under the terms of section 8 of this Act.

"(c) Agreements on reinsurance or guarantees under this section shall provide that the failure of the owner of any dam to carry out expeditiously any modification or procedure required by a State under the terms of its dam safety program shall result in the cancellation of any reinsurance or guarantee provided by the Secretary, or his designee.

"(d) There is authorized to be appropriated such sums as may be necessary to carry out this section.

"(e) Not later than eighteen months after enactment of the Dam Safety Act of 1983, the Secretary and the Secretary of the Treasury shall report jointly to the Congress with an analysis of the effects of this section, together with any recommendations for a more comprehensive dam safety insurance program to assure the availability of insurance to owners of dams inspected under a State program approval under section 8 of this Act, in an effort to lessen or eliminate the need for any disaster assistance in the event of the failure of such a dam.

"SEC. 10. There is authorized to be appropriated and remain available the sum of $20,000,000 to be placed in a revolving fund by the Secretary, such funds to be available for loans, on terms established by the Secretary, to any owner for any dam required to make repairs, to replace, or to make other safety improvements in such dam under any safety program approved under section 8 of this Act, if such owner can demonstrate to the Secretary that other funds are not reasonably available, and such owner agrees to repay such funds at a rate of interest on terms agreed to with the Secretary.

"SEC. 11. (a) There is authorized to be established a Federal Dam Safety Review Board (hereinafter referred to as the 'Board'), which shall be responsible for reviewing the procedures and standards utilized in the design and safety analysis of dams constructed and operated under authority of the United States, and to monitor State implementation of this Act. The Board is authorized to hire necessary staff and shall review as expeditiously as possible the plans and specifications on all dams specifically authorized by Congress prior to initiation of construction of such dam, and file an advisory report on the safety of such dam with the appropriate agency, the appropriate State, and the Congress. The Board is authorized to utilize the expertise of other agencies of the United States and to enter into contracts for necessary studies to carry out the requirements for this section. There is authorized to be appropriated to the Board such sums as may be necessary to carry out this section.

"(b) The Board shall consist of nine members selected for their expertise in dam safety, including one representative each from the Department of the Army, the Department of the Interior, the Tennessee

Valley Authority, and the Department of Agriculture, plus five members, appointed by the President for periods of five years, on a rotating basis, who are not employees of the United States. At least two members of the Board shall be employees of the States having an approved program under section 8 of this Act. The Chairman of the Board shall be selected from among those members who are not employees of the United States.

"SEC. 12. The head of any agency of the United States that owns or operates a dam, or proposes to construct a dam in any State, shall, when requested by such State, consult fully with such State on the design and safety of such dam and allow officials of such State to participate with officials of such agency in all safety inspections of such dam.

"SEC. 13. The Secretary shall, at the request of any State that has or intends to develop a dam safety program under section 8 of this Act, provide training for State dam safety inspectors. There is authorized to be appropriated to carry out this section $1,000,000 for the fiscal year ending September 30, 1984, and $500,000 during each of fiscal years ending September 30, 1985, September 30, 1986, and September 30, 1987.

"SEC. 14. The Secretary, in cooperation with the National Bureau of Standards, shall undertake a program of research in order to develop improved techniques and equipment for rapid and effective dam inspection, together with devices for the continued monitoring of dams for safety purposes. The Secretary shall provide for State participation in such research and periodically advise all States of the results of such research. There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987.

"SEC. 15. The Secretary is authorized to maintain and periodically publish updated information on the inventory of dams authorized in section 5 of this Act.".

REPORTING OF DAM SAFETY

SEC. 2. Any report that is submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, acting under Public Law 83-566, as amended, which proposes construction of a water impoundment facility, shall include information on the possibility of failure of such facility due to geologic or design factors, the potential impact of the failure of such facility, and information on the design features that would prevent, lessen, or mitigate such possibility of failure or the impact of failure.

SHORT TITLE

SEC. 3. This Act shall be known as the "Dam Safety Act of 1983".●

By Mr. McCLURE (for himself, Mr. GOLDWATER, and Mr. WALLOP):

S. 672. A bill to amend the Reclamation Safety of Dams Act of 1978 to authorize additional appropriations, and for other purposes; to the Committee on Energy and Natural Resources.

SAFETY OF DAMS PROGRAM

● Mr. McCLURE. Mr. President, the legislation I am introducing today for myself, Mr. GOLDWATER, and Mr. WALLOP, authorizes additional funding for the Bureau of Reclamation safety of dams program and is identical to the last Congress S. 956, as reported on August 19, 1982, by the Committee on Energy and Natural Resources.

My colleagues will recall that a companion measure, H.R. 3208, passed the House on April 29, 1982. Unfortunately, the Senate did not consider either measure prior to adjournment of the 97th Congress.

I believe that it would be helpful to my colleagues and the public to include in the RECORD at this point an excerpt from the committee report (S. Rept. 97-533) that accompanied S. 956 when it was reported by the committee. This should help place the legislation in perspective in relation to the current safety of dams program at the Bureau of Reclamation and will furnish additional information to the Senate.

BACKGROUND AND NEED

The Act of November 2, 1978 (Public Law 95-578) authorized the appropriation of $100 million to the Secretary of the Interior for purposes of a safety of dams program for the Bureau of Reclamation and established the parameters under which the Secretary was authorized to construct, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes. Recent events of the time (the Rapid City, South Dakota flood and the failure of the Bureau's Teton Dam in Idaho) had focused concern upon the hazards presented by floods and the failure of dams or related structures.

Traditionally, the Bureau of Reclamation had maintained a formal program of inspection under its Examination of Existing Structures Program of the facilities related to the 333 reservoir impoundments under the Bureau's jurisdiction. Major modifications of dams for safety purposes had been authorized by Congress on a case-by-case basis; each project considered in a separate authorizing bill. The 1978 Safety of Dams Act provided the Secretary with permanent authority to undertake safety of dams modifications rather than having to come to the Congress for each project. However, the Act was specific that the funds were to be used only for safety purposes and not for providing additional water storage capacity or the development of benefits above those provided by the original structures. Costs of the program which resulted from age and normal deterioration of structures or from nonperformance of reasonable and normal maintenance were to be treated as project costs and reimbursable by project participants in accordance with existing law.

Since initiation of the program, estimated costs of dam safety activities have increased as a result of inflation and also the discovery of additional safety problems which need to be addressed. During the hearings on S. 956, the Administration testified that in addition to the thirteen dams identified at the outset of the program in 1978, an additional thirty-five dams have been identified as needing safety related work. The current authorization of $100 million is inadequate to fund the additional work which is estimated to cost in excess of $500 million. An increase in the authorization for the program of an additional $550 million will permit dam safety activities at the newly identified projects as well as allow for the increase in costs due to inflation.

Mr. President, the major thrust of this measure is to increase the amount authorized to be appropriated for implementing the Reclamation Safety of Dams Act of 1978. This act has proven to be a most workable and viable means of correcting unsafe conditions at many of the older structures built by the Department of the Interior's Bureau of Reclamation. The program is directed to those structures at which the Secretary has determined—and subsequently reported to the Congress—first, that an unsafe condition exists, and second, that this condition could not have been foreseen at the time the dam was designed. Generally, these conditions derive from two causes, the first of which is hydrologic and the second seismic in nature.

The problem most frequently occurring is one that arises from inadequate spillway capacity. This in turn stems from an underestimation on the part of the designers of the magnitude of flood runoff which might be expected. Longer study of, and greater experience with, flood flow forecasting now show that many of the older spillways are incapable of handling flood crests. Without adequate spillway capacity, the entire structure is threatened with catastrophic failure, resulting not only in potential loss of life and property downstream, but in the loss of a very valuable piece of Federal property—the dam itself. The effect of this legislation, Mr. President, would be to authorize flood protection for Federal property, and to avoid the failure of a Federal dam with its ensuing liability for damages.

In like manner, advances in the study of seismic factors sometimes disclose that a particular structure is in danger from earthquakes. Where these conditions are found to exist, the Federal Reclamation Safety of Dams Act provides that the Secretary of the Interior may proceed with dispatch to propose corrective measures at Federal expense. The original sum authorized to be appropriated for this program has been substantially exhausted, yet there remains a sizable backlog of repair work to be undertaken.

Mr. President, the philosophical basis underlying the existing law is that the United States, having designed and constructed a dam which it now finds poses a major threat to the lives and property of its citizens, shall proceed with the utmost expediency to eliminate the dangers which threaten its citizens and property, and that the United States shall accomplish these corrective works at public expense.

Responsibility for the safe condition of its property goes hand-in-hand with ownership of that property. Any at-

tempt to avoid that responsibility and change the law is an affront to fair play, commonsense, and the basic precepts of English common law, which provide that property owners must assume responsibility for the operation and conduct of their property.

Mr. President, the 1978 Safety of Dams Act was premised on the acknowledgement of the culpability of the Federal Government for inadequacies of design and any resulting damages due to failure of the structure. The act had four basic objectives: To protect the lives and property of our citizens by preventing dam failures; to protect the investment of the Federal Government in the dams and related structures; to prevent dam failure and the ensuing liability of the Federal Government for damages; and to assure the ability of the projects to continue to perform, to meet contractual relationships, and to provide revenues to the Treasury.

We need only look at the failure of Teton Dam in my home State of Idaho to grasp the importance of these goals. As many of my distinguished colleagues will recall, Teton Dam was completed by the Bureau of Reclamation in November of 1975. On June 5, 1976, it failed, causing 11 deaths, disrupting the lives of thousands, and costing the Federal Government over $350 million in damage claims. As a result, the Federal Government is now denied the revenues from a 20-megawatt powerplant, as well as the revenues and the social and economic benefits accruing from irrigation of 150,000 acres. We are also $79 million out of pocket for the construction of Teton Dam and powerhouse.

Mr. President, I ask unanimous consent that the text of the measure, and a list compiled by the Bureau of Reclamation of the structures where safety work pursuant to the Safety of Dams Act of 1978 is underway or contemplated be included in the RECORD at this point.

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

S. 672

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Reclamation Safety of Dams Act of 1978 (92 Stat. 2471, 43 U.S.C. 506, et seq.) is amended as follows:

(1) In section 2, following "modifications" insert "or replacement".

(2) In section 4, wherever the word "modification" appears insert thereafter "replacement".

(3) In section 5, (a) in the first sentence after "$100,000,000" delete the comma and insert, "and, effective October 1, 1983, not to exceed an additional $550,000,000,"; change "construction to modify an existing dam" to read "construction to modify or replace an existing dam"; and delete the period at the end of the proviso by inserting a colon and the following additional proviso: Provided further, That such obligation may be made prior to the expiration of such sixty days in any case in which the respective committee of jurisdiction in the House of Representatives and the Senate approve an earlier date and notifies the Secretary in writing, of such approval." and (b) in the second and third sentences wherever the words "modification or modifications" appear insert thereafter "or replacement".

(4) Following section 11, insert the following new section 12:

"SEC. 12. Included within the scope of this Act are Fish Lake, Four Mile, Ochoco, Savage Rapids Diversion and Warm Springs Dams, Oregon; Como Dam, Montana; Little Wood River Dam, Idaho; Twin Buttes Dam, Texas; Foss Dam, Oklahoma and related facilities: Provided, That the cost of foundation treatment, drainage, and instrumentation work planned or underway at Twin Buttes Dam, Texas, and Foss Dam, Oklahoma, shall be nonreimbursable and nonreturnable under Federal reclamation laws.".

PRELIMINARY RESULTS OF DAM SAFETY INVESTIGATION WORK BUREAU OF RECLAMATION

[Dollars in millions]

State/dam	Description of modification	Estimated cost
Distribution of Initial Safety of Dams Act Appropriation Ceiling		
Arizona: Stewart Mountain Dam	Modify spillway	$8.9
California:		
East Park Dam	do	6.9
Stony Gorge Dam	do	4.9
Idaho:		
Black Canyon Dam	Construct auxiliary spillway	5.4
Island Park Dam	Raise crest, rehabilitate outlet, and modify spillway	5.7
Montana:		
Gibson Dam	Structural modification to withstand overtopping	3.3
Lake Sherburne Dam	Raise dam crest	4.5
Willow Creek Dam	Modify spillway	5.6
Nevada: Lahontan Dam	Rehabilitate spillway and outlet works	6.7
South Dakota: Deerfield Dam	Raise crest and modify spillway	8.5
Utah: Hyrum Dam	Construct auxiliary spillway	9.5
Wyoming: Jackson Lake Dam	Stabilize embankments	6.8
Modification reports and preconstruction planning		52.7
Subtotal		129.4
Anticipated Future Work To Be Performed Under the Safety of Dams Act		
Arizona:		
Bartlett Dam and Horseshoe Dam	Structural modification will be minor on Bartlett Dam and Horseshoe Dam will be eliminated if Cliff Dam is constructed	
Horse Mesa Dam and Mormon Flat Dam	Structural modification will be minor if Theodore Roosevelt Dam is modified or replaced	
Theodore Roosevelt Dam	Foundation treatment, spillway modification	
Total for Salt River Project (SRP)		350.0
Arizona-California:		
Parker Dam	Replace structural components in the spillway bridges	.5
Senator Wash Dam	Seepage control modification	1.0
California		
Bradbury Dam	Embankment stability modification	10.0
Casitas Dam	do	10.0
Folsom Dam	Inflow design flood (IDF) and seismic modification	10.0
Friant Dam	Replace portions of the top of dam and protect dike and abutment for IDF	2.5
Glen Anne Dam	Rehabilitate asphalt lining and underdrain, repair slides on upstream face	1.5
Lake Tahoe Dam	Rehabilitate spillway structure	3.0
O'Neill Dam	Embankment stability modification	5.0
San Luis Dam	do	20.0
Shasta Dam	Grout contraction joints in dam	.5
Trinity Dam	Possible modification to left abutment slide to prevent blocking or plugging of spillway	1.0
Colorado:		
Fruitgrowers Dam	Spillway replacement	6.0
Olympus Dam	Construct emergency spillway and possibly modify existing spillway	10.0
Idaho: Soldiers Meadow Dam	Rehabilitate spillway and modify embankment for IDF and seepage	2.5
New Mexico: Navajo Dam	Embankment stability	1.0
Nevada: Rye Patch Dam	Foundation/embankment stability modification	4.0
North Dakota:		
Heart Butte Dam	Inflow design flood modification	5.0
Jamestown Dam	do	10.0
Oklahoma:		
Altus Dam	Structural modification	.8
Arbuckle Dam	Inflow design flood modification	2.5
Foss Dam	do	2.5

PRELIMINARY RESULTS OF DAM SAFETY INVESTIGATION WORK BUREAU OF RECLAMATION—Continued

[Dollars in millions]

State/dam	Description of modification	Estimated cost
Oregon:		
Cold Springs Dam	Modify seepage control system. Replace or modify spillway	2.8
Owyhee Dam	Repair top 75 feet of arch	.5
South Dakota: Pactola Dam	Spillway/embankment modification to pass the IDF	15.5
Texas: Twin Buttes Dam	Inflow design flood modification	5.5
Utah:		
Joes Valley Dam	Provide additional spillway structure	3.0
Newton Dam	Inflow design flood and seismic modification	5.5
Washington: Bumping Lake Dam	Modify spillway structure and correct foundation seepage	3.0
Wyoming:		
Bid Sandy Dam	Rehabilitate spillway structure wall and floor slabs. Extend grout curtain adjacent to spillway	3.0
Guernsey Dam	Rehabilitate spillway walls and floor	2.4
Subtotal		500.5
Safety of Dams Work Resulting From Possible Amendments to the Reclamation Safety of Dams Act		
Idaho: Little Wood River Dam	Stability analysis is underway	
Montana: Como Dam	do	
Oregon:		
Fish Lake Dam	Modify spillway and grout tunnel	3.0
Fourmile Lake Dam	Stability analysis is underway	
Ochoco Dam	Rehabilitate spillway and seepage control	2.5
Savage Rapids Diversion Dam	Stability analysis is underway	
Warm Springs Dam	do	
Texas: Twin Buttes Dam	Seepage control	5.5
Subtotal		11.0
Estimated total required for safety of dams modification work		640.9

By Mr. McCLURE:

S. 673. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the credit against tax for contributions to, individual housing accounts; to the Committee on Finance.

THE NEST EGG ACT

● Mr. McCLURE. Mr. President, I am proud today to introduce a major piece of legislation designed to aid our housing industry and give the American people an incentive to save.

For many years the United States has had the lowest rate of savings and investment in the Western World. As a consequence, every other major Western nation has a better employment record, and a faster rate of growth of real wage and fringe benefits, than the United States. It is also quite clear that our extremely low rate of savings and the closely related problem of lagging productivity is as serious a threat as any facing the economic well-being of our Nation.

Our tax laws have seriously penalized saving and investment. Our goal should be a break for small savers, which allows Americans to set aside savings for future needs while, at the same time, increase the savings rate in order to provide additional investment for capital formation.

Only recently have we seen an upswing in our Nation's savings rate. For the past 5 years it has decreased to the point where it is one of the lowest in the free world. Nowhere do we find more built-in disincentives to save.

Looking at it logically, the American taxpayer usually pays his taxes before ever seeing the paycheck. After that is done, he manages to save a little money for a rainy day in an account that pays a little interest. Then the Government comes back for its pound of flesh and taxes the interest that's earned. Hence, another disincentive to save; now, the worker feels compelled to go out and spend more than he has. In doing so, he incurs a little interest debt for having spent more than he has, and he is rewarded by our tax structure with a deduction on the interest. The result, of course, is that powerful incentive to spend more than we have, rather than save some of what we make.

For many years our tax system has encouraged consumption by penalizing savings. Access to money through credit cards, charge accounts, and other forms of consumer credit has eased over the years, and it has reduced the need to save up for major purchases. Clearly, a more equitable taxation of income is necessary for any improvement in our productivity.

I feel strongly that the housing industry will not benefit in the long run from any short-term influx of Government money. We must decrese the burden of government and give all Americans incentives to save and invest.

The United States League of Savings Associations indicates that 42 million Americans, the crest of the postwar baby boom, will reach the age of 30 in the 1980's, 10 million more than in the seventies. To insure a viable housing industry there must be an adequate supply of capital in the market to finance the expansion that will go along with this population explosion. Recently, a general shortage of savings in the economy meant that home mortgage lending was only able to claim 15 percent of the available capital pool. This is the lowest level since 1970 and far below the traditional 25 percent.

The legislation that I am introducing today establishes a savings account similar to the popular individual retirement account (IRA). The nest egg account would be used for a down payment on a house. It is extremely difficult for young people today to accumulate enough money for a down payment. Our society incorrectly stresses the merits of spend now and save later while our tax structure has become increasingly opposed to savings. This legislation is designed to give all who do not own a house the opportunity and incentive to save and plan for the future.

The bill I am introducing provides a major incentive for potential homebuyers currently shutout of the American dream. The President's Commission on Housing identified the inability of potential homebuyers to accumulate enough capital for a downpayment as a major problem associated with the housing industry. High housing prices invariably means high down payments. Many households across the country qualify for a mortgage, but are shutout of the American dream by an inability to accumulate enough downpayment money.

My bill breaks down these barriers and allows a potential homebuyer to deposit up to $1,500—$3,000 on a joint return—in a nest egg account. This contribution forms the basis for a 25-percent tax credit.

A cornerstone in President Reagan's program for recovery is to increase savings. The Economic Recovery Tax Act stressed the need for saving and investment, but did not go far enough. The tax exempt all-savers certificate was a disappointment and did very little for the housing industry. The universal individual retirement accounts have been very popular and successful, supplying our capital markets with billions of dollars of long-term money. Home mortgage lending is supported nearly exclusively by personal savings. The IRA program has

helped, but it is the obligation of the Congress to continue to promote a greater flow of savings.

I strongly urge my colleagues to cosponsor this important piece of legislation, and I ask unanimous consent that a copy of the bill be printed in full in the RECORD.

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

S. 673

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting after section 44H the following new section:

"SEC. 441. CONTRIBUTIONS TO INDIVIDUAL HOUSING ACCOUNTS.

"(a) CREDIT ALLOWED.—In the case of an individual who has never owned a principal residence (within the meaning of section 1034) by himself or with one or more other individuals, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the sum of the amounts paid in cash or the fair market value of stocks, bonds, or other securities, readily tradable on an established securities market, during the taxable year by such individual to an individual housing account.

"(b) LIMITATIONS.—

"(1) MAXIMUM ANNUAL CREDIT.—The amount allowable as a credit under subsection (a) to an individual for any taxable year may not exceed $1,500 ($3,000 in the case of married individual filing a joint return).

"(2) MINIMUM DEPOSIT PERIOD.—Any amount paid into an individual housing account which is paid or distributed out of the account less than 12 months after it was paid into the account shall be treated as if it were not contributed. For purposes of this paragraph, any amount paid or distributed out of such an account shall be treated as having been distributed out of the most recently contributed amounts.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(4) STOCK, ETC., TO BE VALUED ON TRANSFER DATE.—The fair market value of stock, bonds, and other securities is to be determined as of the date on which it is transferred to the account, or, if the transfer occurs on a Saturday, Sunday, or other public legal holiday, on the last preceding day on which it could have been traded.

"(c) DEFINITION AND SPECIAL RULES.—For purposes of this section, the term 'individual housing account' means a trust created or organized in the United States for the exclusive benefit of an individual, or in the case of a married individual, for the exclusive benefit of the individual and his spouse jointly, but only if the written governing instrument creating the trust meets the following requirements:

"(1) No contribution will be accepted unless it is in cash or in stocks, bonds, or other securities readily tradeable on an established exchange, and contributions will not be accepted for the taxable year in excess of $1,500 on behalf of any individual ($3,000 in the case of a trust for an individual and his spouse).

"(2) The trustee is a bank (as defined in section 401(d)(1)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(3) No part of the trust assets will be invested in life insurance contracts.

"(4) The interest of the individual in the balance in his account is nonforfeitable.

"(5) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(6) The entire interest of an individual or married couple for whose benefit the trust is maintained will be distributed to him, or them, not later than 120 months after the date on which the first contribution is made to the trust.

"(7) The assets of the trust shall be invested in accordance with the directions of the individual contributing to the trust, but, if more than one individual makes contributions to the trust the consent of all such individuals shall be required with respect to such direction.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, if any amount is paid or distributed out of an individual housing account for any purpose other than the purchase of a principal residence, then the tax under this chapter for the taxable year shall be increased by an amount equal to 25 percent of the amount so paid or distributed. The basis of any person in such an account is zero.

"(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) does not apply to the distribution of any contribution paid during a taxable year to an individual housing account to the extent that such contribution exceeds the amount allowable under subsection (b)(1) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no credit is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in an individual housing account to his former spouse under a divorce decree or under a written instrument incident to a divorce is not to be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest, at the time of the transfer, is to be treated as an individual housing account of the spouse, and not of such individual. After the transfer, the account is to be treated, for purposes of this subtitle, as maintained for the benefit of the spouse.

"(4) AMOUNTS NOT MEETING MINIMUM DEPOSIT PERIOD REQUIREMENT.—Paragraph (1) does not apply to any amount to which subsection (b)(2) applies.

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—Any individual housing account is exempt from taxation under this subtitle unless such account has ceased to be an individual housing account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of the individual for whose benefit an individual housing account is established, that individual engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be an individual housing account as of the first day of that taxable year. For purposes of this subparagraph the individual for whose benefit any account was established is treated as the creator of the account.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be an individual housing account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit an individual housing account is established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

"(f) ADDITIONAL TAX ON CERTAIN AMOUNTS INCLUDED IN GROSS INCOME.—

"(1) DISTRIBUTION NOT USED TO PURCHASE RESIDENCE.—If a distribution from an individual housing account to an individual for whose benefit such account was established is made, and not used in connection with the purchase of a principal residence for such individual, the tax liability of such individual under this chapter for the taxable year in which such distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution which is includable in his gross income for such taxable year.

"(2) DISQUALIFICATION CASES.—If an amount is includable in the gross income of an individual for a taxable year under subsection (e), his tax under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be included in his gross income.

"(3) DISABILITY CASES.—Paragraphs (1) and (2) do not apply if the payment or distribution is attributable to the taxpayer becoming disabled within the meaning of section 72(m)(7).

"(g) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(h) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 401(d)(1)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an individual housing account described in subsection (c). For purposes of this title, in the case of

a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(i) REPORTS.—The trustee of an individual housing account shall make such reports regarding such account to the Secretary and to the individual for whom the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.

"(j) REDUCTION OF BASIS.—The basis of any residence acquired with funds withdrawn from an individual housing account shall be reduced by an amount equal to the amount of expenditures made in connection with the acquisition of the residence out of such funds.".

(b) Section 4973 of such Code (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, certain individual retirement annuities, and certain retirement bonds) is amended—

(1) by inserting "individual housing accounts," after "individual retirement accounts," in the caption of such section,

(2) by redesignating paragraphs (2) and (3) of subsection (a) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following:

"(2) an individual housing account (within the meaning of section 441(c)),", and

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

"(d) EXCESS CONTRIBUTIONS TO INDIVIDUAL HOUSING ACCOUNTS.—For purposes of this section, in the case of an individual housing account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable under section 441(b)(1) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the individual housing account and a distribution to which section 441(d)(2) applies shall be treated as an amount not contributed.".

(c) Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR INDIVIDUAL HOUSING ACCOUNTS.— An individual for whose benefit an individual housing account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an individual housing account by reason of the application of section 44I(e)(2)(A) or if section 44I(e)(3) applies to such account.", and

(2) by inserting "or an individual housing account described in section 44I(c)" in subsection (e)(1) after "described in section 428(a)".

(d)(1) Subsection (b) of section 6401 of such Code (relating to amounts treated as overpayments) is amended—

(A) by striking out "and 43 (relating to earned income credit)", and inserting in lieu thereof the following: "43 (relating to earned income credit), and 44I (relating to contributions to individual housing accounts)", and

(B) by striking out "sections 31, 39, and 43" and inserting in lieu thereof the following: "sections 31, 39, 43, and 44I".

(2) Paragraph (2) of section 55 of such Code (defining regular tax) is amended by striking out "and 43" and inserting in lieu thereof ", 143, and 44I".

(3) Paragraph (4) of section 6201(a) (relating to erroneous credit under section 39 or 43) is amended—

(A) by striking out "section 39 or 43" in the caption and inserting in lieu thereof the following: "section 39, 43, or 44I)", and

(B) by striking out "or section 43 (relating to earned income)," and inserting in lieu thereof the following: ", section 43 (relating to earned income), or section 44I (relating to contributions to individual housing accounts),".

(4) Section 6513 of such Code (relating to time return deemed filed and tax considered paid) is amended by adding at the end thereof the following new subsection:

"(f) INDIVIDUAL HOUSING ACCOUNT CREDIT CONSIDERED PAID.—For purposes of section 6511, the taxpayer shall be considered as paying an amount of tax on the last day prescribed by law for payment of the tax (determined without regard to any extension of time and without regard to any election to pay the tax in installments) equal to so much of the credit allowed by section 44I (relating to individual housing account credit) as is treated under section 6401(b) as an overpayment of tax.".

(5) Subsection (d) of section 6611 of such Code is amended by striking out the caption and inserting in lieu thereof the following:

"(d) ADVANCE PAYMENT OF TAX, PAYMENT OF ESTIMATED TAX, CREDIT FOR INCOME TAX WITHHOLDING, AND INDIVIDUAL HOUSING ACCOUNT CREDIT.—".

(e) Section 6693 of such Code (relating to failure to provide reports on individual retirement accounts or annuities) is amended—

(1) by striking out the period and inserting in lieu thereof a comma and by inserting "or individual housing accounts" after "annuities" in the caption of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 44I(i) to file a report regarding an individual housing account at the time and in the manner required by such section shall pay a penalty of $10 for each failure unless it is shown that such failure is due to reasonable cause.".

(f) Section 1016(a) of such Code (relating to adjustments by striking out "and" at the end of paragraph (24), by striking out the period at the end of paragraph (25) and inserting in lieu thereof "; and", and by inserting after paragraph (25) the following new paragraph:

"(26) in the case of residence the acquisition of which was made in whole or in part with funds from an individual housing account, to the extent provided in section 44I (j);".

(g) Subsection (b) of section 121 of such Code (relating to limitations) is amended by adding at the end thereof the following new paragraph:

"(4) Reduction of exclusion for housing savings amount.—The $125,000 amount in paragraph (1) shall be reduced by any amount paid or distributed out of an individual housing account of the taxpayer which was not included in gross income of the taxpayer for the year in which it was paid or distributed to the taxpayer (one-half of such amount in the case of a separate return by a married individual).".

(h) Subsection (b) of section 6396 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44H" and inserting in lieu thereof "44H, and 44I".

(i) (1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44H the following:

"Sec. 44I. Contributions to individual housing accounts.".

(2) The table of sections for chapter 43 of such Code is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, individual housing accounts, certain 403(b) contracts, certain individual retirement annuities, and certain retirement bonds.".

(3) The table of sections for subchapter 8 of chapter 68 of such Code is amended by striking out the item relating to section 6693 and inserting in lieu thereof the following:

"Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or individual housing accounts.".

(j) The amendments made by this section apply to taxable years beginning after December 31, 1982.●

By Mr. SPECTER:

S. 674. A bill to authorize implementation of a project for flood damage prevention at Milton, Pa.; to the Committee on Environment and Public Works.

MILTON FLOOD CONTROL PROJECT

Mr. SPECTER. Mr. President, I rise today to introduce legislation that would authorize the construction of a flood damage prevention project for the Borough of Milton in Northumberland County, Pa.

Located along the west branch of the Susquehanna River, the Milton area has a variety of structural flaws that make it prone to flooding. In 1972, for example, tropical storm Agnes ravaged a large portion of the Susquehanna River Basin, causing millions of damages to Milton and various other population centers. Without this badly needed flood control project, Milton will continue to exist under the threat of severe destruction from future storms.

I recently introduced legislation that would authorize flood control projects in Wyoming Valley in Luzerne County, Harrisburg, and Lock Haven, Pa. Clearly, the devastation resulting from past flooding demonstrates a critical need for flood damage protection at Milton as well. Now is the time to proceed on these important public works programs, given current economic conditions and the need for infrastructure improvements.

The Army Corps of Engineers estimates the cost of the Milton project to be $87 million. The possibilty of future destruction from flooding and the capability of providing valuable jobs to

this region make the Milton project important to central Pennsylvania.

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. 674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, is authorized to implement a project for flood damage prevention at Milton, Northumberland County, Pennsylvania, on the West Branch of the Susquehanna River, substantially in accordance with the report of the Corps of Engineers entitled "Local Flood Protection Study at Milton, Pennsylvania" dated July 13, 1977, at an estimated cost of $87,000,000.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. TOWER (for himself and Mr. JACKSON) (by request):

S. 675. A bill to authorize appropriations for fiscal year 1984 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1984

Mr. TOWER. Mr. President, by request, for myself and the senior Senator from Washington (Mr. JACKSON) I introduce for appropriate reference a bill to authorize appropriations for fiscal year 1984 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the RECORD immediately following the listing of the bill.

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

S. 675

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 "Department of Defense Authorization Act, 1984."

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1984 for procurement of aircraft, missiles, weapons and tracked combat vehicles, and ammunition and for other procurement for the Army as follows:

For aircraft, $3,472,100,000.

For missiles, $3,088,500,000.

For weapons and tracked combat vehicles, $4,934,416,000.

For ammunition, $2,334,189,000.

For other procurement, $5,362,870,000.

AUTHORIZATION OF APPROPRIATIONS, NAVY AND MARINE CORPS

SEC. 102. (a) Funds are hereby authorized to be appropriated for fiscal year 1984 for procurement of aircraft, weapons (including missiles and torpedoes), shipbuilding and conversion, and other procurement for the Navy as follows:

For aircraft, $11,127,300,000.

For weapons (including missiles and torpedoes), $4,028,600,000.

For shipbuilding and conversion, $12,698,800,000.

For other procurement, $5,001,838,000.

(b) Funds are hereby authorized to be appropriated for fiscal year 1984 for procurement for the Marine Corps (including missiles, tracked combat vehicles, and other weapons) in the amount of $1,852,049,000.

AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

SEC. 103. (a) Funds are hereby authorized to be appropriated for fiscal year 1984 for procurement of aircraft and missiles and for other procurement for the Air Force as follows:

For aircraft, $22,707,190,000.

For missiles, $8,570,834,000.

For other procurement, $7,626,302,000.

(b) Of the funds authorized to be appropriated in this section for aircraft for the Air Force, the sum of $112,100,000 is available only for contribution by the United States as its share of the cost for fiscal year 1984 of acquisition by the North Atlantic Treaty Organization of the Airborne Warning and Control System (AWACS).

AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 104. Funds are hereby authorized to be appropriated for fiscal year 1984 for procurement by the Defense Agencies in the amount of $1,082,791,000.

AUTHORIZATION OF APPROPRIATIONS, DEFENSE PRODUCTION ACT PURCHASES

SEC. 105. Funds are hereby authorized to be appropriated for fiscal year 1984 for purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. § 2093) in the amount of $200,000,000.

CERTAIN AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 106. Effective on October 1, 1983, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100) is amended by striking out "fiscal year 1983" both places it appears and inserting in lieu thereof "fiscal year 1984".

SECURE COMMUNICATIONS EQUIPMENT AND A SPECIAL CLASSIFIED PROGRAM

SEC. 107. The Secretary of Defense is authorized to procure secure telephone communication systems, including equipment and related items, during fiscal year 1984 for the Department of Defense and other government agencies and entities to support a national program to provide secure telephone service. Of the funds authorized to be appropriated pursuant to this title, not more than $60,000,000 may be used to provide secure telephone equipment and related items to the Department of Defense and other government agencies and entities in support of such a national program. Equipment provided to government agencies and entities outside the Department of Defense under the authority of this section and such related services as may be necessary may be furnished by the Secretary of Defense with or without reimbursement. In addition, of the funds authorized to be appropriated pursuant to this Act, not more than $220,000,000 is authorized for a special classified program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1984 for the use of the Armed Forces for research, development, test, and evaluation, in amounts as follows:

For the Army, $4,793,674,000.

For the Navy (including the Marine Corps), $8,182,419,000.

For the Air Force, $13,652,273,000.

For the Defense Agencies, $2,996,900,000, of which $56,800,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1984 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

TITLE III—OPERATION AND MAINTENANCE

SEC. 301. (a) Funds are hereby authorized to be appropriated for fiscal year 1984 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

For the Army, $17,867,800,000.

For the Navy, $23,225,600,000.

For the Marine Corps, $1,575,900,000.

For the Air Force, $18,999,100,000.

For the Defense Agencies, $6,871,900,000.

For the Army Reserve, $662,800,000.

For the Naval Reserve, $693,000,000.

For the Marine Corps Reserve, $53,629,000.

For the Air Force Reserve, $815,000,000.

For the Army National Guard, $1,135,000,000.

For the Air National Guard, $1,824,700,000.

For the National Board for the Promotion of Rifle Practice, $899,000.

For Defense Claims, $222,900,000.

For the Court of Military Appeals, $3,372,000.

(b) There are authorized to be appropriated for fiscal year 1984, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a);

(2) for unbudgeted increases in fuel costs; and

(3) for increases as the result of inflation in the cost of activities authorized by subsection (a).

AUTHORIZATION OF APPROPRIATIONS FOR ASSISTANCE FOR 1984 GAMES OF THE XXIII OLYMPIAD

SEC. 302. (a) Notwithstanding any other provision of law, the Secretary of Defense is authorized—

(1) to provide logistical support and personnel services to the 1984 Games of the XXIII Olympiad;

(2) to lend and provide equipment in support of the 1984 Games of the XXIII Olympiad; and

(3) to provide such other services in support of the 1984 Games of the XXIII Olympiad as the Secretary may consider advisable.

(b) There is authorized to be appropriated to the Department of Defense for fiscal year 1984 an amount not to exceed $50,000,000 for the purpose of carrying out subsection (a). Except for funds used for pay and non-travel-related allowances for members of the Armed Forces, other than members of the Reserve components thereof called or ordered to active duty to provide support for the XXIII Olympiad, no funds may be obligated for such purpose unless specifically appropriated for such purpose. The costs for pay and non-travel-related allowances of members of the Armed Forces, other than members of the Reserve components thereof called or ordered to active duty to provide support for the XXIII Olympiad, may not be charged to appropriations made pursuant to this authorization.

TITLE IV—ACTIVE FORCES

SEC. 401. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1984, as follows:

(1) The Army, 782,600.

(2) The Navy, 572,200.

(3) The Marine Corps, 197,300.

(4) The Air Force, 612,600.

TITLE V—RESERVE FORCES

AUTHORIZATION OF AVERAGE STRENGTHS FOR SELECTED RESERVE

SEC. 501. For fiscal year 1984 the Selected Reserve of the reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 418,400.

(2) The Army Reserve, 270,700.

(3) The Naval Reserve, 112,600.

(4) The Marine Corps Reserve, 40,300.

(5) The Air National Guard of the United States, 103,400.

(6) The Air Force Reserve, 68,600.

(7) The Coast Guard Reserve, 12,000.

(b) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

AUTHORIZATION OF END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

SEC. 502. Within the average strengths prescribed in section 501, the reserve components of the Armed Forces are authorized, as of September 30, 1984, the following number of Reserves to be serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 18,630.

(2) The Army Reserve, 10,664.

(3) The Naval Reserve, 13,846.

(4) The Marine Corps Reserve, 801.

(5) The Air National Guard of the United States, 5,915.

(6) The Air Force Reserve, 517.

(b) Upon a determination by the Secretary of Defense that such action is in the national interest, the end strengths prescribed by subsection (a) may be increased by a total of not more than the number equal to 2 percent of the total end strengths prescribed.

INCREASE IN NUMBER OF CERTAIN PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS

SEC. 503. The columns under the headings "Army", and "Marine Corps" in the table in section 524(a) of title 10, United States Code, are amended to read as follows:

"Army	Marine Corps
1,577	95
793	48
291	23".

TITLE VI—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTH

SEC. 601. (a) The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1984, of 1,072,174.

(b) The strength for civilian personnel prescribed in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy, the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c)(1) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program.

(2) Personnel employed under a part-time career employment program established by section 3402 of title 5, United States Code, shall be counted as prescribed in section 3404 of that title. Personnel employed in an overseas area on a part-time basis under a nonpermanent local-hire appointment who are dependents accompanying a Federal civilian employee or a member of a uniformed service on official assignment or tour of duty shall also be counted as prescribed by section 3404 of that title.

(3) Whenever a function, power or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end-strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, the Secretary of Defense may authorize the employment of civilian personnel in excess of the number authorized by subsection (a), but such additional number may not exceed 2 percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a). The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under this subsection.

TITLE VII—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 701. (a) For fiscal year 1984, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 71,817.

(2) The Navy, 66,911.

(3) The Marine Corps, 21,105.

(4) The Air Force, 49,007.

(5) The Army National Guard of the United States, 21,105.

(6) The Army Reserve, 12,724.

(7) The Naval Reserve, 2,886.

(8) The Marine Corps Reserve, 3,223.

(9) The Air National Guard of the United States, 2,845.

(10) The Air Force Reserve, 1,705.

(b) The average military student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1984 shall be adjusted consistent with the manpower strengths authorized in titles IV, V, and VI of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

TITLE VIII—GENERAL PROVISIONS

REPEAL OF PROHIBITION AGAINST CONSOLIDATING FUNCTIONS OF THE MILITARY TRANSPORTATION COMMANDS

SEC. 801. Section 1110 of the Department of Defense Authorization Act, 1983, (Public Law 97-252; 96 Stat. 747), is repealed.

AUTHORIZATION TO PROVIDE RECIPROCAL COMMUNICATIONS SUPPORT OR RELATED SUPPLIES AND SERVICES

SEC. 802. (a) Chapter 147 of title 10, United States Code, is amended by inserting after section 2482, the following new section:

"§ 2483. Reciprocal communications support or related supplies and services

"The Secretary of Defense may, subject to the concurrence of the Secretary of State, enter into agreements with the Government of any friendly foreign country or international organization under which the United States agrees to provide communications support or related supplies and services to such country or international organization in return for the reciprocal provision of an equivalent value of communications support or related supplies and services by such country or international organization.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2482 the following new item:

"2483. Reciprocal communications support and related supplies and services.".

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., February 28, 1983.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT. There is forwarded herewith legislation, "To authorize appropriations for fiscal year 1984 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, and for other purposes."

In accordance with the Congressional Budget Act of 1974, we are also submitting herewith, as separate legislation, a similar request for authorization of appropriations for fiscal year 1985.

These proposals are part of the Department of Defense legislative program for the 98th Congress and the Office of Management and Budget advises that enactment of these proposals would be in accord with the program of the President.

Title I provides procurement authorization for the military departments and the Defense Agencies and for the United States share of the cost of the acquisition of the Airborne Early Warning and Control System by the North Atlantic Treaty Organization in amounts equal to the budget authority included in the President's budget for fiscal year 1984. It contains a provision that extends for fiscal year 1984 the authority to waive certain costs and to assume certain liability in connection with the NATO AWACS program. It also contains a provision authorizing the Department to provide secure voice communications systems and related items throughout the Government on either a reimbursable or non-reimbursable basis and authorizes the appropriation of funds for a special classified program.

Title II provides for the authorization of each of the research, development, test, and evaluation appropriations for the military departments and the Defense Agencies in amounts equal to the budget authority included in the President's budget for fiscal year 1984. The authorization contains a provision that authorizes the appropriation of funds that are necessary to cover increased pay costs and other employee benefits to preclude the necessity of submitting a request for a supplemental authorization for such non-discretionary personnel costs.

Title III provides for authorization of the operation and maintenance appropriations of the military departments and the Defense Agencies in amounts equal to the budget authority included in the President's budget for fiscal year 1984. The authorization contains a provision that authorizes the appropriation of funds that are necessary to cover increased pay costs, unbudgeted increases in fuel costs, and inflation in the cost of activities covered by title III. Title III also contains a provision that authorizes the Department of Defense to provide support to the 1984 Games of the XXIII Olympiad to be held in Los Angeles.

Title IV prescribes the end strengths for active duty personnel in each component of the armed forces as required by section 138(c)(1) of title 10, United States Code, in the numbers provided for by the budget authority and appropriations requested for these components for fiscal year 1984.

Title V provides for average strengths of the Selected Reserve of each reserve component of the armed forces as required by section 138(b) of title 10, United States Code, in the numbers provided for by the budget authority and appropriations requested for the Department of Defense in the President's budget for fiscal year 1984. Title V also prescribes the end strengths for reserve component members on full-time active duty for the purpose of administering the reserve forces and provides for an increase in the number of certain commissioned officers who may be serving on active duty in support of the reserve components.

Title VI provides for civilian personnel end strengths for each component of the Department of Defense as required by section 138(c)(2) of title 10, United States Code, in the numbers provided for by the budget authority in appropriations requested for the Department of Defense in the President's budget for fiscal year 1984.

Title VII provides for the average military training student loans as required by section 138(d)(1) of title 10, United States Code, in the numbers provided for this purpose in the President's budget for fiscal year 1984.

Title VIII consists of two general provisions. Section 801 repeals section 1110 of the Department of Defense Authorization Act, 1983, which prohibits the consolidation of the military transportation commands. Section 802 amends title 10, United States Code, by adding a new section, 2483, which authorizes the Department to furnish reciprocal communications support or related supplies and services.

Sincerely,

WILLIAM H. TAFT IV.

By Mr. SASSER (for himself, Mr. TSONGAS, Mr. PRYOR, Mr. RIEGLE, Mr. RANDOLPH, Mr. FORD, and Mr. BAUCUS):

S. 676. A bill to provide for capital assistance to State and local governments; to the Committee on Finance.

CAPITAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

● Mr. SASSER. Mr. President, I am today introducing the Capital Assistance Revenue Sharing Act of 1983. I am introducing this legislation with the cosponsorship of my distinguished colleagues, Senator TSONGAS, Senator PRYOR, Senator RIEGLE, Senator RANDOLPH, Senator FORD, and Senator BAUCUS.

The purpose of this legislation is as clear as the needs it addresses: Federal funding for virtually immediate, back-to-work public works projects of State and local governments and the establishment of an ongoing program in which the Federal Government entitles State and local governments to assistance for their capital improvement needs by using the framework for assistance outlined in the general revenue-sharing program.

The bill would provide $3 billion annually for State and local governments. One-third of the funds would go to State governments and the remaining two-thirds to local governments. An additional half-billion dollars would be set aside to meet project requests for smaller communities that would not be eligible for funds under the regular formulae for distribution.

S. 676 also spells out just what the funds could be used for—roads, bridges, sewerage facilities, fire safety facilities, law enforcement facilities, and other essential public works activities.

While the bill has a projected life of 2 years, it is my hope that the success of this concept will make it a regular feature of Federal budgetary policy.

There are more than enough reasons to justify the establishment of this form of revenue sharing. Let me focus on what I believe are the four major arguments in its behalf.

First, it would create jobs more quickly than any other public works-jobs program under consideration. The capital budgets of State and local governments have declined dramatically in recent years, and in many cases the types of projects deferred are projects in which planning has been completed, designs approved; and bid specifications drawn. Once the Capital Assistance Revenue Sharing Act is approved and signed into law, funds would start flowing almost immediately, while State and local governments let bids and awarded contracts, and jobs could be created within 90 days in some cases. Every other public works-jobs program involves a much longer lead-time.

There is no accurate way to estimate the number of jobs which this legislation would create, but the impact of its immediacy will augment whatever number of jobs S. 676 would create.

Second, there is an urgent need for a permanent program of capital improvement assistance because of the condition of our Nation's basic infrastructure.

Our highways, public buildings, bridges, and waterworks are crumbling and tumbling and leaking at such rates as to demand definition as a national disaster.

Mayors, town council members, State legislators, county commissioners, and Governors have alluded to this impending disaster time and time again before the Governmental Affairs Subcommittee on Intergovernmental Relations during the past 6

years I have served on that panel as we strove to assay the fiscal needs and wants of State and local governments.

The hard numbers which define the actual infrastructure needs are so huge that they defy comprehension. For instance, in a recent report, the Associated General Contractors of America estimated public construction needs in the United States at $909.9 billion. This estimate can be put in some perspective when you consider that the $909.9 billion exceeds the amount—roughly $891 billion—it took to run the entire U.S. Government from its inception in 1789 under George Washington through the first fiscal year of the Government under President Dwight Eisenhower.

Several months ago, a national newsmagazine had a feature article on U.S. infrastructure needs, headlining the cost at $2.5 trillion.

These estimates, as well as others highlighted in different reports on our infrastructure needs, have certainly helped to focus attention on a critical problem that has been largely overlooked during the past decade. As with all problems which confront our society, this one did not go away simply because most of us chose to overlook it.

Now, of course, the problen is basking in attention. Both the administration and the Congress have focused on it through different legislative initiatives. Much of the impetus behind this activity stems from the appalling level of unemployment in our country and the realization that the construction and rehabilitation of public facilities means jobs.

We need to be concerned about jobs, of course, but we must look farther down the road, having learned a lesson from the past. Infrastructure needs will never cease, no matter what the rate of unemployment is. Streets, sewers, water treatment and pollution control facilities, mass transit, airports, and public buildings will always need replacement, repair, or rehabilitation.

If ever there was a proper time to set in place a program of Federal aid targeted to infrastructure needs, it is now. Now, when there is high recognition of both the need for, and the potential benefits of infrastructure improvements.

Third, there comes the question: Why use the relative simplicity of the revenue-sharing model as the framework for program of capital improvement assistance, which implies complexity?

The answer is that general revenue sharing works, and it works well. In fact, no program of Federal aid works so well. Less than 1 percent of the total cost of the program goes for administration and overhead—I might add, parenthetically, that if the same were true of all Federal programs, we might not have such a ballooning Federal budget deficit.

Created with broad, bipartisan backing in 1972, the program has been especially helpful to the Nation's local governments. Many local governments can count general revenue sharing as the only program under which they receive any Federal grant assistance.

I have no doubt that both the Senate and the House will give their overwhelming approval to the extension of general revenue sharing when the program comes up for reauthorization in the 98th Congress.

If there has been a problem with general revenue sharing, it is that economic conditions in our Nation have not allowed it to work as well as it could have worked.

When it was launched, the widespread hope and assumption among those who supported general revenue sharing was that it would be an ample and additional source of Federal funding to help meet some of the fiscal needs of State and local governments. The first general revenue sharing law stipulated that the funds be used for the "priority expenditures" of State and local governments, that is, for "ordinary and necessary maintenance and operating expenses for public safety, environmental protection, public transportation, health, recreation, libraries, social services for the poor or aged, and financial administration."

Clearly, it was the intention of the framers of this program that the funds be targeted primarily for the infrastructure needs of State and local governments.

Yet, a recession in 1973 and 1974 drained the revenues of State and local governments, causing them to postpone "priority expenditures" in capital improvements. Every government activity became, in effect, a "priority activity" and when the program was reauthorized in 1976 it became more like the virtual "no strings attached" program we have today.

The Capital Assistance Revenue Sharing Act would reimplement the text and spirit of the original general revenue sharing law, targeting the use of these funds to needed capital improvements. Not only would local governments receive general revenue sharing funds through the extension of the current GRS Act, they would also have capital assistance funds under a CARS Act—funds that would help to chip away at the enormous, nationwide infrastructure needs of our cities and counties and towns.

Then, in the future, even in the worst case economic conditions, infrastructure improvements and rehabilitation would be guaranteed. By guaranteeing such activity, the Federal Government will allow local governments the flexibility to target true priority expenditures in capital improvements, to focus when necessary on the more labor-intensive projects. In this way, we will have a built-in jobs-creation program "on the shelf" at all times. There would be no lag time in implementing an emergency public works-jobs program as there is now and as there will be with all of the legislative initiatives before us now. The funds will be there because of the Capital Assistance Revenue Sharing Act.

Fourth, we have to move in the direction of such a program because the fiscal condition of our fragile intergovernmental network of Federal, State and local activities demands it.

When general revenue sharing was established as a Federal program, it was done so at a time and in an environment that generated optimism about fiscal conditions. The Federal Government, with its broad-based tax system, would only see its revenues grow and grow as the Nation prospered. State governments and local governments had narrower, more restrictive tax bases, so the redistribution of ample Federal revenues—in addition to existing Federal programs—would help to redress the balance. Or so the argument went.

What happened was that the Federal Government initiated billions of dollars' worth of tax cuts; prices for basic energy supplies increased exponentially, skewering all economic projections; and State and local governments, reeling from a recession, were hit with a wave of taxpayer resentment.

By the beginning of the 1980's, nearly every State in the Union had in place a constitutional tax limitation or spending limitation measure. In those States in which the State retains legislative options regarding local tax powers, local governments have suffered severely.

Federal aid to State and local governments, which expanded with certainty every year for a quarter of a century, leveled out in fiscal year 1980 and declined in the subsequent 3 fiscal years.

As a consequence of all of these developments, the Council of State Governments reported in September 1982 that:

> After a financially turbulent year that saw almost half the states raise broad-based taxes, many states are still financially unstable. The persistent recession, federal program changes and budget cuts, along with self-imposed tax and spending limitations continue to threaten many states' financial security.

Seven States ended their 1982 fiscal year with deficits, and according to a recent survey by the National Governors Association, 9 out of 41 States responding said they expected budget deficits at the conclusion of the current fiscal year for States on June 30.

And only 5 weeks ago, the American Federation of State, County and Municipal Employees released a lengthy

study which cataloged current reductions in Federal aid targeted for infrastructure improvement and physical capital investment; the report put the total loss for a 3-year period in Tennessee along at $1.148 billion.

Insofar as capital spending is concerned, what the States face is a fiscal catch-22, described by the Council of State Governments as a situation in which the credit ratings of State and local governments are falling because of poor fiscal conditions, at the very same time these fiscal conditions force State and local governments to borrow additional funds for capital improvements because these same poor fiscal conditions are straining their customary sources of revenue.

The administration reponse has been to increase the use of block grants to States in order to provide the States with greater flexibility in meeting program needs. While a help in some activities, the block grant approach overlooks the broad infrastructure needs of local governments.

The Capital Assistance Revenue Sharing Act would allow State and local governments which know and understand their own capital needs better than any Federal agency, the range and flexibility to address their own capital priorities.

In sum, I urge prompt and positive consideration of S. 676, for it addresses clearly and directly the immediate need for jobs; it focuses on both the short-term and long-range infrastructure needs in our country; it reinvigorates the spirit of the most successful Federal aid program ever developed, general revenue sharing, and it helps local governments and State governments shore up their fiscal footing in our Nation's intergovernmental fiscal network.

Mr. President, I ask that the text of S. 676 be included in the RECORD at this point along with a factsheet detailing the provisions of the Capital Assistance Revenue Sharing Act.

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

S. 676

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subtitle V of title 31, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 74—CAPITAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

"Sec. 7401. Congressional findings and declarations.
"Sec. 7402. Definitions.
"Sec. 7403. Payments out of the Trust Fund.
"Sec. 7404. Creation of Trust Fund; appropriations.
"Sec. 7405. Allocation among States.
"Sec. 7406. Entitlements of State governments.
"Sec. 7407. Entitlements of local governments.
"Sec. 7408. Discretionary Capital Assistance Trust Funds.
"Sec. 7409. Reports on use of funds; publication.
"Sec. 7410. Nondiscrimination provision.
"Sec. 7411. Miscellaneous provisions.
"Sec. 7412. Regulations.
"Sec. 7413. Termination.

"§ 7401. Congressional findings and declarations

"The Congress declares it is essential—

"(1) to provide unconditional capital fiscal assistance to State and local governments to assist them in meeting critical capital projects;

"(2) to undertake a national program of capital fiscal assistance that will help reduce unemployment and will help in the rebuilding of our Nation's infrastructure; and

"(3) to continue with the tradition of providing unconditional fiscal assistance to State and local governments that permits flexible local decisionmaking among our local governments about priority public service needs.

"§ 7402. Definitions

"In this chapter—

"(1) 'Secretary' means the Secretary of the Treasury.

"(2) 'Comptroller General' means the Comptroller General of the United States.

"(3) 'Trust Fund' means the State and Local Capital Assistance Trust Fund.

"(4) 'unit of local government' means—

"(A) the government of a county, municipality, township, or other unit of government below the State which is a unit of general government (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes), and

"(B) the recognized governing body of an Indian tribe or Alaskan Native Village which performs substantial governmental functions.

"(5) 'population' means resident population as determined by the Bureau of the Census for general statistical purposes.

"(6) 'personal income' means the income of individuals, as determined by the Department of Commerce for national income purposes.

"(7) 'township' includes equivalent subdivisions of government having different designations (such as 'towns'), and shall be determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes.

"(8) 'construction' means the erection of new structures and the acquisition and installation of initial equipment for such structure.

"(9) 'rehabilitation' means the alteration or modernization of an existing structure.

"(10) 'relative income factor' is an amount determined with respect to a State by dividing—

"(A) the per capita income of the United States, by

"(B) the per capita income of such State.

"(11) 'income' means the total money income received from all sources, as determined by the Bureau of the Census for general statistical purposes.

"(12) 'entitlement period' means—

"(A) the period beginning on January 1, 1983, and ending on September 30, 1983, and

"(B) each of the 1-year periods beginning on October 1 of 1983, 1984, and 1985.

"§ 7403. Payments out of the Trust Fund

"(a)(1) Except as otherwise provided in this chapter, the Secretary shall, for each entitlement period, pay out of the Trust Fund—

"(A) to each State government a total amount equal to the entitlement of such State government determined under section 7406 for such period, and

"(B) to each unit of local government, a total amount equal to the entitlement of such unit of government determined under section 7407.

"(2)(A) Payments made under paragraph (1) shall be made in quarterly installments and shall be paid no later than 5 days after the close of the quarter.

"(B) Payments made under paragraph (1) may be initially made on the basis of estimates.

"(C) Proper adjustment shall be made in the amount of any payment to a State government or a unit of local government to the extent that the payments previously made to such government under this chapter were in excess of, or less than, the amounts required to be paid.

"(D) The Secretary may reserve such percentage (not exceeding 0.5 percent) of the total entitlement payment for any entitlement period with respect to any State government and all units of local government within such State as he deems necessary to insure that there will be sufficient funds available to pay adjustments due after the final allocation of funds among such governments.

"(b)(1) Any funds paid to a State or to any unit of local government under this chapter may only be used for capital expenditures.

"(2) In this chapter, 'capital expenditure' means any expense incurred in the construction or rehabilitation of any public facility, including (but not limited to) any—

"(A) education facility;

"(B) energy facility;

"(C) fire safety facility;

"(D) health clinic or hospital;

"(E) law enforcement facility, jail, or prison;

"(F) recreation facility;

"(G) solid waste facility;

"(H) telecommunications facility;

"(I) highway, road, bridge, railroad, port, river, inland water, airport, pipeline, or mass transit facility;

"(J) facility for the storage, transportation, treatment, or distribution of water; or

"(K) waste water disposal facility.

"§ 7404. Creation of Trust Fund; appropriations

"(a)(1) There is hereby established within the Treasury of the United States a trust fund to be known as the 'State and Local Government Capital Fiscal Assistance Trust Fund'. The Trust Fund shall consist of such amounts as may be appropriated to it and deposited in it as provided in subsection (b) of this section. Except as provided in this chapter, amounts in the Trust Fund may be used only for the payments to State and local governments provided by this chapter.

"(2) The Secretary of the Treasury shall be the trustee of the Trust Fund and shall report to the Congress not later than March 1 of each year on the operation and status of the Trust Fund during the preceding fiscal year.

"(b) There is appropriated to the Trust Fund, out of amounts in the general fund of the Treasury attributable to the collections of the Federal individual income taxes not otherwise appropriated $3,000,000,000 for each entitlement period.

"(c) The Secretary shall from time to time transfer from the Trust Fund to the general fund of the Treasury any moneys in the Trust Fund which he determines will not be needed to make payments to State govern-

ments and units of local government under this chapter.

"§ 7405. Allocation among States

"(a) There shall be allocated to each State for each entitlement period, out of amounts appropriated under section 7404(b) of this title for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) of this section bears to the sum of the amounts allocable to all States under subsection (b) of this section.

"(b)(1) For purposes of subsection (a) of this section, the amount allocable to a State under this subsection for any entitlement period is the amount which bears the same ratio to the amount appropriated under section 7404(b) for such period as—

"(A) the population of that State, multiplied by the relative income factor of that State, bears to

"(B) the sum of the products determined under subparagraph (A) for all States.

"§ 7406. Entitlements of State governments

"(A) The State government shall be entitled to receive 33⅓ percent of the amount allocated to that State for each entitlement period. The remaining portion of each State's allocation shall be allocated among the units of local government of that State as provided in section 7407.

"(b)(1) The entitlement of any State government for any entitlement period shall be reduced by the amount (if any) by which—

"(A) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local government in such State, is less than,

"(B) the similar aggregate amount for the one-year period beginning July 1, 1981.

For purposes of subparagraph (A), the amount of any reduction in the entitlement of a State government under this subsection, for subsequent years, be treated as an amount transferred by the State government (out of its own sources) during such period to units of local government in such States.

"(2) If the State government establishes to the satisfaction of the Secretary that since June 30, 1982, it has assumed responsibility for a category of expenditures which (before July 1, 1982) was the responsibility of local governments located in such State, then, under regulations prescribed by the Secretary, the aggregate amount taken into account under paragraph (1)(B) shall be reduced to the extent that increased State government spending (out of its own sources) for such category has replaced corresponding amounts which for the 1-year period beginning July 1, 1981, it transferred to units of local government.

"(3) If the Secretary has reason to believe that paragraph (1) requires a reduction in the entitlement of any State government for any entitlement period, he shall give reasonable notice and opportunity for hearing to the State. If, thereafter, he determines that paragraph (1) requires the reduction of such entitlement, he shall also determine the amount of such reduction and shall notify the Governor of such State of such determinations and shall withhold from subsequent payments to such State government under this subchapter an amount equal to such reduction.

"(4) An amount equal to the reduction in the entitlement of any State government which results from the application of this subsection shall be transferred from the Trust Fund to the general fund of the Treasury on the day on which such reduction becomes final.

"§ 7407. Entitlements of local governments

"(a) At least 66⅔ percent of the amount allocated to any State under section 7405 for any entitlement period shall be available for payments to units of local government of such State for such period.

"(b) Each unit of local government which is eligible to receive payments under this section for any entitlement period shall be entitled to receive the amount allocated to such unit of government for such period under subsection (c).

"(c)(1) Each unit of local government of a State shall be allocated that portion of the amount available for all units of local government of such State described in subsection (a) which bears the same relationship to the total of such available amount as the population of such unit of local government bears to the total population of such State.

"(2) For purposes of paragraph (1), the population of any county government shall be reduced by the population of any other unit of local government which is eligible to receive payments under this section for the entitlement period to the extent that the population of such other unit is included in the population of such county government.

"(d)(1) No unit of local government of any State shall receive—

"(A) more than 20 percent of the amount available for all units of local governments of such State described in subsection (a) for the entitlement period, or

"(B) less than 0.5 percent of such available amount.

"(2) The Secretary shall adjust the allocations made under subsection (c) in order to bring those allocations into compliance with the provisions of paragraph (1).

"(e) All units of local government shall be eligible to receive payments under this section for any entitlement period other than—

"(1) any municipality, township, Indian tribe, or Alaskan Native Village which has a population of less than 35,000.

"(2) any county government with a population of less than 10,000, and

"(3) any unit of local government which is allocated less than $10,000 under subsection (c) for such period.

"(f) If any county government is ineligible to receive payments under this section for the entitlement period, the amount allocated to such county government under subsection (c) for such period shall be added to the entitlement under section 7406 for such period for the State in which such county is located.

"(g) For purposes of this section, in any State in which any unit of local government (other than a county government) constitutes the next level of government below the State government level, such unit of government shall be treated as a county government with respect to that portion of the State's geographic area.

"§ 7408. Creation of Discretionary Capital Assistance Trust Fund; appropriations

"(a)(1) There is hereby established within the Treasury of the United States a trust fund to be known as the Discretionary Capital Assistance Trust Fund. This Trust Fund shall remain available without fiscal year limitation and shall consist of such amounts as may be appropriated to it and deposited in it as provided in subsection (b). The amounts in the Trust Fund may only be used for the payments to local governments provided by this section.

"(2) The Secretary of the Treasury shall be the trustee of the Discretionary Capital Assistance Trust Fund and shall report to the Congress not later than September 30 of each year on the operation of such Trust Fund during the preceding fiscal year.

"(b) There is appropriated to the Discretionary Capital Assistance Trust Fund, out of amounts in the general fund of the Treasury attributable to the collections of the Federal individual income taxes not otherwise appropriated—

"(1) for the period beginning January 1, 1983, and ending September 30, 1983, $500,000,000;

"(2) for the fiscal year beginning October 1, 1983, $500,000,000; and

"(3) for the fiscal year beginning October 1, 1984, $500,000,000.

"(c) The Secretary may pay out of the Discretionary Capital Assistance Trust Fund to any unit of local government eligible to receive payments under this section for the entitlement period any amount determined in accordance with regulations prescribed by the Secretary.

"(d) Any unit of local government which is not eligible to receive a payment under section 7407 for the entitlement period shall be eligible to receive a payment under this section for such entitlement period.

"§ 7409. Reports on use of funds; publication

"(a) Each State government and unit of local government which receives funds under this chapter shall, after the close of each entitlement period, submit a report to the Secretary setting forth the amounts and purposes for which funds received during such period have been spent or obligated. Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(b) Each State government and unit of local government which expects to receive funds under this chapter for any entitlement period shall submit a report to the Secretary setting forth the amounts and purposes for which it plans to spend or obligate the funds which it expects to receive during such period. Such reports shall be in such form and detail as the Secretary may prescribe and shall be submitted at such time before the beginning of the entitlement period as the Secretary may prescribe.

"(c) Each State government and unit of local government shall have a copy of each report submitted by it under subsection (a) or (b) of this section published in a newspaper which is published within the State and has general circulation within the geographic area of that government. Each State government and unit of local government shall advise the news media of the publication of its reports pursuant to this subsection.

"§ 7410. Nondiscrimination provision

"(a) No person in the United States shall 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 any program or activity funded in whole or in part with funds made available under this chapter.

"(b) Whenever the Secretary determines that a State government or unit of local government has failed to comply with subsection (a) of this section or an applicable regulation, he shall notify the Governor of the State (or, in the case of a unit of local government, the Governor of the State in which such unit is located) of the noncompliance and shall request the Governor to secure compliance. If within a reasonable period of time the Governor fails or refuses

to secure compliance, the Secretary is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964; or (3) to take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that a State government or unit of local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"§ 7411. Miscellaneous provisions

"(a) In order to qualify for any payment under this chapter for any entitlement period, a State government or unit of local government must establish (in accordance with regulations prescribed by the Secretary, and, with respect to a unit of local government, after an opportunity for review and comment by the Governor of the State in which such unit is located) to the satisfaction of the Secretary that—

"(1) it will establish a trust fund in which it will deposit all payments it receives under this chapter;

"(2) it will use amounts in such trust fund (including any interest earned thereon while in such trust fund) during such reasonable period or periods as may be provided in such regulations;

"(3) it will—

"(A) use fiscal, accounting, and audit procedures which conform to guidelines established therefor by the Secretary (after consultation with the Comptroller General),

"(B) provide to the Secretary (and to the Comptroller General), on reasonable notice, access to, and the right to examine, such books, documents, papers, or records as the Secretary may reasonably require for purposes of reviewing compliance with this chapter (or, in the case of the Comptroller General, as the Comptroller General may reasonably require for purposes of reviewing compliance and operations under subsection (c)(2)), and

"(C) make such annual and interim reports to the Secretary as he may reasonably require;

"(4) all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project, will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, and that with respect to the labor standards specified in this paragraph the Secretary of Labor shall act in accordance with Reorganization Plan Numbered 14 of 1950 and section 2 of the Act of June 13, 1943 (48 Stat. 948, chapter 482; 40 U.S.C. 276c); and

"(5) individuals employed by it whose wages are paid in whole or in part out of its trust fund established under paragraph (1) will be paid wages which are not lower than the prevailing rates of pay for persons employed in similar public occupations by the same employer.

"(b) If the Secretary determines that a State government or unit of local government has failed to comply substantially with any provision of subsection (a) of this section or any regulations prescribed thereunder, after giving reasonable notice and opportunity for a hearing to the Governor of the State or the chief executive officer of the unit of local government, he shall notify the State government or unit of local government that if it fails to take corrective action within 60 days from the date of receipt of such notification further payments to it will be withheld for the remainder of the entitlement period and for any subsequent entitlement period until such time as the Secretary is satisfied that appropriate corrective action has been taken and that there will no longer be any failure to comply. Until he is satisfied, the Secretary shall make no further payments of such amounts.

"(c) (1) The Secretary shall provide for such accounting and auditing procedures, evaluations, and reviews as may be necessary to insure that the expenditures of funds received under this chapter by State governments and units of local government comply fully with the requirements of this chapter. The Secretary is authorized to accept an audit by a State of such expenditures of a State government or unit of local government if he determines that such audit and the audit procedures of the State are sufficiently reliable to enable him to carry out his duties under this chapter.

"(2) The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this chapter.

"(d)(1) Except as provided in regulations, the determination of allocations and entitlements for any entitlement period shall be made as of the first day of the third month immediately preceding the beginning of such period.

"(2)(A) Except as provided in subparagraph (B), the data used in making any determination under this chapter shall be the most recently available data provided by the Bureau of the Census or the Department of Commerce, as the case may be.

"(B) Where the Secretary determines that the data referred to in subparagraph (A) are not current enough or are not comprehensive enough to provide for equitable allocations, he may use such additional data (including data based on estimates) as the Secretary may prescribe under regulations.

"(e) For purposes of this chapter, the District of Columbia shall be treated both—

"(1) as a State (and any reference to the Governor of a State shall, in the case of the District of Columbia, be treated as a reference to the Mayor of the District of Columbia), and

"(2) as a county area which has no units of local government (other than itself) within the geographic area.

"§ 7412. Regulations

"(a) The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this chapter.

"(b) The rulemaking provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any regulations prescribed under this chapter.

"§ 7413. Termination

All authorities under this chapter shall expire on September 30, 1985.".

(b) The table of chapters for subtitle V of such title is amended by adding at the end thereof the following new item:

"74. Capital Assistance to State and Local Governments ..... 7401".

(c) The Secretary of the Treasury shall prescribe the regulations required under section 7408(c) of such title within 90 days after the date of enactment of this Act.

THE CAPITAL ASSISTANCE REVENUE SHARING ACT OF 1983—FACTSHEET

The Capital Assistance Revenue Sharing (CARS) Act of 1983 is designed to establish an ongoing federal program of financial assistance to state and local governments for the purpose of helping state and local governments to meet the demand for new capital construction as well as infrastructure repair and rehabilitation.

In order to allow state and local governments maximum flexibility in making their own determinations as to what capital improvement projects to undertake, the Act reaches back to, and complements the 1972 general revenue sharing law and employs the GRS formulae for distribution of funds. State and local governments will, in effect, be given virtually "no-strings-attached" federal funds for capital improvements.

Specifically, the CARS Act will do the following:

Authorize, through entitlement, capital improvements assistance at a level of $3 billion annually, with states receiving one-third of the funds and local governments receiving two-thirds of the funds;

Distribute the funds primarily on the bases of formulae using population and income;

Set base and ceiling levels for funds that any one unit of local government could receive (no more than 20% and no less than 0.5% for any one unit of government from the total share for local governments within a state);

Define the types of capital improvements permitted with the use of the funds;

Set a cutoff population base in order to determine eligibility for funds (municipalities with a population of less than 35,000 and counties with a population of less than 10,000 will not be eligible);

Create a separate trust fund, authorized at $500 million annually and administered by the Department of Treasury, to fund needed capital improvement projects in local governments not eligible for other CARS funds because of population;

Respect certain, standard cross-cutting requirements with regard to auditing, civil rights, Davis-Bacon and other provisions; and

Contain a sunset provision terminating the Act at the end of Fiscal Year 1985.●

By Mr. HEFLIN:

S. 677. A bill to amend the Federal Rules of Civil Procedure with respect to the examination of prospective jurors; to the Committee on the Judiciary.

VOIR DIRE PROCEDURE

Mr. HEFLIN. Mr. President, I rise today to introduce a bill to amend the Federal Rules of Civil Procedure so to require the court to permit counsel to participate directly in the examination of prospective jurors in a civil case. This bill is similar to Senate bill 386, introduced by me earlier this session, which makes these changes in the Federal Rules of Criminal Procedure.

The reasons for these proposed changes are outlined in the statement I made on the introduction of Senate

bill 386, to which I would refer my colleagues.

Mr. President, I ask that the text of this bill be printed in the RECORD after my remarks.

Thank you, Mr. President.

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

S. 677

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Rule 47 (a) of the Federal Rules of Civil Procedure is amended to read as follows:

"(a) EXAMINATION OF JURORS.—The court shall permit the parties or their attorneys to conduct the oral examination of prospective jurors, and may, in addition to such examination, conduct its own examination. The court may impose such reasonable limitations as it deems proper with respect to the examination of prospective jurors by the parties or their attorneys, except that the defendant or his attorney and the attorney for the government may each request, and shall be granted not less than thirty minutes for such examination. In cases where there is more than one defendant, the court shall allow the attorneys for such defendants an additional ten minutes for each additional defendant.".

By Mr. QUAYLE (for himself and Mr. LEVIN):

S. 678. A bill making emergency supplemental appropriations for the fiscal year 1983; to the Committee on Appropriations.

JOBS BILL SHOULD PROVIDE JOBS

● Mr. QUAYLE. Mr. President, the emergency supplemental appropriations bill is being described as an anti-recession jobs bill by some—but I have grave doubts as to how many items in that bill deserve that label. I have expressed my concerns in a memorandum to Senator HATFIELD, chairman of the Appropriations Committee, and have suggested to him various steps that could be taken to insure that the bill really becomes what it has been labeled. A copy of that memorandum is attached to my statement.

The Appropriations Committee will mark up the bill on Monday, March 7 and it will therefore not be ready for Senate action until well into next week. I believe that the issues raised by this bill are of major importance and deserve reasoned consideration. That will not be possible, however, unless we deal with the immediate emergency that is facing us—the fact that the States will soon run out of money to pay unemployment compensation claims. Additional money must be made available by next Friday, March 11. I am therefore introducing with Senator CARL LEVIN an emergency supplemental appropriation bill that will only be sufficient to meet all the States' needs for unemployment compensation until the Easter recess. By enacting that bill immediately, we can both deal with the unemployment compensation crisis and give fair consideration to the complex issues involved in the jobs supplemental.

I ask unanimous consent that the text of my memorandum to Senator HATFIELD and the text of the bill be printed in the RECORD at this point.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

To: Senator MARK HATFIELD. Chairman, Senate Appropriations Committee.
From: DAN QUAYLE.
Date: March 2, 1983.

As you know, I am concerned that the Emergency Supplemental Appropriation Act actually be a constructive response to current high unemployment rates. It seems to me that any measure which promises to provide jobs as a countercyclical tool must be based on four principles:

First, it must provide a reasonable number of jobs in relationship to the proposed expenditure;

Second, it must provide those jobs during the current high unemployment period;

Third, it must concentrate jobs areas of high unemployment; and

Fourth, it must target those jobs on those hardest hit by unemployment.

It is, of course, difficult to assure compliance with these principles in the context of an appropriations bill. However, I believe that the very same conditions which justify an emergency bill require a non-traditional approach to that bill.

I therefore recommend that with respect to any appropriations account that is included in the emergency bill *because it is designed as a jobs response to the current recession,* the following provisos be added to the appropriations language:

1. No grant shall be made under the program unless the grantee certifies that funds will be used so that there will be at least one person year of direct employment for every $20,000 of funds received.

2. Funds shall be available for obligation until September 30, 1983 and for expenditure for no more than 18 months after date of obligation.

3. Funds shall be distributed so that at least 75% of the funds are distributed to States (in the case of State grant programs) or areas (in the case of direct grants to substate areas) in which the rate of unemployment for the last three months of 1982 was higher than the national average rate of unemployment.

4. No grant shall be made under the program unless 75% of the persons hired pursuant to the grant shall be certified by the local agency of the USES as unemployed and as having been unemployed for at least 15 weeks in the preceding six months.

The inclusion of such language would provide statutory safeguards that the maximum number of jobs be created, that they be created during the period when unemployment is projected to remain in the 10% range and that the jobs be targeted both to high unemployment areas and to those hardest hit by unemployment.

I believe it is important that these provisions be incorporated into the House passed bill either in the Appropriations Committee or on the floor. We are promising the American people a jobs bill and I fear that without such provisions the bill would fall short of the promises.

S. 678

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year 1983;

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For an additional amount for "Advances to the Unemployment Trust Fund and Other Funds", $600,000,000 to remain available until September 30, 1984.●

By Mr. PERCY:

S. 679. A bill to establish a program to provide funds to States for the purpose of job opportunities and business stimulation, and for other purposes; to the Committee on Governmental Affairs.

JOB OPPORTUNITY AND BUSINESS STIMULATION

Mr. PERCY. Mr. President, it is my privilege to introduce today in the Senate a creative and sound approach to this Nation's unemployment problem, one which was developed and introduced in the House of Representatives by my distinguished Illinois colleague, Congresswoman LYNN MARTIN.

This legislation—H.R. 116 in the House—authorizes a new type of revenue-sharing program to be used by the States, with Governors as the key leaders in developing employment programs for the unemployed.

Our legislation provides for a 2-year program of grants to the States, with a yearly authorization of $3 billion. The funds would be allocated among the States according to a formula based one-third on population and two-thirds on wage and salary growth compared to the national average. All of the money will be under the jurisdiction of the Governor of each State. He or she will be directed to spend 50 percent of the money on qualifying employment projects in those counties of the State which have above average unemployment and below average per capita income, according to a formula spelled out in the bill. The other 50 percent can be spent in the rest of the State.

In all cases of funding, it is the Governor who determines what jobs programs will be undertaken. He must consult with the State job training coordinating council as established last year by the Job Training Partnership Act. The council is composed of business and labor representatives and of State and local officials. He must determine that the projects funded will contribute most to the creation of jobs for the unemployed in the State and, further, he is required to present an explanation of how these expenditures can be expected to increase jobs and why one particular use of funds to create jobs was chosen over another.

The funds may be used within the State for any program, project, or activity, the principal purpose of which is to increase the number of jobs available within a State or eligible county area. Some good examples of eligible activities are: Retraining dislocated workers; buying down mortgages; building industrial parks; loans or grants to businesses for equipment and modernization, et cetera. In effect, the money can be used for a host of job-creating activities similar to those funded through the UDAG, community development block grant, and EDA programs. The major difference, however, is that for the first time, all of these job stimulus activities can be considered as part of a statewide comprehensive strategy to increase employment. The other major benefit, as I see it, is that there is no limit to the creativity and initiative of the individual States in gearing job creation programs to their own unique needs.

Mr. President, I have been a supporter of general revenue sharing since I first cosponsored the first legislation for this purpose with HOWARD BAKER in 1967. Few Government programs, in my judgment, have worked as well. Within certain limits, also contained in my bill, the States are free to develop individualized responses to their own problems, unhampered by stringent categorical or formula requirements enacted by Congress to muster the necessary political support for passage. I believe that this revenue-sharing concept can be applied as well to our search for solutions to this Nation's critical unemployment problems.

Illinois problems are not the same as those in Arkansas. Within my State, Danville's problems are not the same as Quincy's. Local areas are unique in their talents, resources, employment base, and needs. Therefore, I feel that to the greatest extent possible, their response to local problems should be allowed to be unique as well.

Several times in my remarks, I have mentioned limits, and I would like to make clear what they are. Funds received under the bill cannot be used as a means of fiscal substitution, to provide social services, to displace another employed worker, or to reduce taxes. It also contains provisions similar to those in the revenue sharing and community development block grant programs to provide for public participation in the development of programs.

Mr. President, I ask unanimous consent that two tables be printed in the RECORD at the conclusion of my remarks: The first, a list of the anticipated State allocations pursuant to this legislation, and the second, a list of the allocations within the State of Illinois to counties most seriously affected by unemployment.

The situation in my State has brought us almost to the point of despair. Simply stated, and using January 1983 preliminary data, this is the bad news:

Unemployment rate

City	*Percent*
Chicago	12.7
Danville	23.6
Decatur	20.2
East St. Louis	13.6
Joliet	22.5
Kankakee	21.2
Moline	21.1
Peoria	19.5
Quincy	19.1
Rockford	25.5
Rock Island	18.9
Springfield	11.3

Our statewide unemployment rate in Illinois is 13.5 percent and, in all cases, the rate everywhere within the State is running far in excess of the national average.

I know that many different solutions have been proposed to meet our immediate unemployment problems. I add my own to expand the debate and bring to the table for discussion what I believe to be a very creative and easily implemented proposal. I commend Mrs. MARTIN for her thoughtfulness and diligence in the development of this proposal, and look forward to working with her, as well as with my Senate colleagues, on its behalf.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

STATE AREA ALLOCATIONS

	Percent of U.S. population	State area allocation based upon population	State income growth factor	Eligible States' income growth factor as percent of U.S. income growth factor	1—(D)	Population (1981)	Relative economic indicator	Each eligible State's share of funds allotted for income growth	State area allocation on basis of income growth	Total State area allocation
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	
New England:										
Connecticut	0.014	13,860,000	0.181	0.586	0.414	3,134,000	1,297,476	0.021	41,580,000	55,440,000
Maine	.005	4,950,000	.259	.838	.162	1,133,000	183,546	.003	5,940,000	10,890,000
Massachusetts	.025	24,750,000	.155	.502	.498	5,773,000	2,874,954	.046	91,080,000	115,830,000
New Hampshire	.004	3,960,000	.535							3,960,000
Rhode Island	.004	3,960,000	.088	.285	.715	953,000	681,395	.011	21,780,000	25,740,000
Vermont	.002	1,980,000	.259	.838	.162	516,000	83,592	.001	1,980,000	3,960,000
Mideast:										
Delaware	.003	2,970,000	.196	.634	.366	598,000	218,868	.003	5,940,000	8,910,000
District of Columbia	.003	2,970,000	(.160)							2,970,000
Maryland	.019	18,810,000	.259	.838	.162	4,263,000	690,606	.011	21,780,000	40,590,000
New Jersey	.032	31,680,000	.165	.534	.466	7,404,000	3,450,264	.055	108,900,000	140,580,000
New York	.077	76,230,000	.012	.039	.961	17,602,000	16,915,522	.269	532,620,000	608,850,000
Pennsylvania	.052	51,480,000	.103	.333	.667	11,871,000	7,917,957	.126	249,480,000	300,960,000
Great Lakes:										
Illinois	.050	49,500,000	.093	.301	.699	11,462,000	8,011,938	.127	251,460,000	300,960,000
Indiana	.024	23,760,000	.116	.375	.625	5,468,000	3,417,500	.054	106,920,000	130,680,000
Michigan	.040	39,600,000	.108	.349	.651	9,204,000	5,991,804	.095	188,100,000	227,700,000
Ohio	.047	46,530,000	.089	.288	.712	10,781,000	7,676,072	.122	241,560,000	288,090,000
Wisconsin	.021	20,790,000	.229	.741	.259	4,742,000	1,228,178	.019	37,620,000	58,410,000
Plains:										
Iowa	.013	12,870,000	.284	.919	.081	2,899,000	234,819	.004	7,920,000	20,790,000
Kansas	.010	9,900,000	.425							9,900,000
Minnesota	.018	17,820,000	.335							17,820,000
Missouri	.022	21,780,000	.181	.586	.414	4,941,000	2,045,574	.033	65,340,000	87,120,000
Nebraska	.007	6,930,000	.335							6,930,000
North Dakota	.003	2,970,000	.700							2,970,000
South Dakota	.003	2,970,000	.365							2,970,000
Southeast:										
Alabama	.017	16,830,000	.366							16,830,000
Arkansas	.010	9,900,000	.493							9,900,000
Florida	.044	43,560,000	.730							43,560,000
Georgia	.024	23,760,000	.442							23,760,000
Kentucky	.016	15,840,000	.352							15,840,000
Louisiana	.019	18,810,000	.738							18,810,000
Mississippi	.011	10,890,000	.459							10,890,000
North Carolina	.026	25,740,000	.361							25,740,000
South Carolina	.014	13,860,000	.463							13,860,000
Tennessee	.020	19,800,000	.416							19,800,000

STATE AREA ALLOCATIONS—Continued

	Percent of U.S. population	State area allocation based upon population	State income growth factor	Eligible States' income growth factor as percent of U.S. income growth factor	1—(D)	Population (1981)	Relative economic indicator	Each eligible State's share of funds allotted for income growth	State area allocation on basis of income growth	Total State area allocation
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	
Virginia	.024	23,760,000	.428							23,760,000
West Virginia	.008	7,920,000	.373							7,920,000
Southwest:										
Arizona	.012	11,880,000	.903							11,880,000
New Mexico	.006	5,940,000	.708							5,940,000
Oklahoma	.013	12,870,000	.807							12,870,000
Texas	.064	63,360,000	.942							63,360,000
Rocky Mountain:										
Colorado	.013	12,870,000	.909							12,870,000
Idaho	.004	3,960,000	.642							3,960,000
Montana	.003	2,970,000	.487							2,970,000
Utah	.007	6,930,000	.724							6,930,000
Wyoming	.002	1,980,000	1.467							1,980,000
Far West:										
California	.105	103,950,000	.422							103,950,000
Nevada	.004	3,960,000	.917							3,960,000
Oregon	.012	11,880,000	.421							11,880,000
Washington	.018	17,820,000	.496							17,820,000
Alaska	.002	1,980,000	.832							1,980,000
Hawaii	.004	3,960,000	.318							3,960,000

By Mr. SARBANES (for himself and Mr. MATHIAS):

S. 680. A bill entitled the "Gladys Noon Spellman Parkway"; to the Committee on Energy and Natural Resources.

GLADYS NOON SPELLMAN PARKWAY

Mr. SARBANES. Mr. President, I am introducing legislation today with my colleague from Maryland, Senator CHARLES MCC. MATHIAS, JR., to provide a fitting tribute to Gladys Noon Spellman, one of Maryland's most distinguished citizens. Congresswoman Gladys Spellman spent a lifetime dedicated to public service, and her years in the House of Representatives are remembered for her record of achievement and her great respect for the democratic process. She touched many lives, and this legislation pays tribute to her achievements by renaming the Baltimore-Washington Parkway in her honor.

Designation of the parkway would be an appropriate monument to a great legislator. Gladys Spellman was first elected to the U.S. House of Representatives in 1974; and with the spirit of boundless enthusiasm which characterized all of her activities, she set about the process of upgrading the Baltimore-Washington Parkway, which was then in a state of disrepair and ran through the center of Maryland's Fifth District. She guided legislation through the House Appropriations Committee, which provided funds for repairing and resurfacing the parkway. Knowing the importance of this regional transportation asset to visitors to the Nation's Capital, as well as her own constituents, she held a series of meetings to expedite planning and construction. The repaving was completed in 1976.

These efforts to improve the parkway were just a small part of her activities on behalf of regional transportation programs. She was an early and strong supporter of the regional Metrorail system, both as a member of the Prince George's County Council and later as a Member of Congress. Gladys Spellman believed in government and knew how to make government at all levels work in a spirit of cooperation and mutual concern.

In the 1982 session of the Maryland General Assembly in Annapolis, that body passed a joint resolution which requested the Maryland Department of Transportation to rename that portion of the Baltimore-Washington Parkway under the jurisdiction of the State "The Gladys Noon Spellman Parkway." The resolution further urged the U.S. Congress to pass legislation designating the Federal portion of the highway. Those of you who have driven the highway in the last 6 months should have noticed that the State has already complied with the general assembly's directions.

The fine parkway between Baltimore and Washington, the gateway to both cities and a vital transportation link, is already a monument to the unique abilities of a great legislator and the dedication and work of Gladys Spellman. Designation of the parkway as the Gladys Noon Spellman Parkway would make this tribute a permanent reality.

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. 680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that Gladys Noon Spellman, elected to four terms in the House of Representatives from the State of Maryland, should be afforded recognition not only for her personal efforts in upgrading one of the Capital region's most important transportation corridors, but more broadly for the dedication, commitment, and concern she expended on behalf of the people of Maryland. The quality of her service to the public exemplifies the high ideals and principles she held paramount.

SEC. 2. The parkway, under the jurisdiction of the Secretary of the Interior, in the State of Maryland known as the Baltimore-Washington Parkway, shall hereafter be known as and designated as the, "Gladys Noon Spellman Parkway." Any reference in any sign, law, map, regulation, document, record, or other paper of the United States to such parkway shall be held to be a reference to the "Gladys Noon Spellman Parkway" and any future signs, regulations, records, maps, or other documents of the United States referring to this parkway shall bear the name "Gladys Noon Spellman Parkway." The Secretary of the Interior shall, before October 1, 1983, replace the existing signs for such parkway with appropriate signs designating the parkway as the "Gladys Noon Spellman Parkway."

SEC. 3. The Secretary of the Interior is authorized and directed in cooperation with the State of Maryland, to design and erect a suitable location adjacent to the Gladys Noon Spellman Parkway an appropriate marker commemorating the outstanding contributions of Gladys Noon Spellman.

SEC. 4. Effective October 1, 1983, there are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

By Mr. EXON:

S. 681. A bill to authorize the Secretary of the Interior to engage in a feasibility study of water resources development and for other purposes in the Central Platte Valley, Nebr.; to the Committee on Energy and Natural Resources.

PRAIRIE BEND FEASIBILITY STUDY

Mr. EXON. Mr. President, the legislation which I am introducing today would authorize a 4-year study to examine the potential for irrigation of up to 70,000 acres utilizing water from the Platte River and stabilization of ground water levels over an area of about 136,000 acres. The study, and I emphasize that it is precisely that, a

study, would also examine the potential for outdoor recreation and the enhancement of habitat for waterfowl including the sandhill crane and the endangered whooping crane.

This measure was introduced in the 97th Congress, and was included in S. 2443, which passed the Senate on October 1, 1982. This bill was amended by the House and returned to the Senate as H.R. 5536, on December 18, 1982. The bill, however, was not acted upon before the 97th Congress had adjourned. It is evident that support exists for this study in both the House and the Senate.

Mr. President, this study is important in assisting the State of Nebraska to determine an appropriate response to the critical water needs of the Central Platte Valley. Preliminary investigations have indicated that, due to declining groundwater problems and increasing energy costs to operate irrigation systems, the area of the Central Platte Valley will be forced to revert to dryland farming over the next 25 to 35 years.

The authorization of this feasibility study will provide the State of Nebraska with information to determine whether a multipurpose project will best address the problems of this area of my State. The maintenance of a reliable irrigation economy, flood protection, maintenance of the wildlife habitat for migratory birds including the sandhill and whooping cranes in addition to streamflow regulation, improved groundwater quality, and energy savings, are among the issues to be addressed.

In addition, this study should closely examine the feasibility of alternatives to the development of a multipurpose project such as the use of groundwater, which may make it unnecessary to divert surface water from the Platte River.

Mr. President, I am hopeful that, with authorization of the study, the Bureau and the local natural resource districts cooperating on this appraisal, will fully examine the impact of proposed diversions from the Platte River. Water is a scarce commodity, and litigation and controversy has escalated in recent years over the withdrawal of excessive or unreasonable amounts of surface waters. The Prairie Bend study should focus considerable attention on the average annual flow of the Platte and consider diversions which support a reasonable groundwater recharge.

The study has the strong support of the State and the Central Platte Natural Resource District has expressed a willingness to share costs on this study through both financial assistance and in-kind services amounting to nearly 40 percent of the estimated cost.

I would urge the Senate's support for this measure, and 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. 681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in a feasibility study for the Prairie Bend unit, Pick-Sloan Missouri River Basin program, located in Dawson, Buffalo, and Hall Counties in Nebraska for irrigation, stabilization of ground-water levels, enhancement of water quality, small community and rural domestic water supplies, management of fish and wildlife habitat, public outdoor recreation, flood control, and other purposes determined to be appropriate. Such feasibility study shall include a detailed report on any effects the proposed project may have on wildlife habitat, including habitat of the sandhill crane and the endangered whooping crane. Before funds are expended for the feasibility study, the State of Nebraska, or other non-Federal entity, shall agree to participate in the study and to share in the cost of the study. The non-Federal share of the costs may be partly or wholly in the form of services directly related to the conduct of the study.

By Mr. BUMPERS:

S. 682. A bill to amend the Agricultural Act of 1949 to modify the acreage base to be used for a farm under the acreage limitation programs for the 1983 crops of wheat, feed grains, and rice; to the Committee on Agricultuve, Nutrition, and Forestry.

FARM ACREAGE BASE STANDARDS

● Mr. BUMPERS. Mr. President, last year when we passed the Omnibus Reconciliation Act of 1982, we froze the farm acreage base at 1982 calculation levels for the 1983 crops of wheat, feed grains, and rice for those producers who wish to participate under the Federal programs for these crops. I think that this was a mistake, and today I am offering legislation to restore the acreage base standards set out in the 1981 Farm Act.

Under the Agriculture and Food Act of 1981 (Public Law 97-98), producers were eligible to establish their acreage base every year before entering a Federal limitation program for their program crop, by proving either the acreage planted on the farm to the particular crop for harvest in the crop year immediately preceding the year for which the determination was to be made or, at the discretion of the Secretary, the average acreage planted in the particular crop for harvest in the 2 crop years immediately preceding the year for which the determination was to be made. The 1981 act also removed the last vestiges of the allotment system for rice, and made available Federal program benefits to all rice producers as of the 1982 crop year.

In my State of Arkansas, as in many other States, the patterns of row crop agriculture have undergone considerable changes in the last few years and will possibly evolve further in the coming years. Wheat production has become increasingly important to Arkansas, with harvested acreage jumping from 865,000 acres in 1980 to over 1,760,000 acres in 1982 and representing production of 68,640,000 bushels in 1982, up from 32,870,000 in 1980.

We have also experienced an expansion of production of rice in Arkansas, especially in the northeast section of the State. With the opening of the program for 1982, many new rice farmers went to tremendous expense, sometimes $100,000 per farm, in readying their fields for rice production by leveling the land, installing wells and irrigation systems, and building levees. Once a farm has undergone this type of conversion it would be prohibitively costly to return to any other type of production.

Farmers entering into these new areas of production, and who took the standards in the 1981 farm bill at face value, were caught in a catch-22 situation when Congress passed last year's reconciliation bill, which included the freezing of acreage bases at 1982 levels for 1983. Under the freeze, farmers who grew a program crop except cotton under a Federal program in 1982 would have the same base for 1983. Those producers who grew outside of the program in 1982 would have to use the average base of the 1980-81 crop years. Although the freezing of the farm acreage base was intended to discourage expansion in the production of wheat, feed grains, and rice by prohibiting producers from increasing their base, and to protect traditional producers from new production, I believe that it is having an unintended effect and that we should reinstate the acreage base determinations specified in the 1981 Agriculture and Food Act.

As the law now is applied, rice producers in northeast Arkansas, who only began growing rice in 1982, are forced to grow outside of the Federal limitation program, including PIK, because they have no base. Even farmers who grew outside of the program in 1981, but who planned to establish a base for 1983, find themselves with little or no base. This is true even though these producers wish to participate in the Federal program, and it is the objective of the Government to limit agricultural production by using the announced limitation and PIK program. Farmers forced outside of Federal programs must boost production as a quasi-replacement for Federal support.

Wheat producers are faced with essentially the same dilemma. Since wheat production is relatively new, going back to an average of the 1980-81 acreage base will usually include 1 or 2 years in which the producer did not grow any wheat. By not taking

into consideration the 1982 crop year, many Arkansas wheat growers are being forced to grow outside the Federal limitation program. Both the wheat and rice farmer do not have the option of establishing bases for crops previously grown, either because the cost of converting the land was too high to revert, or 1 year of the formula would include the newly produced crop, or, as is frequently the case with wheat, the crop was a double crop and there was no other production.

Mr. President, my bill will bring us back to standards set in the 1981 Agriculture and Food Act for determining the acreage base for our farmers. I urge the Senate Agriculture Committee to act quickly and favorably on this bill.

I ask unanimous consent that the text of this bill be printed in the RECORD immediately following this statement.

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

S. 682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 107B(e)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(e)(2)), as amended by section 122(3) of the Omnibus Budget Reconciliation Act of 1982, is amended by striking out the sixth sentence.

(b) Section 105B(e)(2) of the Agricultural Act of 1949 (7 U.S.C. 1444d(e)(2)), as amended by section 124(3) of the Omnibus Budget Reconciliation Act of 1982, is amended by striking out the seventh sentence.

(c) Section 101(i)(5)(A) of the Agricultural Act of 1949 (7 U.S.C. 1441(i)(5)(A)), as amended by section 125 (3) of the Omnibus Budget Reconciliation Act of 1982, is amended by striking out the tenth sentence.●

By Mr. BUMPERS (for himself and Mr. PRYOR):

S. 683. A bill to modify the special payment-in-kind land conservation program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PAYMENT-IN-KIND AMENDMENTS ACT OF 1983

● Mr. BUMPERS. Mr. President, like many of my colleagues, I welcomed the announcement by the USDA of a massive payment-in-kind program that promised to raise the prices our farmers were receiving for their commodities while, at the same time, allowing the Government to unburden itself of tremendous stocks that were costly to store and which weighed heavily over our commodity markets. Farmers in Arkansas were as enthusiastic as any in the country and potential participation was high. Even those who were not totally sold on the PIK program were as philosophical as David Hillman, Arkansas County Farm Bureau president, in noting that "when you are falling off a cliff, you're not picky about the branches you grab for."

Yet, as the PIK program began to take more definite shape, it became apparent that the USDA was conveniently overlooking a significant segment of our farmers—those who double-crop. Although double-cropping is not peculiar to any one section of our Nation, it is of particular importance to those States in the so-called Sun Belt, including its ever-increasing importance to my State of Arkansas.

By far, the most common system of double-cropping in my State is the production of winter wheat followed by soybeans. In 1982, 1,760,000, acres in Arkansas were planted in wheat and 80 percent, or 1,410,000, of these acres were followed by soybeans. This double-cropping has evolved into a necessary part of agriculture production in Arkansas, and a similar trend is being experienced throughout the South.

Under the PIK program as proposed, each farm is designated as having one base. When a farmer enters the PIK program he must set aside a certain percentage of this base, which is to be put into conservation use. However, double-croppers, in effect, can have two bases covering the same acreage, and, like all farmers, they count on both crops in their total farm plan. Yet, according to USDA, once acreage has been put into conservation use, it must remain in conservation use until the following crop year. For double-croppers interested in enrolling their wheat acreage in the PIK program this means they must continue the wheat set-aside acreage in conservation use until the following crop year. For double-croppers interested in enrolling their wheat acreage in the PIK program this means they must continue the wheat set-aside acreage in conservation use through the period of soybean production. Farmers will be compensated at the rate of 95 percent of their established yield in wheat PIK commodities for enrolling in the wheat program, but will receive nothing for the set-aside continued through the soybean production season. Many farmers are faced with the decision of laying aside a possible 50 percent of their soybeans simply to gain the PIK benefits on their wheat.

This is especially difficult for farmers in States such as Arkansas where soybeans represent the No. 1 money crop. Three times as many acres are devoted to soybeans in Arkansas as are devoted to rice, the next leading crop. All of this has had the effect of discouraging participation in the PIK program by our double-croppers at a time when acreage reduction is most needed and when our farmers are most eager to enroll in the PIK program. The situation is the same for all double-cropping where at least one program crop is involved.

My bill would equitably address the current penalty in the PIK plan for double-cropping. Farmers forced to set aside acreage through both crop production seasons will be compensated for the loss in the second crop by receiving additional PIK commodities of the program crop, above the amount allowed in the regular PIK program. This not only will make double-croppers whole and encourage participation in the PIK program, it will also allow that acreage put into conservation use to stay out of production. Those farmers with established bases for both crops will be able to use their base acreage figure to establish their compensation. Those farmers without established bases may, nonetheless, prove their history of double-cropping for 2 of the last 3 years through any reasonable evidence.

Another area of serious concern to our farmers is the quality of grain or cotton that they will receive in their PIK payment. Those farmers receiving PIK commodities are guaranteed to be paid in commodities representing a base grade or, for some, the historical area quality. If there is not enough of the particular commodity of the base quality, lower quality commodities may be substituted. To compensate for the lower quality, the PIK payment will be adjusted in quantity.

The problem arises in the determination for quantity adjustment. My bill would mandate that adjustments must be based on average price projections for the 1983 crop year instead of using comparative loan amounts with discounts or historical price data. although the loan amounts for No. 4 rice may only be slightly lower than No. 2 rice, the marketing reality for No. 4 rice may prevent producers from receiving little more than sacrificial prices. Producers receiving No. 2 rice would fare much better although the results were intended to be roughly parallel after basing the adjustments on loan comparisons.

By using 1983 price projections we can equitably devise quantity adjustments and alleviate much of the fear felt by our participating producers very concerned over the possibility of receiving poor quality commodities. Another important provision in the bill would require USDA to review the average price projections made for the particular crop year and to establish a procedure of reimbursement to farmers who were shorted in quantity adjustments, using the final average marketing price for comparison.

Mr. President, both of these issues—double cropping and quality of grain or cotton—must be dealt with if we expect the PIK program to be effective in meeting the needs of farmers in Arkansas and other States. I urge the Senate Agriculture Committee to give quick and favorable consideration to this bill.

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. 683

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 "Payment-in-Kind Amendments Act of 1983".

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "double cropping" means the practice of harvesting two agricultural commodities from the same acreage during different seasons of the same year;

(2) the term "payment-in-kind program" means a program under which the Secretary pays a producer with a quantity of an agricultural commodity to divert farm acreage from the production of an agricultural commodity and devote such acreage to conservation uses; and

(3) the term "secretary" means the Secretary of Agriculture.

DOUBLE CROPPING

SEC. 3. (a) If the Secretary establishes a payment-in-kind program and, as a condition of eligibility for payment under such program, prohibits a producer who practices double cropping from harvesting both commodities normally planted on the same acreage on the farm, the Secretary shall increase the amount of payments under such program to compensate such producer for the reduction of both commodities.

(b)(1) In order to be eligible for increased payments under subsection (a), a producer must establish that the producer practiced double cropping in at least two of the three crop years preceding the first crop year to which the payment-in-kind program applies and, but for the operation of such program, would have practiced double cropping during the current crop year.

(2) In administering this section, the Secretary shall accept any reasonable evidence of double cropping submitted by a producer, including established bases.

QUANTITY ADJUSTMENTS

SEC. 4. (a) If the Secretary establishes a payment-in-kind program for a year and adjusts the quantity of commodities provided under such program to reflect variations in the quality of such commodities, the Secretary shall base such adjustment on projected prices for such commodities for such year.

(b) If the Secretary adjusts the quantity of commodities provided under a payment-in-kind program for a year under subsection (a), within sixty days after the end of such year, the Secretary shall—

(1) determine whether actual prices for such commodities for such year were lower than projected prices for such commodities for such year; and

(2) if the Secretary determines that actual prices were lower than projected prices under clause (1), provide payments to participating producers to compensate such producers for the difference between actual and projected prices for such commodities for such year.●

By Mr. ABDNOR (for himself and Mr. MOYNIHAN):

S. 684. A bill to authorize an ongoing program of water resources research; to the Committee on Environment and Public Works.

WATER RESOURCES RESEARCH

● Mr. ABDNOR. Mr. President, I am pleased to introduce, together with Senator MOYNIHAN, the ranking minority member of the Subcommittee on Water Resources, legislation that is essentially identical to S. 2494, which passed the Senate during the 97th Congress. That bill, which was designed to augment the Federal water resources research program, failed to be considered by the House of Representatives.

Despite that failure, the Congress appropriated $14.1 million to continue a water research program for the current fiscal year. Such work, I am convinced, carries broad support within the Congress. Yet it deserves to be evaluated with care by the authorizing committees, not simply perpetuated through last minute action on an appropriations act.

The bill I am introducing today was originally a portion of S. 1095, as reported by the Committee on Environment and Public Works in 1981. Therefore, this bill can be viewed as companion legislation to another facet of that bill, the National Water Resources Planning Act of 1983, which I intend to introduce soon.

Earlier this week, the Committee on Environment and Public Works endorsed continued Federal spending in both of these areas in our recommendation to the Budget Committee for fiscal year 1984 spending.

Specifically, the bill I am introducing today authorizes a total of $8,100,000 yearly for allocation among the water resources institutes located in each State, plus another $13,000,000 in matching research grants open to qualified groups.

During the 97th Congress, numerous public witnesses before the Committee on Environment and Public Works testified in favor of a continued Federal water research program. Testimony before our Subcommittee on Water Resources has shown that any cutoff of research funds will produce serious problems for the existing network of State water resources institutes. If some of the research institutes are to be phased out—with the States assuming a larger role—this must occur over several years. If it occurred precipitously, serious disruptions in a national program of water research would result.

It is clear to me that our universities should continue to serve as the primary focus of these research activities. Each State should have its own institute to deal with State-specific water problems.

A major issue in past discussions has been a specific set-aside for saline water research. In an effort to provide as much flexibility as possible, this bill removes the specific set-aside for saline research.

My introduction of this proposal does not mean that I no longer recognize the need for fiscal restraint by our Government. We must ask for a greater financial commitment from non-Federal sources for programs such as this, as well as others. But we must, at the same time, create reasonable tools that will permit evolution in the programs to occur.

Mr. President, this is a sound bill, one that should become law. To assist my colleagues, I ask unanimous consent that a copy of the bill be printed at this point in the RECORD, together with excerpts from the report of the Committee on Environment and Public Works on this proposal in the 97th Congress.

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

S. 684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "Water Resources Research Act of 1983."

SEC. 2. The Congress finds and declares that—

(a) the existence of an adequate supply of water of good quality for the production of materials and energy for the Nation's needs and for the efficient use of the Nation's energy and water resources is essential to national economic stability and growth, and to the well-being of the people;

(b) there is an increasing threat of impairment to the quantity and quality of surface and ground-water resources;

(c) the Nation's capabilities for technological assessment and planning and for policy formulation for water resources must be strengthened at the Federal, State, and local governmental levels;

(d) there should be a continuing national investment in water and related research and technology commensurate with growing national needs;

(e) it is necessary to provide for the research and development of technology for the conversion of saline and other impaired waters to a quality suitable for municipal, industrial, agricultural, recreational, and other beneficial uses; and

(f) the pool of scientists, engineers, and technicians trained in fields related to water resources constitutes an invaluable natural resource which should be increased, fully utilized, and regularly replenished.

SEC. 3. It is the purpose of this Act to assist the Nation and the States in augmenting their water resources science and technology as a way to—

(a) assure supplies of water, sufficient in quantity and quality, to meet the Nation's expanding needs for the production of food, materials, and energy;

(b) identify and find practical solutions to the Nation's water and water resources related problems, particularly those problems related to impaired water quality;

(c) promote the interest of State and local governments as well as private industry in research and the development of technology that will reclaim waste water and to convert saline and other impaired waters to waters suitable for municipal, industrial, agricul-

tural, recreational, and other beneficial uses; and

(d) coordinate more effectively the Nation's water resources research programs.

SEC. 4. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to assist the work of any water resources research and technology institute, center, or equivalent agency (hereinafter referred to as the "institute") established in the States in accordance with the terms of subsection (f) of this section.

(b) Each designated institute shall—

(1) have responsibility for planning, conducting, and/or arranging for competent research in relation to water resources, including investigations and experiments of either a basic or practical nature, or both; to promote the dissemination and application of the results of these efforts; and to provide for the training of scientists and engineers through such research, investigations, and experiments, and

(2) cooperate closely with other colleges and universities in the State that have demonstrated capabilities for research, information dissemination, and graduate training in order to develop a statewide program designed to resolve State and regional water and related land problems. Such institute shall also cooperate closely with regional consortia, as may be designated by the Secretary to increase the effectiveness of the institutes and for the purpose of regional coordination.

(c) Prior to the receipt each fiscal year of funds authorized by subsection (e) of this section, each institute shall submit to the Secretary for his approval a water research program that includes assurances, satisfactory to the Secretary, that such program was developed in close consultation and collaboration with the director of that State's department of water resources, or similar agency, and other leading water resources officials with the State, including interested members of the public. The program described in the preceding sentence shall include plans to promote research, training, information dissemination, and other activities meeting the needs of the State and Nation, and encourage regional cooperation among institutes in research into areas of water management, development, and conservation that have a regional or national character.

(d) From the sums appropriated pursuant to subsection (e) of this section, the Secretary shall make grants to each designed institute to be matched on a basis of no less than one non-Federal dollar for every Federal dollar during the fiscal years ending September 30, 1984, and September 30, 1985, one and one-half non-Federal dollars for each Federal dollar during the fiscal years ending September 30, 1986, and September 30, 1987, and two non-Federal dollars for each Federal dollar during the fiscal year ending September 30, 1988.

(e) There is hereby authorized to be appropriated to the Secretary for the purpose of carrying out this section the sum of $8,100,000 during each of the fiscal years ending September 30, 1984, through September 30, 1988.

(f) For the purposes of this section, an institute may be established at one college or university in each State, which was established in accordance with the Act approved July 2, 1862 (12 Stat. 503; 7 U.S.C. 301ff), entitled "An Act donating public lands to the several States and territories which may provide colleges for the benefit of agriculture and the mechanic arts" or some other institution designated by act of the legislature of the state concerned: *Provided,* That (1) if there is more than one such college or university in a State established in accordance with said Act of July 2, 1862, funds under this section shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to the one such college or university designated by the Governor of the State to receive the same, subject to the Secretary's determination that such college or university has or may reasonably be expected to have the capability of doing effective work under this title; (2) two or more States may cooperate in the designation of a single institute or regional institute, in which event the sums otherwise allocated to institutes in each of the cooperating States shall be paid to such regional institute.

SEC. 5. (a)(1) In addition to the grants authorized by section 4 of this Act, the Secretary is authorized to make grants, on a dollar-for-dollar matching basis, to the institutes established pursuant to section 4 of this Act, as well as other qualified educational institutions, private foundations, private firms, individuals, and agencies of local or State government for research concerning any aspect of a water-related problem which the Secretary may deem to be in the national interest, including the operation of test facilities.

(2) In cases where the Secretary determines, according to criteria established by him, that research under this section is of a basic nature which would not otherwise be undertaken, the Secretary may approve grants under this section on a matching requirement other than that specified in paragraph (1) of this subsection.

(b) Each application for a grant pursuant to this section shall state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the importance of the project to the Nation as well as to the region and State concerned, its relation to other known research projects previously or currently being pursued, and the extent to which it will provide an opportunity for the training of water resources scientists. No grant shall be made under this section except for a project approved by the Secretary, and all grants shall be made upon the basis of the merit of the project and the need for the knowledge it is expected to produce when completed.

(c) The sum of $23,000,000 is authorized to be appropriated to the Secretary for the purposes of grants under this section, as well as for administration of grants under this section and grants to the institutes under section 4 of this Act for each of the fiscal years ending September 30, 1984, through September 30, 1988.

SEC. 6. The type of research to be undertaken under the authority of section 5 of this Act and to be encouraged by the institutes established under section 4 of this Act shall include, without being limited to:

(a) Aspects of the hydrologic cycle;

(b) Supply and demand for water;

(c) Demineralization of saline and other impaired waters;

(d) Conservation and best use of available supplies of water and methods of increasing such supplies;

(e) Water reuse;

(f) Depletion and degradation of ground water supplies;

(g) Improvements in the productivity of water when used for agricultural and commercial purposes;

(h) The economic, legal, engineering, social, recreational, biological, geographic, ecological, and other aspects of water problems;

(i) Scientific information dissemination activities, including identifying, assembling, and interpreting the results of scientific and engineering research on water resources problems; and

(j) Providing means for improved communication of research results, having due regard for the varying conditions and needs for the respective States and regions.

SEC. 7. Notwithstanding any other provision of law, the Secretary shall be governed by the provisions of sections 9 and 10 of the Federal Nonnuclear Energy, Research and Development Act of 1974 (Public Law 93-577; 88 Stat. 1887, 1891; 42 U.S.C. 5908-5909) with respect to patent policy and to the definition of title to, and licensing of inventions made or conceived in the course of, or under any contract or grant pursuant to this title; *Provided, however,* That subsections (l) and (n) of section 9 of such Act shall not apply to this Act: and *Provided further,* That, subject to the patent policy of section 498, all research or development contracted for, sponsored, cosponsored, or authorized under authority of this title, shall be provided in such manner that all information, data, and know-how, regardless of their nature of mediums, resulting from such research and develpment will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be usefully available for practice by the general public.

SEC. 8. (a) Public Law 95-467 is repealed.

(b) Rules and regulations issued, prior to the date of enactment of this Act, under the authority of Public Law 95-467 shall remain in full force and effect under this Act until superseded by new rules and regulations promulgated under this Act.

GENERAL STATEMENT

S. 2494, as introduced and reported, seeks to encourage a more active partnership between the Federal Government and non-Federal water resources researchers, one that is centered at the university community. This legislation will encourage investigations of basic scientific issues that may have a regional character or application, rather than fulfilling a specific need of a Federal agency.

The Federal Government annually spends several billions of dollars to construct traditional water resources projects—dams, levees, sewage treatment plants, and river and harbor channels. According to a report of the Water Resources Research Review Committee of the National Research Council, the entire Federal Government spends only 4 percent, or $380 million, for water resources research, development, demonstration, and technology transfer. Less than half of the "research" money goes to true research. And nearly all of the research that is undertaken is mission oriented within various Federal agencies and departments.

More basic scientific research, together with research into regional problems—both encouraged by this legislation—do not fit neatly into any Federal water research effort outside this bill.

Under current law, a program similar to the one authorized by S. 2494 is operated by

the Office of Water Research and Technology (OWRT) within the Department of the Interior. OWRT helps to finance water research institutes established at 54 land-grant colleges, provides matching grants to individual researchers, and conducts its own research, development, testing, and demonstration programs, particularly in desalting technology. OWRT also maintains a clearinghouse of data and technical literature on water research. These authorities, funded recently at about $33 million yearly, come from the Water Research and Development Act of 1978 (Public Law 95-467).

The Administration's budget for fiscal year 1983, however, proposes that no funds be made available for any of the water research programs authorized by the 1978 Act. In the Committee's judgment, basic and applied water research, beyond the requirements of regulatory programs or mission oriented agencies, is needed and cost-effective.

Therefore, S. 2494 repeals that 1978 authorization, replacing it with a more focused approach centered on the 54 state institutes. In addition, the bill provides competitive matching grants to individuals and organizations to study specific water problems. The total annual authorization is $22.1 million.

The strength of the institutes is their location within the university community, a location where a multitude of disciplines can be concentrated on water problems, offering new and innovative approaches. This approach also disperses funds among institutes in every state, assuring the widest possible geographic search for information—from new drip irrigation techniques in the desert Southwest to lake-cycle research in the Northeast.

Yet the Committee recognizes the need to augment the strength of some of this state-based research work on water. The bill gradually requires an increased non-Federal contribution, and requires that a portion of that contribution be made in cash. Thus, those states and those universities that are less seriously committed to an effective water research program may be forced to drop out of the program.

S. 2494 also encourages greater regional cooperation among the water institutes, as well as among the states. While the States are effective participants in the national effort to improve the utilization of our water resources, their value could be increased in some cases when they work together to manage their water resources on a regional basis.

For example, in phasing-out the Federal operation of the existing OWRT desalting facilities, the Secretary of the Interior is encouraged under this bill to transfer these facilities to the control of individual state institutes, or a regional consortium of institutes, which would then operate them. Thus, the expertise would not be lost, with emphasis on a new regional non-Federal approach. These facilities, of course, would be eligible for matching funds under this Act.

This bill also authorizes a general water research matching grant program that is available to scientific experts, both individuals or groups. Through a competitive approach, the Committee expects the Secretary of the Interior to define and direct funds to the Nation's most pressing water research needs.

In implementing the new approaches in this legislation, the Secretary of the Interior should review the "Federal Water Resources Research: A Review of the Proposed Five-Year Program Plan," prepared last year by the Water Resources Research Review Committee of the Commission on Natural Resources, National Research Council. In addition, the Secretary is invited to return to the Congress with proposals for a more effective and coordinated plan for water resources research. This would enable Congress to examine the program in preparation for possible legislation once this new five-year law would expire.

Under present law, there is separate funding for the basic water research program and the program focused on saline water problems. This legislation combines funding to assure greater flexibility in selecting those research proposals that have the highest priority. Improvements in deasalting technology may offer an opportunity for improving the quality of water pumped from underground aquifers for use in households, industry, and agriculture. The bill does not amend the existing authority pursuant to Public Law 95-84 and Public Law 96-457 to construct demonstration desalination plants.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill declares that the bill shall be cited as the "Water Resources Research Act of 1982."

Section 2 states a number of Congressional findings relating to the national interest in water resources research. This section describes the existing problems with water resources utilization, expecially the impairment of the quality of both surface and ground-water resources, and its consequent effect on available water supply. This section also defines the need to strengthen the skills and research capabilities of technical personnel related to water resource needs throughout the nation.

Section 3 declares that the purpose of the bill is to augment basic water resource research and to direct such research toward practical solutions of our nation's water problems.

Section 4 establishes a modified approach to the Federal support of the various water research institutes located at 54 land-grant colleges in every state as well as the District of Columbia and three territories. The section encourages a greater non-Federal financial commitment to each research institute.

The present program of grants to the institutes requires no specific cash contribution by the non-Federal sponsor, and establishes a maximum level of funding per institute.

S. 2494 makes two changes in that approach. During the initial two years, Federal funds must be matched on a one-to-one basis with non-Federal funds. In fiscal years 1985 and 1986, the non-Federal match increases to three-to-two; in fiscal year 1987, the match would be two non-Federal dollars to each Federal dollar. The non-Federal share for each institute need not to be entirely in cash, but can be partially contributed in-kind.

The bill also authorizes the Department of the Interior to distribute $8,100,000 among the research institutes during each of five fiscal years. If all institutes continue to participate, each of 54 institutes would receive $150,000 annually. If several institutes should decide not to participate, due to the increasingly strict non-Federal requirements, the $8,100,000 would be available to be distributed equally (and matched) among fewer institutes. Thus, there is the possibility that more than $150,000 yearly would be available to each institute, permitting the program to keep up with inflation.

The grants to the institutes can be made only after an institute submits a water research program, which contains assurances that the program was developed in close coordination with that State's department of water resources. This section also contains technical language to require that institutes be established only at a land-grant university or some other institution designated by act of the state legislature. There can be only one institute in a state.

Section 5 authorizes $13,000,000 annually for specific water research project grants on a wide variety of water problems listed in Section 6. These grants will be available to any qualified individual or group. This includes, but is not limited to: State institutes, other universities, private or public corporations, river basin commissions, and foundations. The Secretary will award these research grants on a competitive basis. They must be matched on a one-to-one basis by non-Federal funds. In the case of basic research, which might otherwise not be undertaken, the Secretary of the Interior may adjust the matching requirement, as appropriate, to a higher Federal share. For the purposes of this section, basic research is that which is undertaken for the purpose of increasing knowledge or understanding of a subject without specifying the use of the results.

Section 6 specifies the type of research, from the basic hydrologic processes to conservation and reuse, that will be eligible for a section 5 research grant and which the section 4 institute programs should encourage. Work to disseminate or interpret scientific information is another important activity eligible for funding under this section.

Section 7 requires that information developed by water resources investigators under a grant authorized by section 4 or 5 be available to the general public.

Section 8 repeals the Water Research and Development Act of 1978 (Public Law 95-467), which expires at the end of fiscal year 1982.●

By Mr. QUAYLE:

S. 685. A bill to provide savings in the Federal Employees Compensation Act, and for other purposes; to the Committee on Labor and Human Resources.

FEDERAL EMPLOYEES COMPENSATION AMENDMENTS ACT

● Mr. QUAYLE. Mr. President, I am today introducing a bill to amend the Federal Employees Compensation Act (FECA), the Government's worker's compensation system for its own civilian employees. FECA provides compensation-wage replacement income, medical benefits, and death benefits to survivors for job-related injuries and death.

This bill is based on a measure which I introduced during the 97th Congress. As in my earlier bill, these two amendments will provide savings in the administration of the act, first, by elimination of the continuation-of-pay provision, and second, in changing the method by which the cost-of-living adjustment is computed. It seems to me that these changes make eminent sense today as they did in 1981 and

continue to be worthy of our consideration.

I introduce this bill today to give my colleagues and other interested persons an opportunity to study it. I am also requesting both the administration and the Congressional Budget Office to provide a cost estimate of the proposal. I shall briefly describe the two amendments and give the rationale for the proposal:

Continuation-of-pay allows a Federal employee who is injured on the job to receive his full wages while his disability claim is under adjudication. The employee may receive his wages for up to 45 days. The Federal system payments are made without any adjudication that the claim is a meritorious one. Since the continuation-of-pay provision was enacted in 1974, the number of claims submitted has risen dramatically. In 1976, 70,000 employees received continuation of pay without any reduction in the regular claims load of 40,000 claims. By 1977, the GAO reported that claims had risen by over 70 percent in the aggregate. By fiscal year 1980, over three-quarters of a billion dollars in compensation and medical payments were made to Federal civilian employees. This amazing increase in the amount of money expended has occurred during a time when safety efforts in Federal workplaces have increased, and the size of the civilian Federal work force has remained relatively constant.

The second amendment to the Federal Employees Compensation Act would change the formula by which cost-of-living adjustments are computed. Cash compensation to long-term beneficiaries of the Federal employees compensation program is currently indexed to the Consumer Price Index while Federal wages increase at a much slower rate. From 1974 to 1980, compensation payments increased by 90 percent while salary levels increased by 60 percent. As a result, compensation becomes an ever higher percentage of pay with the inevitable effect that the injured employee has even less incentive to return to work.

This bill changes the formula to limit automatic compensation increases to an amount consistent with the pay adjustments made to general schedule employees or to changes in the Consumer Price Indexed, whichever is less, so as not only to save on payments but also to preserve work incentives.

The need for these changes is great. In these times of economic stringency we cannot afford to permit this inequity in FECA to be continued.

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. 685

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1)(A) section 8118 of title 5, United States Code, is amended to read as follows:

§ 8118. Election to use annual or sick leave

"An employee may use annual or sick leave to his credit at the time the disability begins, but his compensation for disability shall not begin, and the time periods specified by section 8117 of this title shall not begin to run, until the use of the annual or sick leave ends."

(B) The analysis for chapter 81 of such title is amended by striking out the item relating to section 8118 and inserting in lieu thereof the following new item:

"8118. Election to use annual or sick leave."

(2) Section 8145 of title 5, United States Code, is amended—

(A) by inserting "(a)" before "The", and

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

"(b) In order to insure the prompt determination of claims for eligibility under this subchapter, the Secretary may, with the consent of a Federal agency, use employees of such agency to make any initial determination under section 8124(a) of this title, subject to review under section 8124(b) or 8128 of this title.".

(3) The amendments made by this subsection shall apply to individuals who become disabled as a result of injuries occurring after September 30, 1981.

(b)(1) Subsection (a) of section 8146a of title 5, United States Code, is amended to read as follows:

"(a) Compensation payable on account of disability or death which occurred more than one year before March 1 of each year shall be annually increased on that date by an amount equal to the lesser of—

"(1) the amount determined by the Secretary of Labor to represent the percent change in the price index published for December of the preceding year over the price index published for the December of the year prior to the preceding year, adjusted to the nearest one-tenth of 1 per centum, or

"(2) the amount determined by the Secretary of Labor to represent the overall percentage adjustment in the rates of pay under the General Schedule which took effect under section 5305 of this title for the first applicable pay period commencing on or after October 1 of the preceding calendar year.".

(2) The amendment made by this subsection shall apply with respect to adjustments made on or after the date of the enactment of this Act.●

By Mr. QUAYLE:

S. 686. A bill to amend the Age Discrimination in Employment Act of 1967 to eliminate the upper age limitation of 70 years of age, to make procedural reforms, and reinstate the tenured faculty exemption, and for other purposes; to the Committee on Labor and Human Resources.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1983

● Mr. QUAYLE. Mr. President, today, I am introducing the Age Discrimination in Employment Amendments of 1983. This is identical to the bill I introduced during the last Congress to amend the age Discrimination in Employment Act of 1967. My bill eliminates the upper age limitation of 70 years of age, makes procedural reforms, and reinstates the tenured faculty exemption.

There are, and will be, other bills to deal with this issue. I have met with others and discussed various approaches to amending the ADEA. I have decided that there is still a need to reintroduce my proposal, which is drafted on the premise that all issues should be put on the table so that when the committee and the Congress decide to act, it will be after a full attaining of the issue.

My bill has three major purposes: The first is to remove the current 70-year cap on the protections afforded by the Age Discrimination in Employment Act; the second is to make procedural reforms in the enforcement provisions of the act to make it more consistent with other employment discrimination statutes; and the third is to restore the exemption from the ban on mandatory retirement for tenured faculty members, which expired last year, on July 1, 1982.

LIFTING THE AGE 70 CAP

Under present law, protection against age discrimination is limited to individuals age 40 to 69. My bill removes the upper age restriction to include all individuals over the age of 69. This amendment is premised on the right of older workers to continue working, if they are able and willing to do so, and is supported by the fact that conditions which once justified encouraging early retirement of older workers are changing. Demographic projections indicate that we will have an increasingly older work force, while at the same time an increasing number of jobs do not require great physical stress and take place in an office setting. Increasing opportunities for older workers is thus not only a matter of equity for the workers but also makes commonsense in terms of labor market changes. It also has the potential of providing relief for the hard-pressed social security system.

Over the coming decades, the age distribution of our population will be shifting dramatically. The absolute number of older people in our society will increase and both the public and private sectors will need to pay more attention to the concerns of older workers. While the percentage of older Americans will not change from the current level for the balance of this century, the number of older workers is likely to increase dramatically in the early years of the 21st century.

This change in the structure of the available work force will have great implications for older workers. In the past, the great influx of younger workers created enormous pressure to remove older workers from the labor force. In the future, the demographics

will work in favor of retaining older workers and labor market needs will require their utilization. Yet, few trends in the 20th century have been more pronounced than the decline in the labor force participation rates of older persons.

The participation rates of older workers—especially men—have been declining at an alarming rate for the past 20 years. The labor force participation rate for men age 65 and over has dropped from 34 percent in 1960 to less than 20 percent in 1981. For men age 55 to 64, the rate has dropped 15 percent over the last 20 years. The participation rate for women over age 65 has always been and still remains very low. In contrast, recently there has been an increase in the number of women age 55 to 64 entering the labor force.

These statistics and trends have been available for many years and have been stated countless times in testimony before Congress and in studies presented by the Department of Labor.

With an increasingly older population, greater attention will be given to Federal policies which intentionally or unintentionally restrict participation in the work force by older Americans. We must encourage more flexible arrangements for continued work. Removal of the 70 year age cap is a necessary step in encouraging continued labor force participation of older workers.

Also, I believe, as a matter of principle, that no American should be forced to retire at a set age without regard to physical or mental condition. Ability, not age, should be the guiding criteria in developing a retirement policy. Recent surveys show that 9 out of 10 Americans oppose, as I do, forced retirement because of age. An individual who desires to continue working should be permitted to do so, if capable.

During the last Congress, it was suggested that we should prohibit age discrimination against employees over age 69 with respect to mandatory retirement but not with respect to hiring and promotion. However, I believe that the act should be amended to prohibit age discrimination in all areas of employment policy for individuals over the age of 69.

How can we prohibit age discrimination in some areas of employment policy and permit it in others? How can we protect an individual from age discrimination by prohibiting mandatory retirement and, yet, permit age discrimination against another individual, the same age, who is seeking work? This confusing situation would only lead to lengthy litigation that would be an additional burden on the courts. My bill amends the ADEA to prohibit arbitrary discrimination on the basis of age in all areas of employment policy, including hiring, firing, and promotions.

I do not wish to suggest that the aging process does not affect an individual's capabilities. For this reason I would like to emphasize that "arbitrary" is a key word in the legislative history of the act. In 1965, Willard Wirtz, as the Secretary of Labor, presented the findings of a study on the evidence of age discrimination in our society, which subsequently led to enactment of the ADEA. Secretary Wirtz carefully distinguished between arbitrary discrimination where there is no factual basis for assumptions about the effect of age on an individual's ability to do a job and those cases where there is in fact a demonstrable relationship between age and ability to perform a job. For this reason, the ADEA permits exemptions to the prohibitions of the act which are based on reasonable factors other than age and bona fide occupational qualifications. These provisions will continue to enable employers to take necessary personnel actions in those cases where age does affect an individual's ability to perform a job.

REVISING THE ENFORCEMENT PROCEDURES

I believe that what is appropriate as an individual's remedy for discrimination on account of race or sex or national origin is also appropriate for discrimination based on age. That is why I have revised the enforcement procedure so as to eliminate the jury trial and liquidated damage provisions taken from the Fair Labor Standards Act and replaced them with equitable relief provisions as found in other antidiscrimination statutes.

The current enforcement provisions of the ADEA are modeled on those of the Fair Labor Standards Act—the Federal minimum wage law—which are geared to enabling plaintiffs to recover the wages that they have been underpaid, that is, to get a money judgment. In such actions for money damages, the right to a jury trial is, of course, appropriate and even constitutionally required. But the purpose of an antidiscrimination statute, such as the ADEA, is not to collect money damages; it is to change the nature of employment practices. Therefore, the remedies in antidiscrimination laws—most importantly title VII of the Civil Rights Act—are geared to equitable relief, to orders for future compliance for which back pay may be an appropriate auxiliary remedy. Such actions are not appropriate for jury trial.

These amendments are particularly necessary because of the legislative history of the act and its implementation. Prior to Reorganization Plan No. 1 of 1978, the ADEA was administered by the Department of Labor, which also administers the FLSA. There was, therefore, at least some logic in having similar enforcement for the two statutes. But the reorganization plan transferred administration of ADEA to the Equal Employment Opportunities Commission and the same logic that supported the transfer dictates the revision of the enforcement procedures.

Like title VII, the emphasis in the ADEA is on voluntary compliance through informal methods of conciliation, conference, and persuasion. Liquidated damages encourage complainants to litigate and discourage informal resolution of lawsuits.

RESTORING THE TENURED FACULTY EXEMPTION

When the ADEA was amended in 1978 to extend the protections of the act from age 65 to age 70, a temporary exemption for tenured faculty was provided so that such faculty could continue to be retired at age 65. At that time, the rationale given for the exemption of tenured faculty was that for the foreseeable future the number of available positions would be closely related to the number of retirements, thereby making it difficult to employ younger professors. The exemption expired last year, on July 1, 1982. However, the situation is the same today as it was in 1978 and will continue to be a problem in the foreseeable future.

The tenure system presents a unique case among professions because it is a contract which insures that faculty members are guaranteed employment and acquire academic freedom—the freedom to think, study, teach, and write without fear of reprisal. This guarantee is granted in exchange for a set retirement date. If we do not restore this exemption colleges and universities will be faced with a choice between two very undesirable options.

If mandatory retirement for tenured faculty is eliminated, colleges and universities could elect to keep the tenure system as it now functions essentially intact. The result would be that individuals would have the assurance of continued employment, for life—with harmful effects on education, on the advancement of new faculty members, and on the academic enterprise as a whole. Another alternative would be to eliminate tenure, or substantially alter it, perhaps by introducing periodic reviews of competence—with chilling effects on academic freedom and consequently, on teaching, faculty morale, and the advancement of knowledge.

A stipulated mandatory retirement age has the important advantage of allowing institutions to achieve the positive benefits which tenure provides while simultaneously assuring some regular degree of turnover. It also permits far more humane conclusions to careers than would otherwise occur if senior faculty members had to be told by their colleagues when they were no longer fit to teach. Tenure is an effective device to assure academic vitality, but it probably will not endure in the

absence of a mandatory retirement age.

I ask unanimous consent that the text of the bill be inserted at the conclusion of my remarks.

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

S. 686

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 "Age Discrimination in Employment Amendments of 1983".

SEC. 2. (a)(1) Section 7(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows:

"(b)(1) The provisions of this Act shall be enforced in accordance with the provisions of this subsection and subsection (c) of this section.

"(2) The Commission shall, upon receiving a complaint or as a result of investigations, attempt to eliminate the discriminatory practice or practices alleged, and to affect voluntary compliance with the requirements of this Act through informal methods of conciliation, conference, and persuasion.

"(3) Any person claiming to be aggrieved by an act prohibited under section 4 of this Act or the Commission may bring a civil action for such equitable relief as will carry out the purposes of this Act. If the court finds that the respondent has engaged in or is engaging in acts prohibited under section 4 of this Act charged in the complaint, the court may enjoin the respondent from engaging in acts prohibited under section 4 of this Act, and order such equitable relief as may be appropriate, which may include reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the acts prohibited under section 4 of this Act).

"(4) The right of any person to bring or maintain such action shall terminate upon the commencement of an action by the Commission to enforce the right of such employee under this Act.".

(2) Section 11 of such Act is amended by adding at the end thereof the following:

"(j) The term 'Commission' means the Equal Employment Opportunity Commission.".

(b) Section 7(c) of such Act is amended to read as follows:

"(c) Each United States district court subject to the jurisdiction of the United States shall have jurisdiction of actions brought in such court under this Act. Such an action may be brought in any judicial district in the State in which the prohibied acts are alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the aggrieved person would have worked but for the alleged prohibited acts, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.".

SEC. 3. Section 12(a) of the Age Discrimination in Employment Act of 1967 is amended by striking out "but less than 70 years of age".

SEC. 4. (a) Section 12(c)(1) of the Age Discrimination in Employment Act of 1967 is amended by striking out "but not 70 years of age".

(b) Section 12 of such Act is amended by adding after subsection (c) the following new subsection:

"(d) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965).".

SEC. 5. The amendments made by section 2 of this Act shall take effect with respect to civil actions brought after the date of enactment of this Act. The amendment made by section 3 of this Act shall take effect on January 1, 1983, or six months after the date of enactment of this Act, whichever is later. The amendment made by section 4 of this Act shall take effect on July 1, 1982.●

By Mr. HEINZ (for himself, Mr. DIXON, Mr. BYRD, Mr. SPECTER, Mr. PERCY, Mr. LEVIN, Mr. RIEGLE, Mr. RANDOLPH, Mr. SARBANES, Mr. PELL, and Mr. GLENN):

S. 687. A bill to amend the Federal Supplemental Compensation Act of 1982 to increase the number of weeks of compensation; to the Committee on Finance.

ADDITIONAL UNEMPLOYMENT COMPENSATION

● Mr. HEINZ. Mr. President, today I am introducing legislation to provide as many as 65 additional weeks of unemployment benefits to workers who, having lost their jobs during this recession through no fault of their own, are compelled to continue to rely on Federal unemployment compensation payments as their principal source of income. The additional weeks of Federal supplemental compensation are weighted according to the degree of severity of the insured unemployment rate in a State.

The Department of Labor estimates that the existing Federal supplemental compensation program will have assisted over 2 million claimants before it automatically terminates on March 31 of this year. Under the existing program, five levels of benefit duration are provided:

First, 16 weeks of FSC in States with an insured unemployment rate (IUR) of 6 percent or above (13 States):

Second, 14 weeks of benefits in States with less than a 6-percent IUR if a State was eligible for extended benefits anytime between June 1, 1982, and January 6, 1983 (24 States);

Third, 12 weeks of benefits in States with less than a 6-percent IUR, but at least 4.5 percent or if the State becomes eligible for extended benefits after January 6, 1983 (one State);

Fourth, 10 weeks of benefits in States where the IUR is below 4.5 percent but not below 3.5 percent (eight States); and,

Fifth, 8 weeks of benefits in all other States (six States).

To render a simpler description of the existing program, individual entitlements for total unemployment benefits range from 34 weeks of benefits in States with the lowest rates of unemployment to 55 weeks of benefits in States with the highest levels of insured unemployment.

Mr. President, my legislation would expand the number of weeks of Federal supplemental compensation available under the existing program. In short, individual entitlements for total unemployment benefits would, under this bill, range from 36 weeks of benefits in States with the lowest rates of unemployment to 65 weeks of benefits in States with the highest levels of insured unemployment.

Specifically, this bill would continue the existing five tiers of benefit levels according to the following new schedule:

First, 26 weeks of FSC in States with an IUR above 6 percent;

Second, 22 weeks of FSC in States where the IUR is below 6 percent and the State was previously eligible for extended benefits;

Third, 18 weeks of FSC in States with an IUR between 4.5 percent and 6 percent or if the State triggers onto extended benefits;

Fourth, 14 weeks of benefits in States where the IUR is between 3.5 percent and 4.5 percent; and,

Fifth, 10 weeks of benefits in all other States.

In addition, this legislation would extend the existing FSC program for an additional 6 months, through the end of this fiscal year.

Mr. President, this legislation addresses a clear emergency. Over 2 million American citizens, with long work histories, are simply unable to find a job. These Americans want nothing more than to return to work, but employment opportunities are limited. Unless additional weeks of unemployment benefits are provided to them, they will have no other source of income to tide them over until they can find a job. Overall, as counted by conventional measures not recording those discouraged workers who have given up looking for work, more than 11 million Americans are unemployed. Most of our unemployed receive benefits for only a relatively short time before finding another job; but, in certain regions, and in certain industries, the unemployment experience of many Americans has been prolonged agony.

The President is not incorrect when he asserts that the economy is "on the mend." The national unemployment rate for January was down 10.4 percent, down from 10.8 percent in January. That is welcome news. However, the economy is not mending in all

States at the same pace. In fact, in my home State of Pennsylvania, the unemployment rate went up in January by a full percentage point, to 13.6 percent.

Even the most optimistic projections foresee unemployment remaining above 8 percent nationally through 1984. It is critical that we pursue jobs creation to stimulate employment. It is heartening that the President has endorsed a jobs bill. It is important that we lower the budget deficit to keep interest rates low to sustain recovery. It is equally critical that the Federal Government provide a safety net for those individuals who have been particularly hard hit by the recession, and for whom employment initiatives will be too little and too late.

Mr. President, I would remind my colleagues that under Presidents Nixon and Ford this Government provided 65 weeks of unemployment compensation to unemployed individuals with long histories of work force participation. During those years, unemployment was far less severe than it is today. In addition, recoveries from those economic downturns were predicted to be much more vigorous than the recovery predicted from this recession.

I urge my colleagues to endorse this modest proposal to assist our unemployed neighbors, and will be pleased to consider any modifications to this legislation which would improve it.

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. 687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 602(e) of the Federal Supplemental Compensation Act of 1982 is amended—

(1) in paragraph (2)(A)(i), by striking out "65 per centum of";

(2) in paragraph (2)(A)(ii), by striking out "a" and inserting in lieu thereof "10";

(3) in paragraph (2)(B)(i), by striking out "by substituting '16' for '8' " and inserting in lieu thereof "by substituting '26' for '10' ";

(4) in paragraph (2)(B)(ii), by striking out "by substituting '14' for '8' " and inserting in lieu thereof "by substituting '22' for '10' ";

(5) in paragraph (2)(B)(iii), by striking out "by substituting '12' for '8' " and inserting in lieu thereof "by substituting '18' for '10' ";

(6) in paragraph (2)(B)(iv), by striking out "by substituting '10' for '8' " and inserting in lieu thereof "by substituting '14' for '10' "; and

(7) by striking out paragraph (3).

(b)(1) Section 602(f)(2) of such Act is amended by striking out "March 31, 1983" and inserting in lieu thereof "September 30, 1983".

(2) Section 605(2) of such Act is amended by striking out "April 1, 1983" and inserting in lieu thereof "October 1, 1983".

(c)(1) Section 602(b) of such Act is amended in the matter following paragraph (2) by inserting "most recently" before "exhausted his rights".

(2) Section 602(d)(3) of such Act is amended by inserting "for any benefit year" after "compensation payable".

(d) The amendments made by subsections (a), (b), and (c) shall apply to Federal supplemental compensation payable for weeks beginning on or after the date of the enactment of this Act. In the case of any eligible individual to whom any Federal supplemental compensation was payable for any week beginning prior to such date of enactment and who exhausted his rights to such compensation (by reason of the payment of all the amount in his Federal supplemental compensation account) prior to the first week beginning on or after such date of enactment, such individual's eligibility for additional weeks of compensation by reason of the amendments made by this section shall not be limited or terminated by reason of any even, or failure to meet any requirement of law relating to eligibility for unemployment compensation, occurring after the date of such exhaustion of rights and prior to the date of the enactment of this Act (and such weeks shall not be counted for purposes of determining the expiration of the two years following the end of his benefit year for purposes of section 602(b) of the Federal Supplemental Compensation Act of 1982).

(e) The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 602 of the Federal Supplemental Compensation Act of 1982 a modification of such agreement designed to provide for the payment of Federal supplemental compensation under such Act in accordance with the amendments made by this Act. Notwithstanding any other provision of law, if any State fails or refuses, within the three-week period beginning on the date the Secretary of Labor proposes such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before such three-week period.

● Mr. SPECTER. Mr. President, I am pleased to join with my colleague, Senator HEINZ, in offering legislation that would extend Federal supplemental unemployment benefits an additional 10 weeks for those workers who have exhausted all assistance.

More than 700,000 Pennsylvanians remain jobless. Our home State suffers from the second greatest number of unemployed in the Nation. It would be unconscionable for us to ignore the desperate plight of these thousands of individuals who have become unemployed through no fault of their own and who continue in their search for new jobs—but find none.

The Congress has embarked on a formidable effort to provide productive jobs for the women and men who are unemployed. I am hopeful that we will move quickly to enact an effective emergency jobs package. Meanwhile, we must continue to give relief to those Americans who will expend all compensation payments due them. To that end, I earlier introduced legislation with Senator LEVIN to extend the current benefits program an additional 6 months. This bill will supplement that legislation.

Those individuals who will be eligible for these additional 10 weeks have earned them. Unemployment compensation is not a dole; it is an insurance fund, into which these workers contributed during the many months and years of their employment. The beneficiaries of this program both need and deserve this assistance; it is our responsibility to provide it.

Granted, extending the duration of unemployment compensation benefits will not put all of these people back to work; nonetheless, extending benefits will ease the burden of joblessness and instill some certainty in their very cloudy future. The Department of Labor estimates that 2 million individuals will benefit from the current supplemental benefits program; each week more people are losing their eligibility and exhausting these payments.

Now is the time to allay these fears. Now is the time to insure that assistance will be provided during this transitional period for those who have suffered the longest. I am confident the legislation we introduce will help fill this need.●

● Mr. LEVIN. Mr. President, I am pleased to be a cosponsor of the legislation introduced today by Senators HEINZ and DIXON to extend the current Federal supplemental compensation program through September 30, the end of the fiscal year, and to increase the number of weeks of benefits for which individuals are eligible.

For my State of Michigan, which has an unemployment rate of 15.5 percent and is now into its 39th consecutive month of double digit unemployment, this legislation is an essential response to a dire need. Failure to pass this legislation would mean that after March 31, the maximum number of weeks of unemployment benefits in Michigan would drop from 55 to 39. I have already introduced legislation, cosponsored by Senators SPECTER, HEINZ, and DIXON, among others, which would extend the current FSC program through September 30. With an average of 14,000 people exhausting their first 39 weeks of benefits each month in Michigan, termination of the FSC program on March 31 would take away from the long-term unemployed the life preserver which has put food on their tables and lessened the anxiety in their hearts. We cannot allow this to happen.

This legislation would also increase the maximum weeks of unemployment benefits from 55 weeks to 65 weeks.

For Michigan this means that the 4,000 people who on an average are exhausting all their unemployment benefits each week would receive additional assistance. This is both a step forward at the same time that it is not unprecedented. It is not a departure from the past because for a time in the 1970's individuals were eligible for 65 weeks of unemployment benefits, even with an unemployment rate which was significantly below what it was today. But it is also a step forward because it is now reasonable to think that this legislation has a chance of being approved by the Congress when this session of the Congress began, and we introduced legislation to extend the FSC program, I had serious doubts as to whether it would be possible to do anything more than extend the current program beyond March 31.

Since then, however, the House Ways and Means Committee has approved similar legislation providing up to 63 weeks of benefits and it appears likely that it will pass the full House as well. This is a good indication that people throughout the country are becoming aware of what people in Michigan and Pennsylvania and Illinois have known all along—the economy is sick and we had better care adequately for its victims until it gets better. This legislation would not do the whole job by itself, but it is important for the country and essential for those among the unemployed who are on the doorstep of despair.●

● Mr. DIXON. Mr. President, I am pleased to join my good friend and colleague, JOHN HEINZ, in cosponsoring this bill, which will extend the current Federal supplemental compensation program through the end of this fiscal year. In addition, it will provide 10 more weeks of benefits in States with the highest rate of unemployment, thereby increasing the total number of weeks available to 65 in some States.

The bill will also add 8 weeks to States currently eligible for 14 weeks, of a total of 22; 6 weeks will be added to those States currently eligible for 12, for a total of 18 weeks; 4 more weeks for States currently paying 10, for a total of 14; and 2 more weeks for those States qualifying for 8, for a total of 10 weeks.

The eligibility criteria are identical to the FSC program as it was most recently extended, last December, based on a State's insured unemployment rate. Currently, 17 States will receive the maximum number of weeks, based on an insured rate above 6 percent. They are: Alabama, Alaska, Arkansas, Idaho, Illinois, Kentucky, Michigan, Mississippi, Montana, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, West Virginia, and Wisconsin.

I joined Senator LEVIN as a cosponsor of the simple extension of the FSC program last month. I believe that at a bare minimum, that is what needs to be done, which I so stated on January 27. However, that bill does not address the issue of over 2 million people who have or will have exhausted all benefits by March 31, 1983.

There is a precedent for this 65-week maximum, as I have pointed out before. I think it merits repeating.

In 1975, under President Gerald Ford, the FSC program was extended to provide a maximum of 65 weeks of coverage under all levels of unemployment benefits. The unemployment rate when this was done was 8.8 percent.

In 1974, again, under President Ford, with a national unemployment level of 7.1 percent, a total of 52 weeks of coverage was available, 26 of which were federally paid benefits, which is the maximum that the most beleaguered States would receive under this bill.

This is a bipartisan effort to address what we all realize is a problem that will not go away.

The administration's projections for the remainder of the year are for unemployment rates to continue over 10 percent. They are saying recovery is beginning, and I certainly hope it is, but unemployment will be the last to improve; 12 million workers will not believe the economy is recovering until they are working again—providing for their families again—seeing a ray of hope again.

We have a basic responsibility to see that the basic needs of individuals are met. I am encouraged that the administration has finally joined many of us in support of an extension of this program beyond the expiration date of March 31, but it is really not enough.

What will we say to the more than 2 million people who have or will have exhausted all benefits by March 31—3 weeks from today—when they have nowhere else to turn? Two million people who have worked and contributed to their communities before they lost their jobs?

A few weeks ago, the Chicago Tribune published a full page article entitled, "From the Middle Class to the Soup Kitchen." The article points out that the people that are taking advantage of meal-sites and food pantries created by charitable organizations are not street people, but people who used to work and care for themselves. The increases are startling.

In Aurora, Ill., with a county unemployment rate of 12.6 percent—60th out of 102 counties in our State—they are now serving 120 to 140 people. Last July, 20 people took their meals there.

About 2 years ago, in DuPage County, there were 16 food pantries. Now, with an unemployment rate of only 8.4 percent, one of the lowest in the State, there are 30.

These people are classified as the "new poor." They are proud people and do not like to come to these places for handouts. But they do, because they cannot afford to buy food. A substantial portion are Vietnam veterans.

The U.S. Conference of Mayors reports that 60 percent of the 55 cities surveyed cannot meet the need for emergency food and shelter.

We have to provide the means for these unfortunate workers and their families to meet their basic needs. Our proposal for this extension of benefits will help them to do so.

In a few days we will be considering legislation which will put some of our people back to work. We cannot help them all. That is the reality of the situation. But we can see that a large number of the jobless, while they are looking for work, can continue to receive unemployment benefits.

We cannot ignore 12 million people. We cannot turn a deaf ear on their cries for help.

The pain is real. The need, dire. Our responsibility is clear, and our agenda, vast.●

By Mr. HATFIELD:

S. 688. A bill to provide that, unless the Government of El Salvador actively participates in negotiations with all major parties to the conflict which are willing to participate unconditionally in negotiations for the purpose of achieving a cease-fire and an equitable political solution to hostilities, U.S. military support of El Salvador shall be terminated, with military assistance funds to be transferred for use for development and humanitarian assistance; to the Committee on Foreign Relations.

AID TO EL SALVADOR

Mr. HATFIELD. Mr. President, today, along with Congressman JIM LEACH in the House of Representatives, I am introducing legislation conditioning military aid to El Salvador on participation of the Government of El Salvador in negotiations with all parties to the conflict.

Blame for the continuing violence rests not only with the guerrillas, but also with the Government which, as the State Department acknowledges, shares responsibility for massive human rights violations. We believe the troubles in Central America, although exacerbated by others, are primarily rooted in poverty, landlessness, illiteracy, social injustice, and historic denial of political representation. One does not have to sympathize with radical or revolutionary remedies to recognize that social and economic problems exist and must be addressed foremost if a humane, democratic way of life can be assured in the region. These objectives cannot be met, and this process cannot go forward, until and unless peace is attained.

Because of the blame which rests with all sides in this conflict, the continuing military stalemate, the finan-

cial cost to American taxpayers of underwriting a war to which there appears to be no end in sight, and the need to prevent any possibility of a military victory in the long term by the guerrillas, we urge the administration to give renewed consideration to a course of political negotiation and reconciliation in El Salvador. We do not propose to dictate the framework within which such a dialog should occur. Such negotiations could be one component of a broader multinational or regional plan. Many of our important allies in Central America and elsewhere have been urging negotiation and offering to assist in constructive ways. Their willingness to help us should be embraced.

A willingness on the part of the Government to sit down at the negotiating table and talk does not obligate it to accept unrealistic proposals from its opponents. Secretary of State Shultz testified recently that the United States would never support negotiations which would allow the insurgents to shoot their way into the Government. We agree. However, the Salvadoran Government can make its absolute commitment to a democratic process known more effectively at the bargaining table than it can on the battlefield. The flow of arms from outside sources and other forms of support for the insurgency can also be dealt with in the context of negotiations. Representatives of the insurgency have been calling for unconditional talks for some time now. It is time to test their sincerity.

This legislation will condition the provision of further military aid to the Government of El Salvador on the basis of whether the Government is actively engaged in good faith in a negotiation process. If the Government is unwilling to do so, all military advisors will be withdrawn and U.S. military assistance will be immediately transferred into humanitarian and development aid for El Salvador. The transfer of military aid into other forms of assistance stems from our desire to avoid sending a signal to the people of that country that we are prepared to abandon them. Rather, we simply seek to encourage the Government of El Salvador to find a peaceful solution to the war and to strengthen the hand of moderates in the Salvadoran Government who favor a negotiated settlement but lack sufficient political support to challenge those who prefer a prolonged war with the insurgents. The legislation, of course, places the Government of El Salvador under no obligation to negotiate if the opposition is unwilling to do so without prior conditions. Therefore, our bill requires that good faith be shown not only by the Salvadoran Government, but also by the opposition.

The purpose of this legislation is to signal to the Government of El Salvador that the people of the United States are unwilling to continue the seemingly endless war without an active effort of El Salvador's Government to end the violence. We believe a negotiated settlement is the only rational solution to the conflict.

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. 688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 1 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 620F. UNITED STATES MILITARY SUPPORT FOR EL SALVADOR.—(a) United States military support for El Salvador may not be provided after the end of the 180-day period beginning on the date of enactment of this section unless the President transmits to the Congress, at the end of that 180-day period, a report stating that the President has determined that—

"(1) the Government of El Salvador is actively engaged in good faith in a negotiation process (A) whose purpose is to achieve a cease-fire and an equitable political solution to hostilities, and (B) which involves all major parties to the conflict in El Salvador which are willing to participate unconditionally in such a negotiation process; or

"(2) the Government of El Salvador cannot proceed with such a negotiation process because the Revolutionary Democratic Front (FDR) and the Farabundo Marti National Liberation Front (FMNL) are not willing to participate unconditionally.

In making the determination required by this subsection, the President shall consult with the Congress.

"(b) If United States military support for El Salvador is terminated pursuant to this section, any unobligated funds allocated for El Salvador under chapter 2 or 5 of part II of this Act shall be—

"(1) transferred under section 610 for use for development assistance projects in El Salvador under chapter 1 of part I of this Act or for assistance under section 495I of this Act for persons displaced by the strife in El Salvador; or

"(2) deposited in the Treasury as miscellaneous receipts.

"(c) As used in this section, the term 'United States military support for El Salvador' means—

"(1) the obligating of funds for assistance for El Salvador under chapter 2 or 5 of part II of this Act, and the issuing of letters of offer, extending of credits, or issuing of guarantees for El Salvador under the Arms Export Control Act;

"(2) the assigning or detailing to El Salvador of members of the United States Armed Forces to perform defense services under this Act or the Arms Export Control Act, to conduct international military education and training under chapter 5 of part II of this Act, or to perform international military assistance and sales management functions under section 515 of this Act; and

"(3) any other assigning or detailing to El Salvador, or other introduction into El Salvador, of members of the United States Armed Forces (other than members of the Armed Forces responsible for security at the United States Embassy in El Salvador), except that this paragraph does not prohibit the introduction of United States Armed Forces into El Salvador in order (A) to meet a clear and present danger of hostile attack upon the United States, or (B) to meet a clear and present danger to, and to provide essential and immediate evacuation of, citizens of the United States.".

By Mr. HEINZ:

S. 689. A bill entitled the "Natural Gas Policy Act Amendments of 1983"; to the Committee on Energy and Natural Resources.

NATURAL GAS POLICY ACT AMENDMENTS OF 1983

● Mr. HEINZ. Mr. President, today I am introducing the Natural Gas Policy Act Amendments of 1983. Its enactment would provide immediate price relief to all natural gas consumers, providing an average annual savings for each residential consumer of at least $200, a nationwide total annual savings of $25 billion.

In no way is it an oversimplification to state that many Pennsylvanians and people across our Nation will be faced with the choice of heating or eating this year.

The citizens of my home State and many others know only too well that gas prices have outstripped both their income earning capabilities and that these crippling price increases have affected other goods and services.

Consider that between 1978 and 1981, the income of a Pennsylvania manufacturing employee increased by 30 percent while his natural gas bill increase by 127 percent.

Consider that between September of 1978 and September of 1982, the gas rates charged by the six pipelines serving Pennsylvania increased by an average of 175.6 percent while the Consumer Price Index was growing by 47.2 percent.

Consider that between 1978 and 1982, gas prices charged to residential consumers in the city of Philadelphia increased by in excess of 94 percent and in the city of Pittsburgh by in excess of 86 percent.

As I said earlier, many Pennsylvanians will be faced with the choice of heating or eating this year.

Over 350,000 Pennsylvania families fall below 125 percent of the poverty level, the financial dividing line for most Federal assistance programs. That line is $5,016 per year, or $418 per month in disposable income. After spending money for rent, the gas bill, the nonheating electric utility bill, and food, the average family of three below the poverty level will find itself $33 in debt.

Just as bad is that plight of the single elderly Pennsylvanian totally dependent on a maximum supplementary security income payment of $317.60 per month. After paying his or her natural gas bill, this elderly Penn-

sylvanian will be left with only $39 a week for all other living expenses. I intend to schedule hearings before the Senate Aging Committee which I chair to further investigate the severity of these price increases on this Nation's elderly citizens.

On a nationwide basis, natural gas prices continue to rise by an average annualized rate of approximately 25.3 percent. In many parts of our Nation, this increase more nearly approaches a level of 40 to 50 percent. This has occurred despite the sizable present surplus of deliverable gas.

The facts I have just stated make it imperative that this Congress move expeditiously to take action to provide our country's citizens with the relief they urgently need from excessive and unjustified gas cost increases.

After very long and arduous deliberations in the 92d, 93d, and 94th Congresses, the 95th Congress passed and the President signed the Natural Gas Policy Act of 1978 NGPA. Fundamental to the NGPA was a balanced approach to the twin objectives of consumer price protection and adequate price incentives for vigorous domestic gas supply development. In these respects, the NGPA established an incentive price for new gas supplies with the ultimate decontrol of most of that gas by January 1, 1985. Further, NGPA retained controls on old gas both to assure consumers the price benefits of that gas and to provide additional incentives to producers for new gas exploration. We enacted NGPA in 1978 pursuant to the best wisdom and political climate prevailing at that time.

Since 1978, however, a series of conditions have arisen which we could not have anticipated then, but which now combine to require our action once again in this most controversial and complex area. Some of these events were internal to the very premise and construction of the NGPA while others were external to the NGPA.

For example, the NGPA did not anticipate dramatic increases in oil prices, or the FERC's self-enforced abdication of its traditional consumer protection role. Moreover, NGPA did not anticipate the magnitude to which interstate pipelines and gas producers would seek to increase gas prices by their contracts now and at the time of decontrol of new gas in 1985. High take-or-pay and indefinite price clauses in those contracts are causing gas prices to the consumer to be higher than necessary, creating grave consequences for consumers and the gas industry alike in 1985 if not restrained.

The events have been compounded by certain internal characteristics of NGPA. The NGPA category pricing mechanisms have proven to be highly inflexible and one way—up. Wellhead prices responsive to retail market conditions have been virtually impossible to achieve even at this time when supply is clearly in excess of demand. Moreover, by providing interstate pipeline companies with a so-called guaranteed passthrough of their purchased gas costs, NGPA itself greatly reduced the institutional incentive of those companies to drive hard bargains with the gas producers and to control reasonably their purchased gas costs.

I, of course, am hardly the first person to notice or point out these inadequacies in the legal and institutional framework surrounding gas prices. Indeed, many of us have already addressed in some fashion most of the concerns I am expressing today. And, I believe it is fair to say that almost all gas consumers, utilities, pipelines, and producers agree that "something" must be done. The real question is what? The purpose of the bill I am introducing today is to answer that question.

First, my legislation will continue all existing controls on old gas while retaining the schedule for the decontrol of new gas mandated by the NGPA. This strategy protects the consumer from increases in the price of old gas, which constitutes more than 40 percent of supply, while providing incentives necessary for secure, long-term gas supplies.

Second, my legislation will further nullify indefinite price escalators in existing and future gas contracts; limit take or pay provisions in existing contracts to 50 percent; and mandate the existence of market out provisions in all contracts for gas to interstate pipelines after 1977 with appropriate transportation provisions.

These provisions will provide access to low-cost gas, currently denied to consumers by abusive contract provisions and will serve to eliminate nonmarket related increases.

Third, this legislation, in order to put an end to abusive pipeline purchasing practices, requires the implementation of stringent pipeline accountability standards outlined in sections 4 and 5 of the Natural Gas Act. Also, a penalty would be established which requires pipeline companies to pay interest on refunds of any excess rate collections charged customers at 3 percentage points above the prevailing prime rate.

Fourth, consumer protection will be further enhanced through a series of technical amendments relating to determining the Btu content of natural gas, clarifying that contract authority is a necessary precondition for the collection of NGPA ceiling prices, and reaffirming that NGPA ceiling prices cannot be exceeded either by noncost based production-related allowances or by pipelines providing other below value services to producers while also paying NGPA price.

These and other features of my legislation—described in detail in the section-by-section analysis that follows—will achieve upon enactment a $25 billion savings for gas consumers. Again, this equates to no less than a $200 annual saving for residential gas consumers.

In sum, I have introduced legislation today which achieves consumer price and supply protection and provides a permanent and comprehensive, and above all, workable solution to the serious problems confronting gas consumers and the gas industry today, and I urge my colleagues careful study and support.

Mr. President, I ask unanimous consent that the bill and a summary of the bill be printed in the RECORD.

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

S. 689

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

SECTION 1. Short Title; Table of Contents:

(a) SHORT TITLE.—This Act may be cited as the "Natural Gas Policy Act Amendments of 1983."

(b) TABLE OF CONTENTS.—

TABLE OF CONTENTS

TITLE I—FINDINGS AND PURPOSES

Sec. 101. Findings.

Sec. 102. Purposes.

TITLE II—AMENDMENTS TO THE NATURAL GAS POLICY ACT OF 1978

Sec. 201. Amendments to section 2 of the Natural Gas Policy Act of 1978.

Sec. 202. Amendments to Title I of the Natural Gas Policy Act of 1978.

Sec. 203. Amendments to Title III of the Natural Gas Policy Act of 1978.

Sec. 204. Amendments to section 601 of the Natural Gas Policy Act of 1978.

TITLE I—FINDINGS AND PURPOSES

SEC. 101. The Congress finds and declares that—

(1) Natural gas is a fuel widely used in residential, industrial and commercial applications and significantly affects interstate commerce;

(2) There presently exists a surplus of deliverable natural gas;

(3) Natural gas prices are currently above market-clearing levels in many markets;

(4) Wellhead prices of natural gas are not responding promptly to retail market conditions;

(5) Take-or-pay clauses in wellhead gas purchase contracts are causing gas pipeline companies to incur substantial payment penalties and to purchase a mix of higher cost supplies than otherwise necessary;

(6) Indefinite price escalation clauses in wellhead gas purchase contracts steadily increase gas prices with little or no relationship to retail market conditions and are likely to increase prices significantly above market-determined prices if not controlled;

(7) Take-or-pay and indefinite price escalation clauses are causing or will cause results contrary to the public interest;

(8) Natural gas companies, as defined by the Natural Gas Act of 1938, have inadequate incentive to control purchased gas

costs in view of section 601(c)(2) of the Natural Gas Policy Act of 1978;

(9) Gas producers and pipeline companies are unlikely to renegotiate their gas purchase contracts to resolve the problems extant today in the natural gas industry; and

(10) Urgent legislative action is necessary to achieve wellhead gas prices responsive to retail market conditions.

SEC. 102. The purposes of this Act are to—

(1) Provide mechanisms for a smooth transition to the ultimate decontrol of certain wellhead natural gas prices;

(2) Assure that natural gas companies are held accountable, through federal regulation, for all costs incurred by such companies, including purchased gas costs;

(3) Provide technical amendments to the Natural Gas Policy Act of 1978;

(4) Nullify certain gas purchase contract provisions which inhibit the free flow of market signals between consumers and producers of natural gas;

(5) Provide in certain wellhead gas purchase contracts market-out clauses to permit price adjustments in response to market conditions;

(6) Assure gas supply security to interstate markets;

(7) Assure that natural gas of marketable quality is received in return for maximum lawful prices; and,

(8) Exercise the power of Congress to the maximum extent to regulate interstate commerce in the public interest.

TITLE II—AMENDMENT TO THE NATURAL GAS POLICY ACT OF 1978

SEC. 201. Section 2 of the Natural Gas Policy Act of 1978 is amended—

(1) by inserting at the end of section 2(30), the following: "For purposes of determining the number of Btu's per unit volume of natural gas, the Btu content of one cubic foot of natural gas shall be the number of Btu's produced by the combustion, at constant pressure, of the amount of gas which would occupy a volume of one cubic foot at a temperature of sixty degrees Fahrenheit, saturated with water vapor and under a pressure equivalent to that of thirty inches of mercury at thirty-two degrees Fahrenheit, and under standard gravitational force (980.665 centimeters per second squared) with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of the gas and air and when the water formed by combustion is condensed to the liquid state; provided, however, that a different method for determining Btu's may be used whenever any contract for the first sale of natural gas expressly and specifically by its plain language so provides."; and

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

"(38) DEFINITE PRICE PROVISION.—The term "definite price provision" means any provision in a contract for the first sale of natural gas that establishes a specific unit price, which is known or predictable with certainty at any present and future time during the duration of the contract, for natural gas sold under such contract.

"(39) INDEFINITE PRICE PROVISION.—The term "indefinite price provision" means any provision in a contract for the first sale of natural gas, other than a definite price provision, which establishes a price for natural gas sold under such contract.

"(40) MARKET-OUT PROVISION.—The term "market-out provision" means a provision in a contract for the first sale of natural gas which permits either party in its sole discretion on thirty days notice to require the other party to accept a price different from the prevailing contract price as the contract price.

"(41) TAKE-OR-PAY PROVISION.—The term "take-or-pay provision" means a provision in a contract for the first sale of natural gas which obligates the purchaser to take delivery of or to pay for an indicated percentage of natural gas under such contract.".

SEC. 202. Title I of the Natural Gas Policy Act of 1978 is amended—

(1) by adding at the end of paragraph 101(b)(9) the following: "The price under any contract in effect on November 8, 1978, shall remain the price after November 8, 1978, unless the contract expressly and specifically by its plain language authorizes prices established by Congress, in which case any price not in excess of the applicable maximum lawful price may apply.";

(2) by adding after subsection 101(b) the following:

"(c) REPEAL OF ANNUAL INFLATION ADJUSTMENT FACTORS.—Upon the date of enactment of this Act, the annual inflation adjustment factor, as defined in subsection 101(a) and applied in sections 102, 103, 104, 105, 106, 107, 108 and 109, shall cease to apply.

"(d) COVERAGE OF CEILING PRICES.—

"(1) GENERAL RULE.—The applicable maximum lawful price for any first sale of natural gas shall be deemed to include all costs necessary to, or associated with, the delivery of marketable natural gas to the purchaser.

"(2) SELLER ALLOWANCE OR ADJUSTMENT.—To the extent that the seller incurs costs necessary to deliver natural gas of marketable quality to the purchaser and such costs deprive the seller of the opportunity to earn a just and reasonable return within the applicable maximum lawful price, the Commission may exercise its authority pursuant to sections 110 and 502(c) to provide an allowance or adjustment to the maximum lawful price which will permit the seller to earn a just and reasonable return.

"(3) PURCHASER ADJUSTMENT.—The Commission shall reduce any applicable maximum lawful price by the value of any consideration of any kind which the purchaser provides to the seller in addition to the applicable maximum lawful price. Such reduction shall include, but not be limited to, the value to the seller of any free or below-value transportation of liquid or liquefiable hydrocarbons provided by the purchaser.".

SEC. 203. Title III of the Natural Gas Policy Act of 1978 is amended—

(1) by deleting "." at the end of paragraph 311(a)(1) and inserting the following: "; provided, however, that the just and reasonable rate shall be no less than $0.05 per million Btu's and that all revenues received by the interstate pipeline in excess of $0.05 per million Btu's shall be credited back to the customers of such pipeline."; and

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

"SEC. 316. FIRST SALE CONTRACTS AND PROVISIONS THEREOF—

"(a) INDEFINITE PRICE PROVISIONS.—Indefinite price provisions in all contracts for the first sale of natural gas are null and void as contrary to public policy.

"(b) MARKET-OUT PROVISIONS.—All contracts for the first sale of natural gas enumerated in subsections 121(a) (1) and (2), 121(b) and (c) are deemed by operation of law to include a market-out provision.

"(1) EXERCISE BY PURCHASER.—The exercise of a market-out provision by the purchaser shall authorize the seller to seek an alternative purchaser. At the conclusion of the thirty day notice period, the seller shall either accept as the contract price the price offered by the purchaser or offer to the purchaser a right of first refusal at the price which the seller has negotiated with an alternative purchaser.

"(2) EXERCISE BY SELLER.—The exercise of a market-out provision by the seller shall require the seller to offer to the purchaser a right of first refusal at the price which the seller has negotiated with an alternative purchaser.

"(3) TRANSPORTATION SERVICE AND RATES.—Any pipeline purchaser which declines an offer made pursuant to any right of first refusal required by this subsection shall transport the natural gas involved on a best efforts basis on behalf of the seller. The rate charged for such transportation service shall be the rate agreed to by the seller and the pipeline purchaser or, if no rate is agreed to, the rate established by the appropriate State or Federal regulatory authority; provided, however, that no State or Federal regulatory authority may establish a rate less than $0.05 per million Btu's plus the cost of such transportation and that all revenues received by a pipeline purchaser in excess of $0.05 per million Btu's shall be credited back to the customers of such pipeline.

"(c) TAKE-OR-PAY PROVISIONS.—Take-or-pay provisions in all contracts for the first sale of natural gas in effect on the date of enactment of this Act shall be deemed by operation of law to be limited to fifty percent.

"(d) RIGHTS OF PURCHASER TO CONTEST.—Any provision of any contract for the first sale of natural gas which has the effect of restricting the right of the purchaser to contest in any manner the rights and obligations of the parties to such contract shall be null and void as contrary to public policy.

"(e) ACCESS TO CONTRACTS.—All contracts and ancillary agreements for the first sale of natural gas shall be filed with the Commission and made available by the Commission to the public in an orderly manner within sixty days after the later of the date of enactment of this Act or the execution of the contract.

"(f) COORDINATION WITH EXISTING CONTRACTUAL PROVISIONS.—Any provision of any contract for the first sale of natural gas which would affect the rights and obligations of the parties to such contract as a consequence of this section shall be null and void as contrary to public policy to the extent such provision is inconsistent with this section or would cause termination of the contract.

"(g) CONTRACT INTERPRETATION.—On petition by any party to a contract for the first sale of natural gas or by any local distribution company affected by such contract, the Commission shall have jurisdiction to resolve any matter concerning the rights and obligations of the parties or any other matters involving the interpretation of contract language.".

SEC. 204. Section 601 of the Natural Gas Policy Act of 1978 is amended to add the following:

"(d) EFFECTIVENESS OF NATURAL GAS ACT.—Notwithstanding any other provision of law, the authority of the Commission pursuant to sections 4 and 5 of the Natural Gas Act shall be in full force and effect with respect to natural gas companies, as defined in such Act, including, without limitation, purchased gas costs incurred by natural gas companies.

"(e) RATE INCREASE DISINCENTIVE.—

"(1) PURPOSE.—The purpose of this subsection is to establish a mechanism to discourage natural gas companies, as defined in the Natural Gas Act, from making repetitive or excessive rate increase filings.

"(2) COMMISSION RULE.—Within ninety days after the date of enactment of this Act, the Commission shall promulgate a final rule which establishes the interest rate at which refunds shall be paid by natural gas companies on any collections made by such companies in excess of rates approved by final order of the Commission.

"(3) MINIMUM INTEREST RATE.—The interest rate established by the Commission pursuant to this subsection shall be no less than three percentage points above the prime interest rate prevailing during the period of any collections subject to refund made by any natural gas company.

"(f) TARIFF STUDY.—Within one year after the date of enactment of this Act, the Commission shall undertake and complete a comprehensive study of minimum bill and related provisions in interstate pipeline tariffs. The study shall—

"(1) include analyses of the effects of such provisions on the responsiveness of wellhead gas prices to retail market conditions, the rates charged customers of interstate pipelines, the ability of local distribution companies to secure varied sources of gas supply, and the present and future financing of existing and new interstate pipelines;

"(2) include analysis of the necessity for such provisions; and

"(3) be undertaken with opportunities for written and verbal comments of interested parties.

Pursuant to the Natural Gas Act, the Commission may, as appropriate, require the revision of minimum bill and related provisions in interstate pipeline tariffs. Nothing in this subsection shall preclude the Commission from ordering appropriate revisions to interstate pipeline tariffs during the pendency, or after the completion, of the study required by this subsection.".

HIGHLIGHTS OF NATURAL GAS POLICY ACT AMENDMENTS OF 1983

SUBSTANTIAL GAS PRICE REDUCTIONS UPON ENACTMENT

Immediate price reductions upon enactment totaling some $25 billion

Average savings per residential customer approximately $200

Additional price reductions clear, but amount dependent upon supply/demand factors in gas markets and mix of interstate pipeline supplies

CLEAR, PERMANENT AND COMPREHENSIVE RESOLUTION OF CONTRACTS PROBLEMS

Indefinite price escalation provisions nullified and prohibited now and forever

Take-or-pay provisions in existing contracts limited to 50 percent

Market-out provisions mandated in all contracts for gas to be decontrolled in 1985 and 1987

No formula or "capping" mechanism of uncertain consequence

SUPPLY STABILITY AND INCENTIVES FOR VIGOROUS DOMESTIC GAS EXPLORATION

Maintains Natural Gas Policy Act phased decontrol schedule for new gas and also maintains NGPA authority of Congress or President to reimpose price controls

No "old" gas decontrol

PIPELINE ACCOUNTABILITY AND OVERSIGHT

Reassertion of pipeline regulation under the Natural Gas Act, including reasonableness review of purchased gas costs

Rate increase disincentive to discourage repetitive or excessive pipeline rate filings

Economic incentive for pipelines to render transportation service

Mandate FERC review of pipeline minimum bill and related provisions

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SECTION-BY-SECTION ANALYSIS OF NATURAL GAS POLICY ACT AMENDMENTS OF 1983

TITLE I—FINDINGS AND PURPOSES

Section 101.—Ten separate Congressional findings and declarations are set forth in section 101. These are based upon testimony presented to the Congress in hearings held over the past year, responses to Congressional inquiries submitted by gas producers, pipeline companies, utilities and consumers, and numerous studies and analyses produced by governmental bodies and private parties on natural gas issues. The findings and declarations are largely self-explanatory.

Section 102.—This section sets forth eight purposes of the bill. These too are largely self-explanatory and evolve from the findings and declarations in section 101.

The specific language of section 101 and 102 was carefully chosen to leave no doubt as to the urgent need for legislative action and, in light of judicial precedent, to assure that the bill generally and its contract measures in particular will withstand any constitutionally based legal challenge.

TITLE II—AMENDMENTS TO THE NATURAL GAS POLICY ACT OF 1978

This title consists of four sections, each amending a different component of the Natural Gas Policy Act of 1978 (NGPA), but in a wholly interrelated fashion. The overall objectives of this title are to:

(a) Clarify certain sections of NGPA to provide for Federal Energy Regulatory Commission (FERC or Commission) implementation of NGPA in a manner more consistent with the original intent of Congress in that Act;

(b) Resolve certain problems with respect to the terms of gas sales contracts to assure that demand signals for natural gas can be efficiently transmitted through the gas marketing chain to the wellhead;

(c) Provide permanent, comprehensive contractual and pipeline regulatory mechanisms to facilitate the responsiveness of wellhead gas prices to retail market conditions;

(d) Hold natural gas companies, as defined in the Natural Gas Act (NGA), accountable to their customers and gas consumers for their gas acquisition practices and prices; and,

(e) Accomplish such other matters as described further herein.

As important as what the bill intends to do, is what it does not intend to do. It does not, for example, intend to decontrol "old" gas prices or to encourage FERC to raise prices for old gas in any manner. It also does not intend to upset or revise the NGPA schedule for phased decontrol of certain new gas supplies nor the NGPA authority of Congress or the President to reimpose price controls. Moreover, it does not establish new rigid wellhead pricing formulae or mechanisms which have proven to be ineffective consumer protection measures by the NGPA itself.

Section 201.—This section amends the NGPA definitional section in two respects. First, it adds to the NGPA definition of "Btu" a specific measurement technique for determining the Btu content of natural gas. The technique prescribed is the so-called "saturated" or "wet" basis measurement which has been the generally accepted industry standard for decades. This measurement standard was revised by FERC to achieve a so-called "dry" basis for Btu measurement. This dramatic shift by FERC has been estimated to raise wellhead gas prices nationwide by about 1.8 percent. The FERC regulation is being litigated in court, but, in the meantime, consumers are paying the higher prices premised on a dry Btu measurement. The amendatory language specifically requires a "wet" Btu measurement, but allows for a different measurement technique whenever the contract for the first sale of gas expressly and specifically by its plain language provides for such a different technique. Thus, the generally accepted industry standard is maintained, but parties to the gas sales contract are permitted to deviate from that standard to the extent their contract so provides.

Second, this section adds four new definitions to the NGPA definitional section. In new paragraph (38), "definite price provision" is defined to mean any provision in a contract for the first sale of natural gas that establishes a specific unit price, which is known or predictable with certainty at any present and future time during the contract duration, for gas sold under a contract. The key factor here is that the unit contract price must be a specifically determinable amount at any time during the term of the contract. A certain, predictable unit price is paramount. In new paragraph (39), "indefinite price provision," is then defined as any provision of a contract other than a definite price provision which establishes the price under the contract.

New paragraph (40) defines a "market-out provision" as a provision in a first sale contract which permits either party in its sole discretion on thirty days notice to require the other party to accept a price different from the prevailing contract price as the new contract price. The key components of this definition are that the market-out provision may be exercised in the sole, unfettered discretion of either party upon thirty days notice.

Lastly, new paragraph (41) defines "take-or-pay provision" to mean a provision in a first sale contract that obligates the purchaser to take delivery of or to pay for an indicated percentage of gas under the contract.

Of course, as in NGPA, the new definitions, (38)-(41), are not complete absent their implementation in a later section (section 203) of this bill. Thus, these definitions must be read in connection with section 203 of the bill and are described with further detail there.

Section 202.—This section amends Title I of NGPA in several respects. The first of these amendments (Section 202 (1)) supplements NGPA Section 101(b)(9) and clarifies the standing of area rate clauses in contracts for the first sale of natural gas. The essential role of this amendment is to resolve a dispute FERC has been unable to resolve since it arose in January, 1979. Under this amendment "area rate clauses" will not entitle the producer/seller of natural gas to receive the applicable NGPA ceiling price unless the plain language of the contract for the sale authorizes prices established by Congress. For the most part, this amendment will affect contracts covering "old" gas, given that most "new" gas contracts contain the contract authority required.

Second, Section 202(2) amends Title I to add a subsection 101(c) which repeals the

annual inflation adjustment factor prescribed in the NGPA for all vintages of gas, including stripper well and tight sands gas. The amendment does not, however, modify that part of NGPA which authorizes real (noninflationary) increases in ceiling price levels. The obvious difference between these two NGPA-based automatic ceiling price increasing mechanisms is that inflation-based increases are "indefinite price escalators" (which are outlawed by Section 203(2) of this bill), and real increases in field prices are prescribed at a stated amount in NGPA (either at one percent or four percent above the stated ceiling price), depending on the vintage of the gas well.

Third, Section 202(2) amends Title I of NGPA by adding a new subsection 101(d). This new subsection begins with a general rule that ceiling prices are deemed to include all costs necessary to the delivery of marketable natural gas. Paragraph (2) of the new subsection then describes the NGPA mechanism whereby sellers are allowed to charge prices in excess of ceiling prices where such higher prices are justified by cost-based "production-related expenditures." Thus, it allows FERC to permit the seller to collect a price in excess of the applicable ceiling price if such higher price is necessary to allow the seller to earn a just and resonable return on its investment. In addition, paragraph (3) of new subsection 101(d) specifies the treatment of liquids and liquefiables transportation service rendered by gas pipelines on behalf of gas producer-sellers. Under this paragraph, the value of any transportation service rendered by a pipeline on behalf of a seller is applied as a reduction in the ceiling price applicable to the gas sold to the pipeline. Accordingly, paragraph (3) ends the practice whereby pipelines provide free or low-cost transportation service on non-gaseous hydrocarbons owned by sellers (and produced jointly with methane or natural gas) but which are removed and sold by the producer at points remote from the production site.

Section 203.—This section amends NGPA Title III in several respects. First, a phrase is added at the end of existing NGPA paragraph 311(a)(1), relating to the just and reasonable rates which interstate pipelines may charge for certain transportation services rendered by them. The existing law as implemented is inadequate because it fails to provide a sufficient economic incentive to encourage the interstate pipeline companies to provide transportation service. The amendatory language establishes a transportation rate of no less than $0.05 per million Btu's, which is generally recognized as an amount necessary to provide sufficient financial incentive to transport gas. The amendment also requires, however, that the pipeline rendering transportation service can not retain any revenues received for such service in excess of $0.05. The revenues, if any, in excess of $0.05 must be flowed back to the customers of the pipeline through the traditional FERC procedures.

The second major amendment to NGPA Title III made by this section is the addition of a new section 316, which contains numerous provisions relating to the so-called contracts problems and inability of NGPA established prices to reflect retail market conditions. Subsection 316(a) relates to indefinite price provisions. These provisions are likely to cause wellhead prices in 1985 vastly in excess of prices which would prevail if market forces were operative. Further, such provisions have, at the least, anticompetitive implications and act to ratchet inexorably gas prices upward only. Thus, subsection 315(a) nullifies and voids indefinite price provisions in all, existing and future, contracts for the first sale of natural gas as contrary to public policy.

Section 316(b) provides that a market-out provision shall be deemed by operation of law to be in all contracts for the first sale of natural gas enumerated in subsections 121(a) (1) and (2), 121(b) and (c) of the NGPA. This includes only contracts for gas which will be deregulated under the NGPA. Certain intrastate contracts are not, however, included by subsection 316(b) because a record which establishes the necessity for a market-out in such contracts does not presently exist. The market-out may be exercised by either the seller or purchaser on thirty days notice. A right of first refusal by the purchaser is required, and best efforts transportation of the seller's gas is also required in the event that the right of first refusal is not exercised. The rates for transportation of the seller's gas are, with some self-explanatory variation, set in accordance with the previously described amendment to NGPA paragraph 311(a)(1). It is fully anticipated that this provision will result in a substantial reduction in gas prices given current market conditions.

Subsection 316(c) provides that the percentage factor applicable to take-or-pay provisions in all existing contracts will be limited to fifty percent. This limitation is not based upon reserves or deliverability as specified in any particular contract, but, instead limits to fifty percent whatever higher percentage factor may be stated in a given contract. The language does not apply to contracts entered into after the date of enactment, since it would not be advisable to restrict a pipeline purchaser's flexibility to agree to a higher take-or-pay provision in return for a lower sales price. The reasonableness of any pipeline's exercise either of its right to reduce its take-or-pay obligation to the fifty percent level or of its flexibility to agree to higher take-or-pay percentage in post-enactment contracts would, of course, be subject to FERC review pursuant to section 601(d) added by this Act. It is expected that subsection 316(c) will permit pipeline companies to achieve substantial reductions in gas prices both by permitting a change in the mix of higher and lower cost supplies pipelines take at any given time and by avoiding prepayments under existing high take-or-pay provisions.

Subsection 316(d) provides that a purchaser of gas in any "first sale" transaction would acquire the right to contest the "rights and obligations" of the seller in a gas sales contract. The effect of the subsection is to nullify as "contrary to public policy" any arrangement whereby a first sale purchaser of gas has conveyed to the seller its right to oppose or object to the seller's assertions with respect to prices to be paid or any other aspect of the gas sales transaction.

Subsection 316(e) clarifies FERC's mandate to be the respository of all first sale contracts and ancillary agreements. This subsection requires the filing of such agreements within 60 days after the execution thereof (or date of enactment, in the case of older agreements) and is not intended to enlarge FERC's information gathering authority. In accordance with section 4 of the Natural Gas Act and Section 315 of NGPA, FERC now possesses authority to secure such agreements. This authority, however, has not been exercised on a consistent basis since the enactment of NGPA in 1978.

Subsection 316(f) is a "savings clause" which provides that any contract provisions which would negate the effect of these amendments would be rendered null and void "as contrary to public policy." The effect of this amendment would be to disqualify any contract provisions which were "triggered" by these new amendments and which, absent Section 316(f), would create rights and obligations inconsistent with any of the amendments in this bill.

Finally, subsection 316(g) clarifies FERC's authority to interpret the terms of contracts covering first sales of natural gas. This amendment would confer jurisdiction on FERC to resolve any dispute involving the interpretation of contract provisions. Accordingly, a single forum (FERC) would be available to interested parties to resolve on a uniform, nationwide basis any disputes between first sale purchases and sellers regarding such matters as the amount or price to be paid for gas under applicable contracts.

Section 204.—This is the "pipeline accountability" amendment which is the concluding amendment of the bill. Section 204 clarifies the relationship between NGPA and the Natural Gas Act of 1938 insofar as the regulation of "natural gas companies" is concerned. In a new NGPA subsection 601(d), section 204 provides that sections 4 and 5 of the Natural Gas Act are expressly applicable to companies regulated under that Act. Among other things, this amendment would require prudent pipeline purchasing practices and would clarify FERC's authority to review pipeline "purchased gas costs" under the well understood just and reasonable standard.

Two new FERC mandates are also provided in Section 204. First, section 204 adds a new subsection 601(e) in NGPA which requires a "rate increase disincentive." In accordance with this subsection, pipelines would be discouraged from filing excessive and/or repetitive rate increases. To achieve this, FERC is required to promulgate a rule which fixes the interest rate paid on refunds on pipeline overcharges at a rate not less then the prime rate plus three percentage points.

Second, new subsection 601(f) requires FERC to undertake and complete a "tariff study" within one year of the date of enactment of the subsection. In this study, FERC would examine "minimum bill and related provisions" in interstate pipeline tariffs and would analyze the effects of such provisions on the "responsiveness of wellhead gas prices to retail market conditions, the rates charged customers of interstate pipelines," and other market related factors. This amendment would not expand FERC's jurisdiction, but would require early attention to pipeline contracting practices in which minimum bill arrangement are prevalent.●

By Mrs. HAWKINS:

S.J. Res. 47. Joint resolution authorizing and requesting the President to proclaim "National Disabled Veterans Week"; to the Committee on the Judiciary.

NATIONAL DISABLED VETERANS WEEK

● Mrs. HAWKINS. Mr. President, today I am introducing a joint resolution to establish the week of November 6, 1983, as "National Disabled Veterans Week."

Mr. President, honor must go to the brave. For the love of country—and

for the love of all Americans—these brave people made so many sacrifices: Physical, emotional, psychological—and are left with an indelible memory of their time that is at once deeper and more painful than our own. We must remind them that their sufferings and sacrifices will not go unremembered or unknown. To be forgotten or ignored by one's countrymen is unbearable. In the words of Edward G. Galian, national commander of the Disabled American Veterans;

When veterans return from wars, their feelings of being unable to share their experience with anyone are intense. So many piercingly strong emotions, and they're all bottled up inside.

After World War II, people were ready to listen to vets like me. They'd at least try to understand, even if they couldn't. They'd give us an opportunity to try to explain what we were feeling, even if we couldn't. It didn't make the pain go away, but it eased the loneliness bit by bit.

I suspect the transition to peacetime, civilian life was tougher for veterans of the Korean War. And I know it was more difficult for those who came home from the Vietnam War. Few wanted to listen to these veterans. Few wanted to understand. Few seemed ready to say, "Welcome home, you've done a good job for your country."

It's natural for a veteran to feel isolated, angry, alone, alienated, and very different from everyone else when he or she first comes home.

Mr. President, we have 2,300,000 disabled veterans in this country—and millions more whose scars are not so evident. We in Congress must, in our own way, fight for the rights of those who, at the risk of their own lives, fought to keep something alive for us. They deserve not only our honor but also our compassion and our concern. I, for one, will continue to support the veterans population in any way that I can—especially in the areas of health care and just compensation. A National Disabled Veterans Week is a week-long expression of appreciation for their lifelong sacrifice and gratitude for their greatness of heart.

And so, Mr. President, I ask that in this way we honor the brave American veterans—battle scarred but good soldiers all—who had the spirit to fight, the strength to win, and, most important, the courage to live.●

By Mr. McCLURE (for himself and Mr. MATTINGLY):

S.J. Res. 48. Joint resolution to amend the Constitution of the United States to limit budget outlays for a fiscal year to not more than 20 per centum of gross national product for such fiscal year; to the Committee on the Judiciary.

FEDERAL GOVERNMENT SPENDING RESPONSIBILITY

● Mr. McCLURE. Mr. President, last year this body passed the proposed constitutional amendment to balance the budget. I strongly supported that measure and felt it would go a long way to restoring fiscal responsibility to our Government. However, as with any compromise, there were imperfections. We can all agree that it is imperative that the Federal Government adopt and stick to a policy of spending no more than it takes in as revenue. The means of accomplishing this goal is under constant scrutiny. I feel, as many of my colleagues do, that the temptation to raise taxes is too great in the balance the budget amendment. There is no doubt that the best way to go about balancing our budget is to focus on decreasing the role of the Federal Government in our economy.

There are those who tell us that we are undertaxed, that the American public pays less than other countries do. But that is one of the unique aspects of the American way—that we are not like other countries. We are free people, and we cherish our freedom. We do not like the idea of government taking away from us, as a matter of right, more than half of all we make, and that is what government at every level is doing today.

Mr. President, sometimes individual examples are more persuasive than abstract principle. When leisure becomes more rewarding to a laboring person than does the aftertax reward of their labor, they choose leisure. They are not stupid. The sawmill worker in northern Idaho suddenly was sick every other Friday afternoon. Naturally his employer doubted whether this was fact. They called him and said "Hank, we noticed that you were sick every other Friday afternoon and we don't believe it." And he said, "Well, you are right. The first Friday afternoon I was sick. I could hardly get home and into bed. I was in bed all weekend, I could hardly get back to work on Monday morning, but when I got my check for that week it was only a few dollars less than if I had worked on Friday afternoon. And, frankly, my Friday afternoon is worth more than that to me."

Not a lazy American worker, a smart American doing what our system tells him to do, and that is to choose leisure as more rewarding to him than the aftertax rewards of labor.

That is what this amendment is all about, to try to get spending back down to the limits where Americans begin to see that the rewards of labor are more important to them than the rewards of leisure. We will never attain that in our system as long as the burden of taxation continues to rise. As important as the proposed constitutional amendment to balance the budget was, it did not do all of the job that needs to be done because spending can continue to rise under the amendment. Senator MATTINGLY and I warned this body of this but at the time we felt that altering it then would have gone further to guarantee its defeat than its passage.

At that time we vowed to bring the issue up again. My views have not changed on this subject. Government spending is bleeding our Nation dry. Those on both sides of the aisle see this and should address it. The American people delivered a clear message in November 1980. They are tired of wasted tax dollars, they are tired of inefficient agencies, and they know that deficits are strangling our economy and their livelihood.

If we look back to the 1950's and 1960's when Federal spending took a smaller share of our economy, we were much more productive. In the 1960's Federal spending was about 18 percent of our gross national product. During this period our economy, as it is measured by GNP, grew 6.72 percent. In the 1970's, during Congress freewheeling spending spree, Federal spending as a percentage of GNP was 21 percent, and at the same time our inflation rate was above 7 percent and the growth of our economy was only 3 percent. There is no doubt that as Federal spending consumes more and more of our economy we are less productive and we turn to inflationary policies to make up the difference. During the 1980's we have seen double-digit inflation, drastically high interest rates and a stagnant economy. Last year even with the hard work of the Appropriations Committee, Federal spending surpassed 24 percent of GNP. This year this figure will surpass 25 percent, thus further choking the productive side of our economy. On the tax side, this administration has a record of success that any administration would be proud of. Even before the Economic Recovery Tax Act of 1981 is fully implemented the Federal Government's share of taxes has been reduced from 21 percent of GNP in fiscal 1981 to an estimated 18.3 percent in fiscal year 1983. The end result in this economic confusion is a deficit that, according to administration sources, could surpass 6.5 percent of GNP.

During the last 80 years, population has tripled, prices have increased 7 times, but the outstanding Government debt has increased 500 times. We must realize that money expenditures do not solve social problems. This body has conducted the world's longest experiment in this and we have failed. More money spent on a bad idea will not make that idea good.

The proposal we have today will go a long way to reaffirm valid financial standards. By reducing the Federal Governments' share of GNP by 1 percent a year until it is back down to productive levels of 20 percent we will go a long way to restore responsibility to government. This was a promise Ronald Reagan made to the American people and I intend to do everything I can to help him accomplish it. It

should be very clear to us that the American people feel that modern government is out of control. They are correct. This year we can fully expect to spend over $100 billion on interest payments on our debt alone.

The time is now to draw the line and give the American people exactly what they want and what the economy needs: A budget that is balanced by taking the foot of the nect of the economy.

I ask all of my colleagues to join me in support of this important measure, and I ask unanimous consent 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. 48

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"Section 1. In exercising its powers under article 1 of the Constitution and in particular its powers to lay and collect taxes, duties imposts, and excises and to enact laws making appropriations, the Congress shall assure that the total outlays of the Government during any fiscal year (except for repayment of debt) do not exceed on amount equal to the greater of—

" '(a) the difference between—

" '(b) an amount which bears the same relationship to the gross national product of the United States at the close of such fiscal year as outlays for the preceeding fiscal year bear to the gross national product of the United States at the close of such preceeding fiscal year, and

" '(2) an amount which is equal to 1 per centum of gross national product for such fiscal year, and

" '(b) 20 per centum of the gross national product for such fiscal year.

"Section 2. In case of national emergency or war, the limit may be exceeded but all expenditures in excess of the greater of the limitations listed in Section 1 of this Act must be approved by a concurrent resolution agreed to by a rollcall vote of three-fourths of all the members of each House of Congress. The limitation may be exceeded only in that fiscal year in which such a vote was taken."●

By Mr. PERCY (for himself, Mr. PELL, Mr. BYRD, Mr. DOMENICI, Mr. PRESSLER, Mr. HOLLINGS, Mr. LUGAR, Mr. INOUYE, Mr. JACKSON, Mr. DODD, Mr. SARBANES, Mr. PROXMIRE, Mr. ZORINSKY, Mr. CHAFEE, Mr. BOSCHWITZ, Mr. HUDDLESTON, Mr. MOYNIHAN, Mr. CHILES, Mr. BIDEN, Mr. DIXON, Mr. LEVIN, Mr. HART, Mr. KENNEDY, Mr. SASSER, Mr. DANFORTH, Mr. COHEN, Mr. MATHIAS, Mr. MITCHELL, and Mr. STEVENS):

S.J. Res. 49. Joint resolution to authorize and request the President to proclaim the week of April 10–16, 1983, as "A Week of Remembrance for the 40th Anniversary of the Warsaw Ghetto Uprising"; to the Committee on the Judiciary.

WEEK OF REMEMBRANCE FOR THE 40TH ANNIVERSARY OF THE WARSAW GHETTO UPRISING

Mr. PERCY. Mr. President, Senator PELL and I are today introducing a Senate joint resolution commemorating the 40th anniversary of the Warsaw ghetto uprising. I am confident that a companion resolution will be introduced shortly in the House. This will be the first commemoration in the Congress since 1973 of an event that had profound impact then and still has tremendous meaning today.

In 1939, the Nazis placed restrictions on the Jews of Warsaw. By 1940, the Jews were confined to a walled ghetto. Disease, overcrowding and starvation afflicted them. The Jews of the ghetto attempted to continue their lives by organizing classes to educate their children and by allocating food and other necessities to those who desperately required attention. Jewish poets and authors continuing their writings, and these are among the most poignant pieces of writing of any generation.

At the end, in April 1943, only 70,000 Jews remained inside the ghetto walls. Though they were tremendously out numbered and faced insurmountable odds, they battled the Nazis for nearly a month before the ghetto was razed completely.

The right to freely practice one's religion and the right to freely emigrate are granted to Americans but denied to so many, including Soviet Jews. So in commemorating the Warsaw ghetto uprising, we remember that we must work tirelessly on behalf of all who are oppressed or imprisoned. By their strength and faith, the Jews of the Warsaw ghetto became symbols for their time and for ours.

We ask our colleagues to join in cosponsoring this resolution authorizing and requesting the President to proclaim the week of April 10–16, 1983, as a week of remembrance for the 40th anniversary of the Warsaw ghetto uprising. This week will coincide with activities planned by the American Gathering of Jewish Holocaust Survivors, including commemorations of Jewish resistance to Nazism and programs reinforcing the need for the continuous struggle against anti-Semitism.

Mr. President, I ask unanimous consent 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. 49

Whereas of the more than 400,000 Jews whom the Nazis had imprisoned in the Warsaw Ghetto, only 70,000 remained in April, 1943;

Whereas most of the others had been sent to their deaths in extermination camps by the Nazis;

Whereas the surviving Jews of Warsaw had no hopes of waging successful battle against their tyrannical foes;

Whereas the valiant Jewish freedom fighters of the Warsaw Ghetto, despite the insurmountable odds, fought the Nazis and held their ground for nearly a month;

Whereas by their dramatic and heroic courage, they provided inspiration to all people who revere liberty and a warning to all oppressors;

Whereas remembering those who fought and died so valiantly serves to honor their memory and to renew the determination of the peoples of the free world to oppose tyranny and oppression wherever it occurs; and

Whereas in April of 1983, the American Gathering of Jewish Holocaust Survivors will sponsor commemorations of Jewish resistance to Nazism and will organize programs to reinforce the need for the continuous struggle against anti-Semitism: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of American in Congress assembled, That (a) the week of April 10–16, 1983, is hereby marked in commemoration of the fortieth anniversary of the uprising against the Nazi occupation forces by the besieged and outnumbered Jews of the Warsaw Ghetto who, by their courage and heroism, showed the world for all time that the forces of freedom and liberty cannot long be suppressed by the forces of tyranny, and, by their valor and their faith, gave urgency to the creation of the free State of Israel.

(b) The President is authorized and requested to issue a proclamation designating the week of April 10–16, 1983, as "A Week of Remembrance for the 40th Anniversary of the Warsaw Ghetto Uprising," and calling upon the people of the United States to observe the week of remembrance with appropriate ceremonies and activities.

Mr. PELL. Mr. President, I am delighted to join my distinguished colleague, Senator PERCY, in sponsoring this resolution to designate the week of April 10–16, 1983, as "A Week of Remembrance for the 40th Anniversary of the Warsaw Ghetto Uprising." The history of World War II is replete with stories of courage. However, that of the Polish Jews who courageously rebelled against their Nazi oppressors stands out because it is a story of a people's fight not only for freedom but also for dignity and honor.

Until the Nazi invasion in 1939, Jewish cultural and religious life thrived in Poland. In fact, Warsaw had once been known as the center of Eastern European Jewry. After the invasion, Jews found their freedom sharply curtailed by restrictions established by the Nazis and by 1940, more than 400,000 Polish Jews had been walled into a ghetto in Warsaw. Starvation, disease, and deportation to the death camps took the lives of many of the inhabitants of this ghetto. In April

1943, the 70,000 or so that remained heroically engaged the German soldiers in battle. Armed with homemade weapons and knowing full well that they had no hope of success, these inhabitants of the Warsaw ghetto struggled for nearly a month against the Nazi soldiers. When the rebellion was over and the area was razed, some 40,000 Jews had been slaughtered. It is fitting and proper that we honor these people whose struggle is a testament to the indestructible spirit of liberty by commemorating the 40th anniversary of the uprising this April.

● Mr. DOLE. Mr. President, I would like to express my full support for the resolution authorizing the President to designate April 10-16, 1983, As "A National Week of Remembrance To Commemorate the 40th Anniversary of the Warsaw Ghetto Uprising."

From late 1939 to 1943, it seemed to many of us that the lights had gone out over all of Europe. Resistance to Fascist conquests in Europe appeared futile and unorganized. The few defeats that the Nazis had suffered up until 1943, such as Stalingrad and El Alemain, were on the periphery of the Third Reich. And then, in the largest single instance of unified resistance by a conquered people that the Nazis had ever before experienced, 40,000 Jews of the Warsaw ghetto launched their life-or-death struggle for liberation. It took 44 days for the Wehrmacht and SS units, armed with tanks and artillery, to overcome resistance that relied mainly on primitive firearms and Molotov cocktails. Some 13,000 brave defenders died in the carnage, thousands more were summarily shipped off to Treblinka. On May 16, 1943, Gen. Jurgen Stroop, commander of this genocidal operation, announced that "there was a Jewish section in Warsaw, but it no longer exists."

In 1953, the United Committee to Commemorate the 10th Anniversary of the Warsaw Ghetto Uprising published a compendium of several documents relating to this historic event. I would like to briefly quote from that publication:

> To the very last drop of their blood, until the last of the heroes fell in battle, the ghetto defenders fought for their human dignity, for the honor and survival of their people, and for the liberation of mankind from the curse of Fascism. . . . The uprising made an invaluable contribution towards the strengthening of the struggle against the German Nazis and the ultimate victory over the bloodiest enemy of mankind, a contribution that will be remembered for all time.

I commend the Foreign Relations Committee and my colleagues, Senator PERCY and Senator PELL for introducing this resolution. I am pleased to support it, and I urge my colleagues in the Senate to do the same.●

By Mr. LEVIN (for himself, Mr. BAUCUS, Mr. CHAFEE, Mr. GLENN, Mrs. HAWKINS, Mr. HOLLINGS, Mr. RIEGLE, and Mr. ZORINSKY):

S.J. Res. 50. Joint resolution designating the week beginning September 25, 1983, as "National Adult Day Care Center Week"; to the Committee on the Judiciary.

NATIONAL ADULT DAY CARE CENTER WEEK

● Mr. LEVIN. Mr. President, today I am reintroducing a joint resolution to establish the week of September 25, 1983, as "National Adult Day Care Center Week." I am pleased to have Senators BAUCUS, CHAFEE, GLENN, HAWKINS, HOLLINGS, RIEGLE, and ZORINSKY as cosponsors of the joint resolution.

There are approximately 800 adult day-care centers operating in the Nation today, providing valuable support services to our senior citizens. These centers are designed to serve elderly persons who need some professional attention but do not require round-the-clock treatment. Professional nurses, dieticians, and therapists offer medical testing and referrals, nutrition education, and physical therapy to the elderly, which reduces the need for long-term hospitalizations or nursing care. Adult day-care centers allow senior citizens to remain in their homes, with their families, while at the same time giving them an opportunity to meet with peers and be socially active.

Mr. President, adult day-care centers save the Federal Government money by both reducing the need for hospitalizations and full-time nursing care. But more importantly, they allow the elderly to maintain the independence and self-esteem which is often lacking in institutional settings. I urge my colleagues to support this joint resolution, which will draw attention to the services and the potential of adult day-care centers.●

By Mr. DOLE (for himself and Mr. MOYNIHAN):

S.J. Res. 51. Joint resolution designating May 21, 1983, as "Andrei Sakharov Day"; to the Committee on the Judiciary.

ANDREI SAKHAROV DAY

● Mr. DOLE. Mr. President, the Senator from Kansas and the Senator from New York (Mr. MOYNIHAN) join in introducing a joint resolution that would designate May 21, 1983, as "Andrei Sakharov Day" in the United States, and which would call upon the entire world to recognize one of the distinguished figures of our age. It is a great pleasure and honor for me to offer this legislation today as a testament to Dr. Sakharov, whose high standards and ideals have come to symbolize through his actions modern man's commitment to human rights, basic decency, and freedom.

The name of Andrei Sakharov is familiar to all of us gathered here. The peoples of all the world owe a great debt of gratitude to this Nobel laureate and internationally recognized physicist for his scientific achievements, and for his noble and selfless contributions to the cause of world peace and human rights. As a result of his efforts, which have not been appreciated by the Soviet Union, Dr. Sakharov will celebrate his 62d birthday as a virtual exile in the city of Gorky, to which he has been illegally confined by the Soviet Government since January 1980.

But even under conditions of isolation and harassment by Soviet authorities, Andrei Sakharov has continued to speak out for human rights and world peace, for humane treatment of Soviet Prisoners of Conscience, and for full compliance, by all signatory states, with the provisions of the Helsinki Final Act and the United Nations Declaration of Human Rights.

Mr. President, it is fitting that our Nation, and all nations that hold peace and freedom dear, honor Andrei Sakharov in an appropriate manner on his 62d birthday. My distinguished colleagues in the House of Representatives, Congressman JACK KEMP and Congressman STEPHEN SOLARZ, today are introducing this joint resolution in the House, and it is my hope that it will be speedily passed by the Congress and acted upon by the President. I urge my colleagues to join me in support of this legislation and I ask unanimous consent that the resolution be printed in the RECORD.

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

S.J. RES. 51

Whereas Andrei Sakharov has earned the admiration and gratitude of all the peoples of the world for his tireless and courageous efforts to secure basic human freedoms for the peoples of the Soviet Union, including those rights and freedoms proclaimed and guaranteed in the Final Act of the Conference on Security and Cooperation in Europe signed at Helsinki, August 1, 1975; and

Whereas Andrei Sakharov has been awarded the Nobel Prize for Peace for "his love of truth and strong belief in the inviolability of human beings . . . his courageous defense of the human spirit . . . " and a life that has made him "the conscience of mankind"; and

Whereas Andrei Sakharov, in direct consequence of his tireless work for world peace and human rights, has been illegally confined by the government of the Union of Soviet Socialist Republics to the remote city of Gorky, where, on May 21, 1983, he will spend his sixty-second birthday in almost total isolation; and

Whereas even under conditions of isolation and harassment by Soviet authorities, Andrei Sakharov has continued to speak with eloquence and great moral force for the causes of human rights and world peace, for amnesty for all prisoners of conscience, and for full compliance by all signatory states with the provisions of the Helsinki Final Act and the United Nations Universal

Declaration of Human Rights; Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That May 21, 1983 is designated "National Andrei Sakharov Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities, and be it

Further resolved, That the President of the United States is authorized and requested to call upon all nations of the world to designate May 21, 1983, as "National Andrei Sakharov Day" within their respective nations, and be it

Further resolved, That the President of the United States is authorized and requested to urge the Government of the Union of Soviet Socialist Republics to permit Andrei Sakharov and his wife, Elena Bonner, freely to choose their place of residence; and be it

Further resolved, That the President of the United States is authorized and requested to direct the American delegation to the United Nations to introduce a resolution in the General Assembly calling upon that body to designate May 21, 1983, as "International Andrei Sakharov Day," to be observed by the United Nations with appropriate ceremonies and activities.●

By Mr. QUAYLE (for himself, Mr. INOUYE, Mr. HATCH, Mr. SPECTER, Mr. D'AMATO, Mr. WEICKER, Mr. HOLLINGS, Mr. BAUCUS, Mr. KENNEDY, Mr. BURDICK, Mr. RIEGLE, Mr. COCHRAN, Mr. DECONCINI, Mr. STENNIS, Mr. STEVENS, Mr. ANDREWS, Mr. LUGAR, Mr. STAFFORD, Mrs. HAWKINS, Mr. RANDOLPH, Mr. METZENBAUM, and Mr. DODD):

Senate Joint Resolution 52. A joint resolution to authorize and request the President to designate the week of April 10, 1983, through April 16, 1983, as "National Mental Health Week"; to the Committee on the Judiciary.

NATIONAL MENTAL HEALTH WEEK

● Mr. QUAYLE. Mr. President, on behalf of a number of our colleagues and myself, I am introducing a joint resolution to authorize the President to issue a proclamation designating the week of April 10-16, 1983, as "National Mental Health Week."

The resolution is designed to focus national attention on the problem of mental illness, and the promise of mental wellness.

The cost of excessive stress and mental disorders to our society is immense—both in terms of human suffering and socioeconomic consequences. Stress and mental illness cost this Nation an estimated $65 billion annually, and are one of the leading factors in our Nation's productivity decline and rising health costs.

Regrettably, fear and misunderstanding of mental illness still pervade the Nation. It is estimated that in one out of every three American families there is a member with some type of mental illness, as much as 20 percent of our population is in need of some form of mental health services at any time.

Persons with mental disorders have been shown to be higher users of medical and surgical services, especially if their mental illness goes untreated. Up to 80 percent of all diseases are psychosomatic or stress-related, and mental disabilities account for 30 percent of all hospital admissions. In fact, more than 25 percent of elderly persons diagnosed as senile actually have a diagnosable, treatable, and often reversible mental disorder.

Mental illness is a very treatable disability. Recovery from psychiatric problems is not only possible, but probable. About two-thirds of all mentally ill patients show significant signs of recovery with their initial treatment, and of these, half will never need treatment again. For those 3 to 4 million individuals who suffer from severe and chronic mental illness, it is essential that we retain ongoing supportive services. These services, along with the ministrations of countless dedicated families, provide the emotional support, treatment, education, and care that is so important to these individuals.

Treating the mentally ill is proven to save money. Mental health treatment provides a very effective cost containment tool because treatment results in reduced utilization of more costly hospital, medical, and surgical services. A recent study by the National Institute of Mental Health found that utilization of medical and surgical services dropped anywhere from 5 to 85 percent following psychiatric care. A Washington, D.C., health maintenance organization found that patients receiving needed mental health counseling reduced their nonpsychiatric physician usage by 31 percent and reduced lab tests and X-rays by 30 percent.

Mental health treatment and research is carried out by a wide range of qualified health professionals: Psychiatrists, psychologists, social workers, nurses, physical and occupational therapists, and mental health counselors. These dedicated workers perform in a variety of settings which include private psychiatric hospitals, general and community hospitals, nursing homes, alcoholism and drug treatment facilities, State and VA hospitals, community mental health centers and clinics, physicians' offices, and business and industrial work settings. Recognition should also be extended to the families of the mentally disabled who, in the face of overwhelming emotional and financial distress, provide the needed care and support for our Nation's mentally ill.

This resolution is sponsored by the following groups: American Psychiatric Association; American Psychological Association; National Mental Health Association; National Association of Counties; American Medical Association; American Hospital Association; American Nurses Association; Center for Science in the Public Interest; American Mental Health Counselors Association; Association for the Advancement of Psychology; National Association of State Mental Health Directors; National Association of Community Mental Health Centers; American Academy of Child Psychiatry; National Association of Social Workers; National Association of Private Psychiatric Hospitals; and the National Alliance for the Mentally Ill.

I am being joined in the introduction of this resolution by Senators INOUYE, HATCH, SPECTER, D'AMATO, WEICKER, HOLLINGS, BAUCUS, KENNEDY, BURDICK, RIEGLE, COCHRAN, DECONCINI, STENNIS, STEVENS, ANDREWS, LUGAR, STAFFORD, HAWKINS, RANDOLPH, METZENBAUM, and DODD.●

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. MOYNIHAN, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 27, a bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public or Indian lands, and for other purposes.

S. 44

At the request of Mr. KASTEN, the name of the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 44, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 137

At the request of Mr. ROTH, the names of the Senator from North Dakota (Mr. BURDICK), the Senator from Georgia (Mr. NUNN), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of S. 137, a bill to amend the Internal Revenue Code of 1954 to continue to allow mortgage bonds to be issued.

S. 307

At the request of Mr. RIEGLE, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 307, a bill to provide for continuation of health insurance for workers who lose such insurance by reason of unemployment.

S. 314

At the request of Mr. GOLDWATER, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 314, a bill to encourage inflight emergency care aboard aircraft by requiring the placement of emergency equipment, supplies, and drugs aboard aircraft and by relieving appropriate persons of liability for the provision and use of such

emergency equipment, supplies, and drugs.

S. 445

At the request of Mr. DOLE, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 445, a bill to amend title 11, United States Code, and for other purposes.

S. 476

At the request of Mr. LEVIN, the name of the Senator from Illinois (Mr. DIXON) was added as a cosponsor of S. 476, a bill to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

S. 518

At the request of Mr. CHAFEE, the name of the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 518, a bill to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control.

S. 525

At the request of Mr. HEINZ, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of S. 525, a bill to require that installment payments of revenue sharing allocations be paid at the beginning of each quarter.

S. 571

At the request of Mr. ROTH, the name of the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of S. 571, a bill to amend the Federal Property and Administrative Services Act of 1949 to make Federal surplus property more accessible to local emergency preparedness and volunteer firefighting organizations and to authorize and direct the Federal Emergency Management Agency to recommend available Federal surplus to the Administrator of the General Services Administration, and for other purposes.

S. 572

At the request of Mr. DODD, the name of the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 572, a bill to provide emergency assistance for children.

S. 586

At the request of Mr. HEINZ, the names of the Senator from Vermont (Mr. STAFFORD), the Senator from Washington (Mr. GORTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 586, a bill to direct the Secretary of Housing and Urban Development to undertake a program to demonstrate the feasibility of funding neighborhood development activities by providing Federal matching funds to private nonprofit neighborhood organizations on the basis of the voluntary contributions to such organizations from individuals, businesses, and religious institutions in their neighborhoods.

S. 599

At the request of Mr. LEVIN, the names of the Senator from Mississippi (Mr. STENNIS), the Senator from Idaho (Mr. SYMMS), the Senator from Florida (Mr. CHILES), the Senator from Oregon (Mr. HATFIELD), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of S. 599, a bill to provide that the amount of unnegotiated social security checks shall be returned to the social security trust funds.

S. 646

At the request of Mr. DOLE, the name of the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 646, a bill to amend title 18, United States Code, for the purpose of providing authority to the Attorney General to prosecute acts obstructing the flow of commerce, and for other purposes.

S. 656

At the request of Mr. RIEGLE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 656, a bill to provide that no interest shall be charged on loans to State unemployment funds in the case of States which enact certain State unemployment compensation provsions, and to revise the criteria applicable to the cap on FUTA tax credit reductions.

S. 669

At the request of Mr. HATFIELD, the name of the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 669, a bill to authorize the construction of a project for navigation at the Bonneville lock and dam, Oregon and Washington.

SENATE JOINT RESOLUTION 28

At the request of Mr. TSONGAS, the names of the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of Senate Joint Resolution 28, a joint resolution calling for immediate negotiations for a ban on weapons of any kind in space.

SENATE JOINT RESOLUTION 35

At the request of Mr. HUDDLESTON, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Dakota (Mr. BURDICK), the Senator from New Mexico (Mr. DOMENICI), the Senator from North Dakota (Mr. ANDREWS), the Senator from Kentucky (Mr. FORD), the Senator from Mississippi (Mr. STENNIS), and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of Senate Joint Resolution 35, a joint resolution designating the week beginning March 20, 1983, as "National Mental Health Counselors Week."

SENATE CONCURRENT RESOLUTION 13—RELATING TO ECONOMIC GROWTH

Mr. MOYNIHAN (for himself and Mr. HART) submitted the following concurrent resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. CON. RES. 13

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that, in order to ensure healthy and sustained economic recovery, the Federal Reserve System shall manage monetary policy to accommodate the growth in the nation's nominal Gross National Product required to achieve real economic growth comparable to the average rate for the first eight quarters of previous post-war recoveries. This average rate shall be calculated on the basis of recoveries beginning in 1954, 1958, 1961, 1971 and 1975.

● Mr. MOYNIHAN. Mr. President, the Nation's economy stands poised at a crossroads. The President's program delineates one course. According to the administration's own forecasts, published in the President's budget for fiscal year 1984, its program will produce the slowest economic recovery in the postwar era.

The Nation's gross national product, which has registered no real growth over the last 4-year period, would expand at an average real annual rate of only 2.75 percent over 1983 and 1984. This amounts to little better than half the real growth which has characterized the typical postwar recovery. This slow growth program will leave 12 million Americans unemployed this year, and some 11,300,000 Americans jobless next year. Once again, I quote from the administration's own forecasts.

There is an alternative. We must agree that the central goal of national economic policy is a robust and sustained economic growth, and we must coordinate both fiscal and monetary policy to produce real growth at least comparable to previous postwar recoveries.

We can do it, and we can start today. Today, Senator HART and I rise to introduce a sense of the Congress resolution directing the Federal Reserve System to manage monetary policy to accommodate the growth in the Nation's nominal gross national product sufficient to produce real growth comparable to previous postwar recoveries.

Resolved, That it is the sense of the Congress that, in order to ensure healthy and sustained economic recovery, the Federal Reserve System shall manage monetary policy to accommodate the growth in the

nation's nominal Gross National Product required to achieve real economic growth comparable to the average rate for the first eight quarters of previous post-war recoveries. This average rate shall be calculated on the basis of recoveries beginning in 1954, 1958, 1961, 1971, and 1975.

I have studied the record of postwar recoveries. Since World War II, the United States has experienced seven business cycles—seven recessions and seven recoveries. Two of the seven recoveries can be considered anomolous. The recovery beginning in the first quarter of 1950 coincided with the expansion of Korean war spending, and produced an anomolously robust recovery nearly 75-percent stronger than any other. Similarly, the recovery beginning July 1980 was the briefest in our history, and registered real growth gains more than 75-percent weaker than any other since the war. Therefore, I excluded these two anomolies from my calculation of a typical postwar recovery. The recoveries beginning in the third quarter of 1954, the second quarter of 1958, the first quarter of 1961, the first quarter of 1971, and the second quarter of 1975 all registered real annual growth gains of between 5 percent and 5.8 percent for the first 2 years of recovery. The average annual real growth rate for these recoveries came to 5.4 percent. That is the real growth rate for a typical postwar recovery, and this resolution will direct the Federal Reserve to target this historical growth path in its conduct of monetary policy.

Senator HART and I have chosen this approach for one, very simple reason. We do not believe that an economic recovery, so-called, that leaves 9.9 percent of the work force jobless 2 years after the trough of a recession—as would the administration's policies, by its own forecast—is acceptable. Moreover, the source of many of our current economic problems, and the single most crucial element in the economic depression we are just now coming out of, has been the basic clash of monetary and fiscal policy. This can go on no longer. We can coordinate these policies if we specify what the goal of that coordination shall be. This is what we have done. We have specified healthy economic growth, within the range of recent historical experience, as the goal and set about to coordinate fiscal and monetary policy to achieve it.

We have chosen an instrument which can work. The Federal reserve is fully capable of targeting nominal GNP growth, in order to achieve a specified real growth rate. There are profound economic reasons, then, for selecting a nominal GNP target. Kenneth Arrow, the distinguished economist and winner of the 1972 Nobel Prize in Economic Science, said recently in U.S. News & World Report:

> The real target of monetary policy ought not to be money supply growth in isolation but growth of the Gross National Product.

Similarly, the President's Council of Economic Advisers wrote in the 1983 Economic Report of the President:

> The principle of targeting money growth rates is not an end in itself, but only a means of achieving control of nominal GNP.

And again, from this year's Economic Report of the President:

> One possible way to avoid (alternating periods of high inflation and economic recession) is to use the observed behavior of nominal GNP to guide a gradual recalibration of monetary growth targets.

The President's Council of Economic Advisers concluded by observing that:

> Basing the recalibration of monetary targets on nominal GNP is consistent with the basic principle of pursuing a stable monetary policy.

There are reasons why Nobel Laureate Arrow and the President's Council of Economic Advisers believe that nominal GNP targeting is an appropriate technique for monetary policy. The chief reason is that there is a very close and very stable relationship between the total credit in the Nation's economy and the Nation's nominal gross national product. The Federal Reserve does not publish a total credit aggregate, but it does publish a close proxy, the so-called L aggregate. This includes M_3—which is M_1's sum of currency, demand deposits, traveler's checks and other checkable deposits, and M_2's overnight repurchase agreements and Eurodollars, general purpose money market fund balances, and savings and small time deposits, plus from M_3 proper, large time deposits, term repurchase agreements, and institution-only money market fund balances—and to this adds other liquid assets. The L aggregate can be compared with nominal GNP, and the relationship becomes quite apparent:

[in billions of dollars]

	Nominal GNP	L aggregate
1970	992.7	816.5
1971	1077.6	903.2
1972	1185.9	1023.6
1973	1326.4	1143.8
1974	1434.2	1249.8
1975	1549.2	1376.6
1976	1718.0	1531.4
1977	1918.3	1724.3
1978	2163.0	1938.9
1979	2417.8	2153.9
1980	2633.1	2370.4
1981	2937.7	2642.6

We know that it can be done: The Federal Reserve can target nominal GNP, to achieve a certain specified real growth rate. And we know why—to what end—we would have them do so: To achieve sustained economic growth, comparable to a typical postwar recovery. The question which remains is, what would be the consequences of doing so.

Let us begin with some of the consequences if we do not do so. We have reviewed the slow growth, high unemployment forecasts of the administration under its current policies. But even these forecasts may be optimistic. It seems certain that we will get some recovery. But will it last, even at the tepid rate forecast by the administration? Perhaps not, and tragically so. The fact is that the real prime rate, and all real long-term interest rates, remains in the region of 6 percent. The historical norm for real long-term interest rates is between 2 percent and 3 percent. I must tell you that there simply is no instance in American economic history of a sustained recovery in an interest rate atmosphere of 5 or 6 percent, in real terms.

And let us consider what sectors of the economy could sustain the recovery under current policy conditions. There are four possible candidates. The first is business investment. But the capacity utilization rate for manufacturing remains below 60 percent, and few businesses will invest when so much idle capacity is available. In real terms, business investment declined 8 percent last year; the Commerce Department is forecasting an additional 5 percent drop this year. The second possible source of a sustained recovery is the export sector. Last year, we recorded the largest merchandise trade deficit in the Nation's history, some $42.7 billion. Martin Feldstein, the President's chief economic adviser, recently forecast that the 1983 trade deficit will be in the range of $75 billion. In the words of the Federal Reserve's recent Monetary Report to Congress, the export sector "will continue to be a drag on U.S. economic activity." The third source of sustained recovery is consumer spending. Here, the Federal Reserve observes that consumers may well "pursue cautious strategies." That is the Reserve's own cautious way of saying that consumer demand may well remain soft this year. At the very least, consumer demand will be highly sensitive to interest rates. If interest rates climb again, consumer spending will decline—and with it, the recovery. And the likelihood of a rise in interest rates is considerable under current policy, given that Federal borrowing will absorb some 50 percent of all available credit in the markets this year, according to the Office of Management and Budget. Certainly, in this context interest rates will rise unless the Federal Reserve insures sufficient credit to avert crowding out private borrowers—which is another way of saying sufficient credit to insure strong economic growth.

This brings us to the last source of economic stimulus—Government spending. The Federal Government will be a significant source of recovery and stimulus—that is, the deficit will be large. But surely we cannot depend

only on the deficit to sustain a recovery. And just as surely, we cannot hope to increase the likelihood of a more robust and sustained recovery by increasing the deficit. Such a course would only drive interest rates even higher, as Federal borrowing to finance the deficit crowded out private borrowers.

No, it is certain that fiscal policy cannot carry the entire burden of economic recovery. Nor can we leave this recovery hostage to the current policies that can only promise the most tepid and slow recovery in 40 years. Instead, we must choose sustained and vigorous growth, and do it by an established means. That is what we offer today in this resolution.

We know it can work. In early February, with the assistance of the staff of the Joint Economic Committee, I asked Data Resources Inc., one of the Nation's preeminent econometric forecasting firms, to simulate the consequences for the Nation's economy of this resolution. I assumed that no action taken today could have any significant impact before July of this year, so I asked Data Resources, Inc. (DRI) to target 5.4 percent real economic growth—the postwar recovery average—for eight quarters beginning this July. I also offered the necessary fiscal policy assumptions, including:

Five percent average annual real growth in defense spending (over 5 years);

The Social Security Commission recommendations;

Moderate restraint in the growth rate of other nonmeans tested entitlements, amounting to $13 billion in spending reductions over 5 years;

Current services in discretionary spending programs, meaning neither real growth nor real reductions in funding for discretionary domestic programs; and

A 4-year delay in the indexation of income tax rates.

I asked DRI to simulate the monetary policy required to achieve the 5.4 percent annual real growth, given these fiscal policy assumptions. In short, I asked whether fiscal policy could be coordinated with monetary policy in such a way as to produce the targeted growth.

DRI reported yes, it certainly could. Some of the results:

Unemployment would fall to 7.6 percent by 1985, instead of the 8.9 percent projected by the Administration under its program. That would mean that 1,400,000 fewer Americans would be jobless in 1985 under this Resolution than under the Administration's program by its own forecasts.

Personal income would be $208 billion greater, or 6.6 percent higher, in 1985 under this Resolution than under the Administration's programs.

Corporate profits by 1985 would be 28.6 percent greater, which comes to $66 billion more, under this Resolution than under the Administration's forecasts for its own program.

There is an inflation cost. The annual inflation rate under this resolution would average 5.5 percent for the years 1983-85, as against the average annual inflation rate of 4.7 percent forecast for those years by the administration. I believe that this Nation is prepared to pay a cost of 0.8 percentage point greater inflation a year over the next 3 years to see high growth, rising personal incomes, rising corporate profits, and sharply declining unemployment.

I ask unanimous consent that a table summarizing the results of the DRI simulation of the economy under our resolution, versus the administration's forecasts for its own program be printed in the RECORD.

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

STATE OF THE U.S. ECONOMY: ECONOMIC FORECASTS, ADMINISTRATION PROGRAM VERSUS MONETARY RESOLUTION

	1983	1984	1985	1986	1987	1988
GNP (billions):						
Resolution [1]	$3,281	$3,675	$4,093	$4,524	$5,005	$5,572
Administration [2]	$3,262	$3,566	$3,890	$4,232	$4,599	$4,995
Real GNP (1972):						
Resolution	$1,508	$1,598	$1,676	$1,743	$1,812	$1,885
Administration	$1,496	$1,555	$1,617	$1,682	$1,742	$1,819
Real GNP, rate of change year to year (percent):						
Resolution	2.2	6.0	4.9	4.0	4.0	4.0
Administration	1.4	3.9	4.0	4.0	4.0	4.0
Unemployment rate (percent):						
Resolution	10.6	9.0	7.6	6.9	6.4	6.0
Administration	10.7	9.9	8.9	8.1	7.3	6.5
Unemployed (millions):						
Resolution	11.9	10.3	8.9	8.2	7.7	7.4
Administration	12.0	11.3	10.3	9.6	8.8	7.9
CPI (percent change):						
Resolution	4.9	5.5	6.0	6.1	6.3	6.8
Administration	4.9	4.6	4.6	4.6	4.5	4.5
Personal income (billions):						
Resolution	$2,752	$3,047	$3,350	$3,680	$4,040	$4,438
Administration	$2,727	$2,935	$3,142	$3,377	$3,661	$3,956
Corporate profits (billions):						
Resolution	$199	$254	$312	$354	$410	$471
Administration	$177	$206	$246	$296	$316	$329
91-day T bills (percent):						
Resolution	7.1	6.4	6.9	6.4	5.2	NA
Administration	8.0	7.9	7.4	6.8	6.5	6.1
M_1 (percent change):						
Resolution	7.3	6.7	5.9	5.2	5.6	6.1
Administration [3]						
M_2 (percent change):						
Resolution	9.6	11.6	11.8	10.0	10.3	11.2
Administration [4]						
Prime Rate (percent):						
Resolution	10.2	9.7	9.8	9.4	8.0	6.3
Administration	NA	NA	NA	NA	NA	NA
Housing starts (millions):						
Resolution	1.51	1.86	2.09	2.15	2.24	2.44
Administration	1.50	NA	NA	NA	NA	NA
Auto sales (millions):						
Resolution	9.0	10.7	11.5	12.1	12.8	13.4
Administration	NA	NA	NA	NA	NA	NA

[1] Forecast by Data Resources, Inc., Feb. 18, 1983, assuming real growth path under monetary policy resolution (5.4 percent average annual real growth, 8 quarters from July 1983 to July 1985).
[2] Forecast under administration program, "Budget of the United States Government," fiscal year 1984, pp. 2–9 to 2–10.
[3] "The administration's economic program includes support for a policy of gradual reduction in the rate of money growth. . . ." ("Economic Report of the President," p. 139).
[4] "The administration's budget documents say nothing about the assumed behavior of monetary policy." (CBO, "Analysis of the President's Budgetary Proposals," p. 16).

STATE OF THE U.S. ECONOMY: THREE-YEAR COMPARISON (1983-1985), ADMINISTRATION PROGRAM VERSUS MONETARY RESOLUTION

GNP: By 1985, GNP will be $203 billion, or 5.2%, larger under the monetary resolution than under the Administration program.

By 1988, GNP is projected to be $577 billion, or 11.6% larger under the monetary resolution than under the Administration program.

Real GNP: For 1983-1985, real GNP will grow at an average annual rate (year-to-year) of 3.1% under the Administration program; under the monetary policy resolution real GNP is projected to grow at a 4.4% average annual rate, or 41% faster.

Unemployment Rate: For 1983-1985, the unemployment rate will average 9.1% under the monetary resolution, falling to 7.6% in 1985; the unemployment rate under the Administration program will average 9.8%, or 8.5% greater, falling to only 8.9% in 1985.

For the six years 1983-1988, unemployment is projected to average 7.75% under the monetary policy resolution; unemployment for those years is projected to average 8.6%, or 10.6% greater, under the Administration program

Unemployed: The years 1983-1985 will produce an annual average of 11,200,000 Americans unemployed under the Administration program, 840,000 more a year than the annual average of 10,360,000 unemployed under the monetary resolution.

In 1985, the Administration projects 10,300,000 unemployed Americans, or 1,400,000 more than the 8,900,000 unemployed forecast by DRI under the monetary resolution.

CPI: For 1983-1985, the Administration projects an average annual inflation rate of 4.7% under its program, or 0.8 percentage-points lower than the 5.5% average annual inflation rate forecast by DRI under the monetary resolution.

Income: By 1985, personal income will be $208 billion, or 6.6% greater under the monetary resolution than under the Administration program.

By 1988, DRI projects personal income to be $482 billion, or 12.2% larger under the monetary resolution than the Administration projects under its program.

Profits: By 1985, corporate profits will be $66 billion, or 28.6%, larger under the monetary resolution than under the Administration program.

By 1988, DRI projects corporate profits to be $142 billion greater, or 43.2% more, under the monetary resolution than the Administration projects under its program.

Mr. MOYNIHAN. Mr. President, one final note. DRI also projected the implications of high sustained growth, as achieved under this resolution, on our budgetary dilemma. We discovered an obvious fact: much of the so-called structural deficit becomes cyclical—that is, disappears—if we returned to the growth rates which have characterized previous postwar recoveries. As growth accelerates, incomes and profits rise significantly—and Federal revenues increase. At the same time, outlays for unemployment compensation, food stamps, and other welfare programs decline with the rising living standards achieved under this resolution. According to the DRI analysis, this coordination of fiscal and monetary policy would reduce the deficit over the next 5 years by $270 billion more than would the administration's program. The deficits would become manageable. While CBO estimates that the administration's program will produce a deficit of $177 billion in fiscal year 1985, DRI estimates that the fiscal and monetary policies coordinated under this resolution would reduce this deficit to $146 billion.

In fiscal year 1986, the administration's deficit of $147 billion is reduced by $26 billion to $121 billion, under our fiscal and monetary assumptions. By fiscal year 1988, for which the Congressional Budget Office forecasts a $159 billion deficit under the administration's program, DRI estimates that our program would produce a deficit of only $15 billion.

Moreover, the strong growth under this resolution would significantly reduce the share of the Nation's gross national product accounted for by Federal spending and the Federal deficit. Federal spending as a share of GNP would decline from 24.1 percent in fiscal year 1984 to 21.6 percent in fiscal year 1988—while CBO estimates that the administration's program would reduce the share of Federal spending in GNP from 24 to 23.2 percent.

At this point, I ask unanimous consent that a table summarizing the budgetary forecasts under our resolution, versus the administration's proposals, be printed in the RECORD.

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

DATA RESOURCES INC. BUDGET PROJECTIONS

	Fiscal year—									
	1984		1985		1986		1987		1988	
	Administration [1]	Resolution [2]	Administration	Resolution	Administration	Resolution	Administration	Resolution	Administration	Resolution
Monetary resolution:										
Outlays	841	886	905	966	973	1,045	1,044	1,122	1,113	1,206
Revenues	665	701	728	820	826	924	884	1,040	954	1,191
Deficit	176	185	177	146	147	121	160	82	159	15
Budget categories as percentage of GNP:										
Outlays	24	24.1	23.7	23.6	23.5	23.1	23.4	22.4	23.2	21.6
Revenues	19	19.1	19.1	20.0	19.9	20.5	19.8	20.8	19.9	21.4
Deficit	5	5.0	4.6	3.6	3.6	2.7	3.6	1.6	3.3	.2

[1] CBO reestimates of administration budget.
[2] DRI budget estimates under Moynihan resolution, national income accounts basis.

Note.—Assumptions:
Administration/CBO: 7 percent average annual real defense growth (over 5 years); Social Security Commission recommendations; $74 billion entitlement cuts (over 5 years); $61 billion discretionary program cuts (over 5 years); interest cost reductions from reduced deficits in the range of $30 billion (over 5 years); contingency tax increase program; tax on health insurance premiums.
Real GNP growth rates of 2.1 percent (1983), 4.7 percent (1984), 4.1 percent (1985), 3.7 percent (1986), 3.5 percent (1987), 3.5 percent (1988).
Unemployment rates of 10.6 percent (1983), 9.8 percent (1984), 9.0 percent (1985), 8.4 percent (1986), 8.0 percent (1987), 7.5 percent (1988).
CPI increases of 3.8 percent (1983), 4.6 percent (1984), 4.7 percent (1985), 4.1 percent (1986), 3.9 percent (1987), 3.7 percent (1988).
Monetary resolution: 5 percent average annual real defense growth (over 5 years); Social Security Commission recommendations; $13 billion entitlement cuts (over 5 years); current services in discretionary programs (no real growth or real cuts); interest cost reduction from reduced deficits and declining interest rates exceeding $120 billion over 5 years); 4-year delay for tax-indexing.
Real GNP growth rates of 2.2 percent (1983), 6.0 percent (1984), 4.9 percent (1985), 4.0 percent (1986), 4.0 percent (1987), 4.0 percent (1988).
Unemployment rates of 10.6 percent (1983), 9.0 percent (1984), 7.6 percent (1985), 6.9 percent (1986), 6.4 percent (1987), 6.0 percent (1988).
CPI increases of 4.9 percent (1983), 5.5 percent (1984), 6.0 percent (1985), 6.1 percent (1986), 6.3 percent (1987), 6.8 percent (1988).

Mr. MOYNIHAN. Mr. President, last year, with Senators JIM SASSER and DONALD RIEGLE, I offered an alternate budgetary program based on a new coordination of fiscal and monetary policy. I had characterized the administration's program of wildly expansionary deficits and stringently tight money growth as a policy at war with itself. I warned that this policy would produce the unprecedented combination of severe contraction and high sustained interest rates. And I offered an alternative, based on revising the Federal Reserve's money growth targets coupled with several measures of fiscal restraint. Had this policy been adopted, the Nation would have avoided the disastrous second dip of this finally passing recession, and recovery could have begun last June or July. We did manage, with the cooperation of Senator DOMENICI, to append a statement on the coordination of fiscal and monetary policy to the budget resolution. The Reserve did finally attend to this sense of the Congress state-

ment in August and October, easing monetary policy in ways which have at last ended this terrible economic decline, the worst since the Great Depression.

Now we can move beyond a halt to an economic decline, and do our best to insure healthy and vigorous growth. The need is all around us. The means are at hand, with this resolution. The results are as certain as any in economics. I urge the adoption of this resolution, for the health and wealth of this great country's economy and people.●

● Mr. HART. Mr. President, for the past 2 years, this administration has tried to achieve economic growth with only one tool: fiscal policy. This led to almost no growth or anemic growth at best.

At the same time, the Federal Reserve Board has conducted a very conservative monetary policy that has made growth nearly impossible. As a result, at a time when we most need to expand the economic pie, it keeps shrinking.

The resolution Senator MOYNIHAN and I are introducing calls on the Federal Reserve Board to manage monetary policy so as to achieve the average real growth rate of previous postwar recoveries. It is based on the experience of those recoveries that economic growth requires an accommodative monetary policy. It makes high economic growth, once again, the primary economic priority of the United States.

The danger of failing to move toward an accommodative monetary policy at this time is clear: the recovery which most economists believe is now beginning could quickly founder and we could sink into a third recession in as many years.

It is time for a strong, affirmative statement that all our economic policies—monetary and fiscal—will be directed toward high economic growth. This is essential for the health of our changing economy and for the health of the world economy. A move by our Government toward a more accommodative monetary policy would alleviate the growing debt problem of developing countries and would give a needed boost to the economies of our allies.

The benefits from higher growth are striking:

The Moynihan-Hart proposal would give us a GNP of $577 billion by 1988, 11.6 percent higher than the current administration projections.

Putting monetary policy back on a growth path would put 1,400,000 more people back to work by 1988 than the administration plan.

Personal income and corporate profits would also be higher.

There would be substantial recovery in housing and autos.

Growth also makes a substantial contribution to reducing the size of the deficit in future years if we also need to take a number of other initiatives to contain spending and increase revenues to keep the deficit under control. For instance, the combination of higher growth under Moynihan-Hart and a delay in the implementation of indexing brings the 1988 deficit down to $15 billion.

The program does contain one cost: Under Moynihan-Hart plan, the Consumer Price Index would rise from 6.1 percent in 1982 to 6.8 percent in 1988. This assumption is based on oil price estimates that came before the recent tumble in world oil prices—the 1988 results would look better if they were based on today's estimates.

However, we still need to develop a program to control inflation. The past 2 years are a stark reminder of the costs of fighting inflation with a deep recession. The country has lost hundreds of billions of dollars, millions of people have been thrown out of work, and investments in our future have been delayed, cut back or cancelled.

The controls of the Nixon years proved to be costly in a quite different way and are an unacceptable solution. What we need is a policy or more likely a combination of policies that will continue to wind down inflation and prepare us for any future price shocks.●

SENATE RESOLUTION 80—TO AMEND THE STANDING RULES OF THE SENATE

Mr. BYRD submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 80

Resolved, That Rule XV of the Standing Rules of the Senate is amended—

(1) by inserting after "Motions" in the caption a semicolon and the following: "GERMANENESS";

(2) by adding at the end thereof the following new paragraph:

"6. (a) At any time during the consideration of a bill or resolution, it shall twice be in order during a calendar day to move that no amendment, other than the reported committee amendments, which is not germane or relevant to the subject matter of the bill or resolution, or to the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall thereafter be in order. The motion shall be privileged and shall be decided after one hour of debate, to be equally divided and controlled by the Majority Leader and the Minority Leader or their designees.

"(b) If a motion made under subparagraph (a) is agreed to by an affirmative vote of three-fifths of the Senators duly chosen and sworn, then any floor amendment not already agreed to (except amendments proposed by the committee which reported the bill or resolution) which is not germane or relevant to the subject matter of the bill or resolution, or the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall not be in order.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a bill or resolution, points of order with respect to questions of germaneness or relevancy of amendments shall be decided without debate, except that the Presiding Officer may entertain debate for his own guidance prior to ruling on the point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.

"(d) Whenever an appeal is taken from a decision of the Presiding Officer on the question of germaneness of an amendment, the vote necessary to overturn the decision of the Presiding Officer or hold the amendment germane or relevant shall be three-fifths of all Senators duly chosen and sworn."

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, as chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, I wish to announce that a confirmation hearing on the nomination of John J. Franke Jr., has been scheduled on Monday, March 7. Mr. Franke has been nominated for the position of Assistant Secretary of Agriculture for Administration.

The hearing will begin at 1:30 p.m. in room 328-A, Russell.

Anyone wishing further information should contact Denise Alexander of the Agriculture Committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, March 3, at 10 a.m., to consider agriculture export legislation and S. 17, Domestic Commodity Distribution and Food Assistance Act.

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

ADDITIONAL STATEMENTS

FRANKLIN ROOSEVELT BECAME PRESIDENT OF THE UNITED STATES 50 YEARS AGO

● Mr. RANDOLPH. Mr. President, Friday, March 4, marks the 50th anniversary of the inauguration of Franklin D. Roosevelt as 32d President of the United States.

It was the beginning of the New Deal era, one of the most dramatic and dynamic periods in American history. The New Deal created jobs; it put millions of Americans back to work rebuilding a shattered, depres-

sion-ridden nation. Roosevelt's leadership brought hope where there was despair; it brought work where there was unwanted idleness; it brought unity and purpose where there was chaos and confusion.

I was sworn in as a freshman Member of Congress just 5 days after the inauguration. I am the only Member of Congress who participated in that series of legislative and social reforms.

Millions of words will be written and spoken about the New Deal era, and scholars of the future will spend endless hours of historical analysis in attempts to determine the factors which led to America's admirable recovery from the economic depths.

It is necessary, I feel that we consider not only the statistical evidence but the principles and personalities involved. An individual most qualified to comment on Roosevelt—the individual—and his leadership ability is Washington attorney, James Rowe, who served as a White House assistant during those critical early years of the New Deal administration.

Mr. Rowe recently recalled his personal remembrance of Roosevelt on the occasion of the 50th anniversary of the 1932 election. His eloquent words are most appropriate for Friday's significant occasion.

Mr. President, I ask that remarks by James Rowe be placed in the RECORD.

The remarks follow:

"FDR—THE BOSS"

(By James Rowe)

. . . When you have contemplated the thousands upon thousands of pages, the scores of authors whose single theme has been Roosevelt it is rather humbling to realize that no one now has much of anything to add. He is now best left to the historians who are of course far from speaking their final judgment.

But what one does miss most in these books about the great events, about his leadership, his political skill, his idealism is what some of you present here today most vividly remember as his most human quality—that utterly incredible charm. Perhaps you will forgive me, then, if I dwell not at all today on his towering importance to the saving first of his country, and then of the Free World. I would instead like to recall for a few moments what it was like, when we were all very young, to have worked for such a man. If it is true that no man finds his heroes after he is 30, it was my great good fortune to come to the White House staff at the age of 28.

The New Deal took place in a simpler time for America. But the problems were not less serious than those of today. After all, FDR led the Nation through the two most serious crises we have faced since the Civil War. One was the worst depression the Nation has ever gone through, and the other was the greatest war we have ever been in, World War II. In both of these he was the unmatched leader, and in both he was a most successful leader.

I'm sure that most of you who have come fairly recently to Washington and to watch the White House, the Hill, and the Government would have difficulty in recognizing the White House, the Government, and the city of those days.

The White House during the depression was quite small. In 1939 there were 45 people, including stenographers, on the staff. A handfull were on other payrolls—Adolf Berle in the State Department, Tom Corcoran in the RFC, Ben Cohen in the Department of the Interior, and others.

In 1944, during the greatest war in the history of mankind, the White House staff had 47 direct employees and 145 detailed from other agencies, a total of 192.

In contrast President Reagan's White House staff consists of 1,569—eight times as many as FDR had during World War II.

The Reagan staff has 184 senior officials earning more than $50,000 a year. Indeed the President's wife today has a larger staff than FDR had during the depression.

FDR wanted no more people on his staff than he could deal with personally. His assistants could not have assistants of their own. I remember asking FDR for an assistant because I felt grossly overworked. His reply was that if I needed an assistant I was not doing the job he wanted me to do. He felt that a large staff would shield the President from reality, would make trouble, make work, cut off the nation from the President and the President from the nation.

Of course, Reagan is not the only sinner, but merely the latest one. Every President after Roosevelt has said he would cut the staff drastically and every President from Truman to Reagan has added personnel to the staff. I do not know why and I do not think any of them did. I suppose it is because they did not trust the Executive Branch and preferred to handle the work in the White House instead of in the Departments.

There were three secretaries in the White House—a press secretary, an appointments secretary, and a secretary who did almost everything else. There were also three or four administrative assistants, the so-called "assistants with a passion for anonymity," a phrase taken from the description of the staff of the British War Cabinet in World War I. I was one of those. My friends would have some quarrel about my desire for anonymity but the rule was enforced. I really do not remember ever leaking anything to a newspaper man while I was in the White House. I do remember going in one day to see the President about some minor matter. He said "Didn't I read in some column in the Star that you were at a cocktail party yesterday?" I said, "Yes, Sir, I was at that party." And he said, "If I read this too often, you will need another job." I may say this cut down my cocktail party going considerably.

The President believed he could control the government in two ways—by controlling the budget—the money—and by controlling the personnel—the people. Therefore he moved the Budget Bureau out of the Treasury and into the Executive Office of the President where it still is. In my day, he and I handled all the Presidential appointments to political office, I did the spade work and he did the deciding. He also had an administrative assistant who controlled the work of the Civil Service Commission and handled the other personnel matters. He thought these were the only two tools he needed—budget and personnel control—money and people.

There was no Council of Economic Advisers, there was no Domestic Council, there was no National Security Council, except to the extent that he himself was his own National Security Council.

I do know he spent some time every day reading the State Department cables. I do not know who selected them for him, someone in the State Department. I once suggested to Rudolph Forster that I would like to read them and Forster merely smiled kindly, and said no. Rudolph Forster was the chief civil servant at the White House. He had been there since Teddy Roosevelt who was his hero and on a slow day he would be perfectly willing to discuss all the Presidents between Teddy and Franklin. I remember him as a wise old man.

Every document going to the President and coming back from the President had to go through his hands. He was an extremely competent man and he held the White House up almost by himself, as Grace Tully can testify. He rarely made a mistake. I do recall he once made one that affected me. In those days I had to clear every political appointment with the Democratic Senators from the appointee's home state. I once asked him to hold one up involving the state of New York until I cleared it. Rudolph slipped and the papers went to the Hill without clearance. The two Senators were soon on the phone yelling bloody murder, I said "Mr. Forster, you've gotten me in a lot of trouble by sending that appointment down." He smiled benignly and said, "Young man, you would be terrified if you knew how little I care." This was of course the long view of history and Rudolph Forster had it.

Another informal bastion of power resided in the office of FDR's personal secretaries, Missy LeHand and Grace Tully. Those two were invaluable to the New Dealers because they were considerably more liberal than the secretaries who controlled the front door of the President's office. They came from Virginia and shared some of the conservative political bias of the Virginians of those days. When we could not get in the front door—which was often—I, and a number of others such as Tommy Corcoran and Ben Cohen, went through the back door and Missy or Grace would let us in to see the Boss—unless one or the other said, "Don't try to see him today—his Dutch is up." He really did not object to having this extra channel. The Roosevelt Administration, which always looked quite chaotic on the surface, but which was well and effectively run by the President, could not have functioned without Grace or Missy. And he always had a number of other channels open to him.

He held two press conferences a week—998 in all—always around his desk in the Oval Office with about 50 to 150 reporters, depending on the events. Radio was not allowed.

At these he was like a bull fighter chased by the bulls. You could ask as many questions as you thought proper. He enjoyed the give-and-take as did the reporters, almost all of whom were his ardent admirers. He continually attacked their bosses, the Publishers, which probably endeared him to the reporters more than ever.

Like all Presidents, he was angry about leaks to the press, but most of those which were successfully traced back, where traced to him—he told somebody or other who then told a newspaper man.

He enjoyed every minute of those press conferences. Almost always there was no preparation other than a minute or two ahead of time with Steve Early, his Press Secretary.

He was a most astute politician. There has been no one better, in his sense of political timing, and in the way he handled the Senate and the House. He certainly did not make as many telephone calls as Lyndon Johnson did but he came close to it. In my day he saw a large number of Senators and Congressmen—on the record and off the record—every day. He often smelled out trouble before it began. After one disastrous attempt, he never used a formal Hill lobbyist. But he did tell me and others to go up on the Hill and wander around.

He never lost a battle on the Hill until the Supreme Court packing plan in 1937. He really had won that fight because Chief Justice Charles Evans Hughes and Senator Burton Wheeler, his two most effective opponents, had cleverly got two of the extreme conservative justices to retire and that gave him two liberal appointments. I don't know why he pressed on after that when he had already won except that he was always full of confidence, and had, until then, never lost a legislative battle in all the years since his inaugural in 1933.

He did run into some political trouble in the bi-elections of 1938. He and the New Dealers decided to purge several recalcitrant senators and congressman who had been giving him constant trouble. But they tried their purge on the spur of the moment, without enough campaign money and without very good candidates to oppose the incumbents. This did leave some scars. For instance he went after Senator Walter George of Georgia, later Chairman of the Foreign Relations Committee. George won reelection handily. Some time later when some of the Senators were sitting around discussing Roosevelt's maneuvering, one of them said, "Roosevelt is his own worst enemy." "Not while I'm alive he isn't," said George.

But in general, Roosevelt's relations with the Congress were "a day in the country" compared to those of his successors and his predecessors.

This was not an accident. He kept a careful and sensitive watch on the Congress. I remember he once refused to appoint a brilliant and controversial man to an important position because he knew it would start a real fight in the Senate. He said to me, "We're getting close to a war. I'll need the Senate during that war and particularly after, and I do not propose to make the mistake of my old boss, Woodrow Wilson, who antagonized the Senate and therefore lost the battle for the League of Nations."

His political genius, I think, was never to get too far ahead of the American people. He was from birth an internationalist but he knew the country was not. After World War I, it was strongly isolationist. He had once moved too far ahead of the people in his famous 1937 quarantine speech in Chicago when he suggested, as he watched the rise of the dictators, Hitler and Mussolini, that the United States should quarantine them in terms of goods and help. The isolationist outcry was so strong that he moved cautiously thereafter.

The City of Washington was, until the war, and despite the churning energy of the New Deal, a sleepy town. The White House gates were kept open, and the government servants and anyone else strolled through them on their way to and from work until early 1940. There was little security in those days as I remember. In the White House lobby, just outside the President's office, there were always one or two quiet anonymous secret service agents sitting with a small flock of reporters who were waiting to see who would come out of the President's office so they could be interviewed. There were of course a small number of secret service agents elsewhere.

At the far end of the lobby was a chair behind a desk where sat the well-loved Pat McKenna, the Receptionist. He received all visitors, known or unknown. I remember crossing near Pat's desk one day when he was talking to a very distinguished looking old man with a flowing white beard. "I am sorry, God," I heard Pat say, "but the President is in a sudden urgent meeting and he cannot see you. If he had only known you were coming, he would have been available," "Can you get me in to see him next week, Pat?" God asked. "I really have something important to tell him that he should know." Pat said "God, I'm sure I can arrange to get you in next week," The old man with the flowing beard—who for all I know could have been God—happily left.

In those days, the three secretaries had limousines but the administrative assistants could not reach that pinnacle of splendor. When I was sent on an errand by the President, I took my own car and I paid for my own gas or for the taxi if I used one. I parked my car right outside the President's office. It was a battered old convertible with the top falling apart until someone delicately suggested it was in such complete disrepair I ought to keep it somewhere else, which I did. There was, of course, no such elegance in my day as the White House Mess. We ate our lunch in the nearby beaneries.

Even the young today must have heard of the famous Roosevelt charm. It was indeed there. The staff, everyone of us, worshiped him, basically I believe, because of the way he treated us. He would turn that charm on everyone who ran across him whether he saw them several times a day or hardly ever. It is true he could be somewhat tough occasionally behind a closed door and I have seen him somewhat cross but never really angry toward any of his staff.

The Roosevelt charm radiated out from the office across Washington and across the country. His sense of leadership—of how to be President—was, I think, the main reason why the young flocked in large numbers to Washington in those perilous days of the Depression and later of the War. He was, as you know, a man of hope, he was willing to try anything. If an experiment failed he would try something else. "The country," said Roosevelt in 1932, "needs . . . bold, persistent experimentation. . . . Take a method and try it: if it fails, admit it frankly and try another. But above all, try something. The millions who are in want will not stand by silently while the things that satisfy their needs are within easy reach." One of the relatively young, Rex Tugwell, was quoted as saying "We shall roll up our sleeves and make America over." This caused a great outcry in the press, in Wall Street, and business. It was perhaps a foolish thing for him to have said but in our hearts we all believed it.

With the possible exception of the Founding Fathers, there was never before and certainly has not been since, the excitement, the intellectuality, the excellence or the sense of accomplishment, that existed in the New Deal. It is remembered by the hundreds, even thousands, of young men and women who flocked to Washington to serve under Franklin Roosevelt.

The words of Justice Oliver Wendell Holmes of the Supreme Court, when speaking of his Civil War comrades in a speech delivered on Memorial Day 1884, also apply to the New Dealers—"Through our great good fortune, in our youth our hearts were touched with fire."

There is a new book about Roosevelt called "FDR—1882-1945" by Joe Alsop. The last paragraph of this very good book reads in part:

"Even more than the feeling that there were giants in the land, I now feel nostalgia for the absolute confidence in the American future which was the necessary foundation of this total absence of doubt. Hope was in fact Franklin Roosevelt's greatest gift to his fellow Americans. Partly he gave us hope by his deeds, when he came to office in a time that seemed utterly devoid of hope. But even more, he gave us hope because all could see that he himself felt not the slightest doubt about the future at any time in his years as President. Defeats there might be (though they were rare) on this bill or that in Congress. Fearful military misfortunes there were, with Pearl Harbor itself the most notable and hard to comprehend. Grounds for even a slight temporary loss of hope there never were, however—at any rate in the President's mind; and somehow, his mind formed the minds of the overwhelming majority of other Americans who watched him in action in those years of hope."●

MEALS ON WHEELS

● Mr. ARMSTRONG. Mr. President, in difficult economic times like these, the morning paper brings reports of hardship and the evening news is a litany of despair. At a time when good news in hard to come by, a story of wholesome human action solving problems is most welcome. I have such a story to tell today, and it concerns the Meals on Wheels program in Englewood and Littleton, Colo.

Fourteen years ago, Virginia Baker had been feeding her mother and father lunch most days. They invited some of their elderly friends to eat with them and, before long, Mrs. Baker was regularly serving lunch and providing friendly social contact to 12 people. This woman's thoughtfulness and generosity filled an obvious need in the community, for the popularity of her lunches continued to grow. Soon, the local Presbyterian Church loaned their kitchens for meal preparation and other neighbors helped deliver lunches to elderly people who were more or less housebound.

Eight years ago, the program was such a success that it rented permanent facilities from the Littleton Housing Authority at the Bradley House, an apartment complex for seniors. This Meals on Wheels program now feeds lunch to 85 seniors a day—some in the comfort of their own homes, and more than 20 in the community dining room at the Bradley House. The meals are well balanced, appetizing, and nourishing. A typical recent lunch consisted of baked chicken, mashed potatoes with gravy, mixed vegetables, bread and butter, and dessert. Arrangements can be made for

diabetics and others with special dietary needs.

This program, Mr. President, grew out of a simple neighborhood concern for those who were less fortunate or less active and, though larger, it is still the same today—neighbors helping neighbors in the friendly way they always have. "That's all they need is a good neighbor who cares and shares," says Jan Andrus, who took over the Meals on Wheels program from Mrs. Baker in 1981.

The entire program is run without a penny of Federal or State assistance. These hot and wholesome meals are offered almost at cost to those who can pay—and most seniors want to—and free to those who cannot. All of their other expenses are made up from private contributions of money, time, and labor.

Volunteers for a program like this have not been hard to find, and 90 volunteer-hours a week have become commonplace. The Beta Sigma Phi sorority and the Englewood and Littleton Republican Women's Clubs are among the many who pitch in to serve the lunches at the Bradley House and run the nine different routes delivering the meals to homes and visiting with the elderly. "Sometimes, if you're 80 years old, and have never been patted on the shoulder, or kissed on the cheek, it can make you very sad and lonely. Company is as nourishing to the mind as food is to the body and sometimes more so," Mrs. Andrus says. Hearing this, no one could doubt her sincerity when she adds warmly, "I have a good time doing this job * * * it's so important."

These daily visits, in addition to providing company, can also be a lifesaver in case of mishaps or medical problems, so it is really two programs at once. Many elderly people can remain in the comfort of their own homes longer if they can eat well and be assured of regular visits. In fact, our 1979 study found it gave them an average of 6 more years independence before needing the extra attention of a nursing home—and who could put a price on 6 years of independence?

I wanted to take this time to draw the attention of my colleagues to this neighborly effort, Mr. President, because I think it is an example of the goodwill and generosity of ordinary people who see a problem and work together in practical and effective ways to solve it. It is a good news story, if you like, but it is not unique to Denver. All around the country, other people are solving other problems in other ways—quietly and without fanfare—just because that is what good neighbors do. You will not read about them in the morning paper or hear about them on the evening news, but they go on about their business of caring about others in their own quiet way.

I should like to have printed in the RECORD, Mr. President, something Mrs. Andrus shared with me. It is called Beatitudes for Friends of the Aged, by Esther Mary Walker, and says a great deal about how one group of Coloradans cares for another.

The writing follows:

BEATITUDES FOR FRIENDS OF THE AGED

(By Esther Mary Walker)

Blessed are they who understand
My faltering step and palsied hand.
Blessed are they who know that my ears today
Must strain to catch the things they say.
Blessed are they who seem to know
That my eyes are dim and my wits are slow.
Blessed are they who looked away
When coffee spilled at table today.
Blessed are they with a cheery smile
Who stop to chat for a little while.
Blessed are they who never say,
"You've told that story twice today."
Blessed are they who know the ways
To bring back memories of yesterdays.
Blessed are they who make it known
That I'm loved, respected and not alone.
Blessed are they who know I'm at a loss
To find the strength to carry the Cross.
Blessed are they who ease the days
On my journey Home in loving ways.●

THE CERAMIC EXAMPLE

● Mr. TSONGAS. Mr. President, I commend to my colleagues a February 17 Washington Post article by Hobart Rowen. The article is relevant to a bill I recently introduced, S. 428, titled the "Economically Strategic Industrial Research and Development Act." When I introduced that bill, I had printed in the RECORD an article on the Japanese challenge in ceramic materials. Mr. Rowen's piece succinctly summarizes the problem, and I want to share his insights with my colleagues.

Mr. President, I ask that the text of Mr. Rowen's article be printed in the RECORD.

The article referred to follows:

THE CERAMIC EXAMPLE

(By Hobart Rowen)

About 15 years ago, a British scientific journal published the first article that anyone can remember about an exciting new idea: automobile engines, the article reported, could be made out of ceramic material instead of metal. Such lightweight, thermal-efficient ceramic engines would have stunning advantages, especially a 30 percent reduction in fuel consumption. And the engine itself would practically never wear out.

No one in the West—certainly no one in Great Britain—considered this more than a pipe dream. But—you guessed it—the article on ceramic engines came to the attention of the Japanese government and Japanese businessmen, who carefully scan all technical literature published everywhere.

The potential for ceramics was only one phase of $460 million in R&D money the Japanese government committed for a 10-year exploration of new industrial materials, biotechnology, and so-called "new function elements" in electronics.

So it happened that a few weeks ago on a visit to Japan to study how these new high-tech programs are coming along, Commerce Under-Secretary Lionel H. Olmer drove the world's first car with a ceramic engine on the grounds of the KYOCERA Corp. (Kyoto Ceramics).

"It's an experimental model and it idles sort of rough—but it works, that's the main point," Olmer told me.

KYOCERA already is commerically producing ceramic components for diesel engines. And Olmer says in a report on his trip, "It is anticipated that ceramic parts—including turbine blades—will be usable in ships and aircraft, eventually."

The experimental ceramic engine is a good example of why Olmer argues that American manufacturers trying to compete with Japan are dealing with "a moving target." Merely slapping quotas on Japanese cars for a fourth year (as Tokyo, under pressure from U.S. trade ambassador Bill Brock, has just agreed to do) is a pitiful Band-Aid for Detroit, which simply seems unable to meet Japan's creative challenge.

Olmer says in his excellent report—a public document available from the Commerce Department—that Japan concentrates on high technology because there is a bigger bang to the buck: success in high tech makes all Japanese industries more competitive.

Any company, especially one in Great Britain—where, God knows, something is needed to stir the country out of an economic quagmire—could have pursued the idea of a ceramic automotive engine. But it was a Japanese company that pressed ahead, its instinct for innovation importantly supported by government direction and money.

But Olmer makes the point that it would be a mistake to attribute these successes just to governmental spoon-feeding. The truth is that entrepreneurial skills of private management, the dedication of a nonconfrontational labor force, and just plain common sense are also key factors.

Two examples Olmer cites:

Originally, an American company developed a kind of crane to life airplane fuselages off the assembly line and twirl them in midair while the assembly crew carefully listens for rattles. That's what the Japanese do—and American makers don't—in assembling F15 fighter aircraft. Predictable results: Japanese-made F15s don't rattle.

A recent "time and motion" study in the United States shows that, typically, about 75 percent of a woker's time is spent looking for the right tools and parts, and only 25 percent at the actual assigned task. The Japanese have reversed these percentages—tripling actual work time—by providing each worker with a simple plywood cart in which he neatly stores all of his tools and parts. He doesn't go off the shift until that is done.

What are the lessons here? The West has scoffed at the Japanese as imitators of Western technology. But Olmer quotes Edison's definition of genius—99 percent perspiration and one percent inspiration—to suggest that Japan's special creativity is "incremental improvement," which is just as important as "a blinding flash of insight."

The reality is that the Japanese have become either preeminent or equally eminent in many high-technology fields, including ceramics, carbon fibers, robotics, computers, semiconductors and machine tools. To a substantial degree, Japan has benefited from a transfer of technology from the West, and often has been more alert to the potential of an invention than the inventors.

Now, some of the transfers must go in the reverse direction. Just how this is to be worked out will have an important bearing on the economic development of the noncommunist world for the rest of the century.●

WHAT IS REALLY HAPPENING AT THE EPA?

● Mr. McCLURE. Mr. President, on February 20, the Washington Post ran a very important article written by a good friend of mine, Senator ALAN K. SIMPSON entitled, "EPA Is Doing Things Better."

Senator SIMPSON's article skillfully outlines the direction of the Environmental Protection Agency. He points out that many of the so-called environmentalists attacking the EPA have failed to look at the progress that has been made. The debate over the EPA, he says, closely resembles a pack of wolves high on emotion circling their prey.

He stated:

The administrator of EPA has the task of trying to enforce some of the most convoluted and ambiguous statutes and regs ever enacted. Almost every significant regulatory action she takes is challenged in court—by someone. Not only is she subject to the constant cross fire from the environmentalists but her actions are under a barrage of continuing judicial review. The fact that she is criticized does not mean that Anne Gorsuch is doing a miserable job.

He goes on to say that how easy it is for a lawmaker to gain the headlines of the local paper by subpenaing Anne Gorsuch. This is a wonderful game but it is not very productive.

Senator SIMPSON's comments provide an excellent insight to the politics surrounding the current debate.

Mr. President, I ask that the article by my distinguished colleague from Wyoming be printed in the RECORD:

The article follows:

[From the Washington Post, Feb. 20, 1983]

IN DEFENSE OF ANNE GORSUCH—EPA IS DOING THINGS BETTER

(By Alan K. Simpson)

Lord, here we go again! With the scent of the kill filling the flared and twitching nostrils of "the observers" in Washington, and with good old "high emotion" vaporizing all desire to seek reason and balance, the "pack" is circling in on the Environmental Protection Agency and its administrator, Anne Gorsuch. It reminds me of that old cartoon of the two buzzards in the tree, with one saying, "Patience, my ass. I'm going to kill something!"

I am not an apologist for Anne Gorsuch. She beautifully expresses her own thoughts in a very frank and candid manner—an interesting woman. Yes, I, too, have heard the same comments about her—that she is aloof, cold, tough as hell, arrogant, confrontational, sly—the full spectrum of adjectival abuse.

Have you ever seen a pack of coyotes? They are not the kind of warm and furry animals that you pat gently on the head and feed a dish of warm milk. They circle their prey—fired up and lathered by the chase—and then rip at the throat. They will polish off a lamb in pretty short order. Anne Gorsuch is not perceived as being a lamb—indeed not—and it may be that fact alone that has helped get the old juices flowing as the pack attempts to drag her agency to its knees.

What spurs this kind of attack? What fires and focuses all this energy? It may be that everything else is too dry or boring to bear. After all, legislating—ofter like administering—is just about the driest and sometimes dullest form of human endeavor. For it consists of research, reading, reviewing, meeting with fellow legislators, amending, searching, learning, growing, determining how to compromise an issue without compromising yourself, and in humility finding how to take a crumb when you can't get a loaf. It is not high drama.

But when all of that pent-up frustration born of boredom finds a chink in the boilerplate—then hallelujah, the chase is on! At the first mention of the word "shredder" the old eyeballs bulge and fangs come out. With all the gleeful licking of the chops going on, and now even a new "in" title ("Sewergate"), it is sometimes diffcult to inquire as to whether there is any reason or balance or fairness lurking in the organization being assaulted. Possibly we might consider taking a few moments for a presentation of "the other side."

The version of recent agency history that is currently fashionable is that the pre-Gorsuch EPA was a heady model of efficiency and fairness ("One of the most efficient and capable agencies of government," according to the New York Times). That is not the EPA I remember. I recall an EPA that was hopelessly behind schedule on the implementation of the major environmental laws, constantly mired in controversy and battles with the states and other branches of the federal government, and frequently accused of "anti-business bias" in the ideological interpretation of scientific evidence. It was an agency whose leadership was portrayed as being largely indifferent to the efficient management of the nation's resources.

Given our national fiscal situation, it was both necessary and inevitable that Anne Gorsuch would be asked to prune the EPA budget and subject agency activities to a more rigorous scrutiny than they had ever undergone before.

Perhaps some of the subsequent changes at EPA have been unwise. It is difficult to tell since there seems to be such a dearth of knowledgeable and disinterested analysis of what has really taken place. The hard-hitters in the Washington environmental community have been unremittingly hostile to Gorsuch since well before her confirmation and have always denounced in near hysterical tones virtually everything she has done. Most of Gorsuch's critics are simply so pinched and shriven with bias and partisanship that they would flunk a saliva test.

The administrator of EPA has the task of trying to enforce some of the most convoluted and ambiguous statutes and regs ever enacted. Almost every significant regulatory action she takes is challenged in court—by someone. Not only is she subject to the constant cross fire from the environmentalists, the business community and Congress, but her actions are under a barrage of continuing judicial review. The fact that she is widely criticized does not succinctly mean that Anne Gorsuch is doing a miserable job.

An interesting example is the criticism that EPA is now getting—from the environmentalists, of all people—for taking seriously the statutory deadlines for attainment of clean air standards. We now hear the extraordinary argument that these attainment dates really don't have anything to do with actual air quality—that the deadlines Congress fussed, struggled, and busted its fanny over a few years ago don't apply out there in the real world. I think Anne Gorsuch might be forgiven for having the impression that she just can't win regardless of what she does.

One of the delightful ways for a lawmaker to pick up a few headlines in the old hometown press is to subpoena Gorsuch before one of the many committees and subcommittees in this place, whose staff spend an inordinate amount of hours sniffing out subject matter that can get "the boss" on the tube. Just ran our a subpoena and have Anne Gorsuch haul up to the Hill, by pack mule train, about 750,000 documents having to do with, say, Superfund. It's a great and time-honored game. But is it always productive? I think not.

The theory here, when the fur begins to fly, is to get on the "right side." Which side is the right side? Quite naturally its the side that makes you a folk hero at home.

There is no question that the basic philosophy and style of this administrator is less pleasing and digestible to the environmental community than that of previous administrators. But I do labor under the longstanding illusion that a public official should be judged not on the basis of clamor or conflict but on the basis of certain results—in this case, environmental quality. The truth is that the health of the American people and the quality of their environment are getting better, not worse. The air and water may not be as clean as we wish, but they are eminently cleaner than they were, and show continuing improvement. Hazardous waste dumps are being cleaned up. No previous EPA administrator can boast of that fact.

It is not my purpose to defend all actions that Anne Gorsuch has taken as administrator of EPA. I've surely resisted some. I know I would have handled some matters quite differently had I been in her shoes—but who of us can object to fair and informed criticism of the record of any public official?

What I do not have much stomach for is the mindless antipathy, the raging harassment and assertions, the blatant lust for the "kill" that has been so evident recently.

Much has been made of the reduced budgets at EPA. This is seen by some thoughtful people as a lessening of the commitment to clean up our nation. Is it? What happened may be something that makes sense. Lawyers were fired and scientists were hired. Anne Gorsuch stated, "I don't need all that money for lawyers and litigants and bright stars and fancy writers and papers peddlers and white paper specialists. Just give me some 'grinders' who can sit down with the deputy, John Hernandez, and other scientists and crank out a list of the chemicals that cause difficulties for human beings. I want to know what they are, how they can be controlled, what we should be up to. Let's toss out the lawyers, and hire the scientists and get some rationalization about specific effect of chemicals," Makes sense.

I believe many of us have finally plugged our ears to the old siren song of Washington. The words and music went, "If we only had a good chunk more money and some more good people, we could do you a tremendous job." There aren't too many people left around here pumping out that guff any more or buying it. Many see clearly that we no longer need lengthy litigation, marvelous memorandums, ponderous tomes,

distinction piled upon distinction, and paralysis by analysis. Start walking the walk instead of talking the talk.

But others still don't agree. Seems every time we take a crack at a responsible amending or reauthorization of the Clean Air Act we get letters from constituent groups who have been wired up in a miasma of misrepresentation: "Lay off the Clean Air Act, Simpson, or we'll tear your shorts off!"

Recent public opinion polls clearly show that the American people want clean air and clean water and are willing to pay for it. I go for that. This does not mean that the public's willingness to pay should be translated into a willingness of the federal government to spend itself goofy on environmental programs. We can have a clean environment and reduced budgets if appropriations are expended wisely. That is what Anne Gorsuch's administrative efforts are about—the wise and thoughtful use of limited resources.

All federal agencies and departments are finding the going tough in these times of tremendous deficits. Should EPA be exempted from all economic constraints while our right to sensible environmental protection is already being maintained under current funding levels? None of EPA's harshest critics has shown that EPA has not continued to follow the law just as set out by Congress, nor can the critics show that the environment has been degraded, because just the opposite is true.

"Superfund" is a case in point. Under the stewardship of Anne Gorsuch, EPA has taken significant and effective actions to establish priorities to clean up some of the worst dump sites in the nation. Some will argue that litigation is preferable to any out-of-court settlements. But let us not forget that each case litigated costs the taxpayers hundreds of thousands of dollars while always delaying the actual cleanup. Out-of-court settlements are not intrinsically evil.

So, what the hell have they been doing over there? Well, EPA has been active in reducing the backlog of state implementation plans (plans required of the states before environmental protection strategies can be approved by EPA). This backlog has been reduced by 98 percent under Anne Gorsuch.

Through management streamlining, the requested budget reduction of 50 percent in 1982 has not prevented the EPA from proposing 14 effluent guidelines and promulgating 12 of those—when before this administration came on the scene only one was birthed after an investment of more than $100 million. For the very first time, EPA is on track with court-ordered deadlines. Is this not responsible action? One would think so.

The backlog of overdue decisions on chemical testing has been reduced by 25 percent. Backlogged applications for pesticide registrations have been reduced by 97 percent and use permit delays reduced by 83 percent. The backlog on grants and other resistance agreements has been reduced by 95 percent. The clogging of unresolved audits has dropped from 653 to 5 during the past 18 months. And if one examines the actual record, acid rain research levels have increased—contrary to the comments of the critics.

As chairman of the subcommittee on nuclear regulation, I observe EPA's Office of Radiation Programs. That office has accomplished much since Anne Gorsuch and John Hernandez took charge. It has really zeroed in on its mission of establishing environmental standards for a variety of activities in the nuclear field, many of which were hopelessly behind schedule and had, prior to Gorsuch's arrival, been but "pacing items" for the regulatory programs of other federal and state departments and agencies. This re-emphasis of ORP's mission might well be one of the most important achievements of EPA in the nuclear field.

EPA has also proposed standards for high-level waste repositories, an issue that the agency had been grappling with for an extraordinary period of time. These standards, once adopted, will be incorporated into the Department of Energy and the Nuclear Regulatory Commission high-level waste repository programs.

Final standards for inactive uranium mining and milling activities, which were recently promulgated by EPA, will allow DOE to move forward in its cleanup program for these inactive sites. Standards in numerous other areas related to the nuclear field have shown great progress since Gorsuch took over the shop, including standards for active uranium mill tailings sites that EPA in the past had failed to promulgate, even in the face of a statutory congressional mandate.

Because enforcement and implementation of clean air programs are two of the EPA's most important responsibilities, virtually no funding reductions have been proposed in those areas. Research support for national hazardous air emission standards has increased by $1.3 million to ensure their timely completion. The enforcement effort continues at the same funding levels as fiscal 1983, and EPA is maintaining its focus on the most significant violators, which include those tampering with auto pollution equipment and the large industrial polluters. The 17-percent reduction in state grants in this area is based on EPA's belief that improvements in federal and state operations will enable states to operate effectively with a reduction in the federal share of the total resource support.

Acid rain research will increase by $1.5 million to a total of $14 million. Total government-wide funding for acid rain will be $27.6 million, an increase of $4.3 million over the past fiscal year. Quality assurance efforts will get a $1.3 million injection.

There was an increase of nearly $1 million for improving toxic risk assessments. Total health effect studies will be funded at an increased level of $51 million, an increase felt necessary to continue to protect the health of American people.

The most diligently ignored factor in EPA's budget is the increase in funding for Superfund by 48 percent—and increases in resources for site cleanup by nearly 55 percent. If numbers alone are the game, then know that in 1982 EPA obligated 81 percent of all the funds appropriated in this program—including obligation of 90 percent of all waste-site cleanup funds. In 1984, EPA will be expanding the number of sites where response actions will be conducted.

The EPA budget proposals for 1984 deserve sensible analysis and not ridicule. The proposals for both 1982 and 1983 have resulted in environmental progress. Programs that were dormant are now productive. Savings of nearly $200 million over the 1981 appropriations are to be achieved while the EPA continues environmental progress through a series of actions: addressing a growing number of the most dangerous hazardous waste sites; improving management of our basic regulatory process in the EPA such as in the toxic new source performance standards, effluent guidelines and pesticides programs, and basic and essential regulatory reform efforts that have enabled the agency to implement statutory responsibilities in a much more sensible and effective manner.

We hear much about the acid rain issue—and should. We hear the EPA may be "stalling," prolonging research efforts as a means of reducing any chances for successful acid rain legislation. Yet there are (believe it or not!) professional scientists at EPA—career people—who survive all of the changes in administration throughout the years. The criticism leveled at EPA is a whack in the chops to these dedicated scientists and their objective work, as well as to many of the politically appointed administrators. The real truth is that Congress does need more information on acid rain—regardless of the lack of House action or the recent action taken by the Senate. EPA has been responding to this need for more information and will certainly continue to do so. Congress does need some more information on things like: the buffering capacity of different soils; the effects of oxidant catalysis; the role of long-range transport; the efficacy of different control strategies; and the effects of wind-blown alkaline dust on acid rain formation. EPA is not stalling on the acid rain issue. Instead, Congress is severely reined in by a lack of finite knowledge about the cause-and-effect relationships of different industrial control strategies. Congress should take the rap on inaction and stalling on acid rain, not EPA.

Notice, too, that when persons have expressed to Anne Gorsuch that something might be awry, or that sly trickery is afoot, or that the sneak thieves are in full flight or that the shredder has shorted out—or when they say Rita Lavelle shouldn't be working here, or that she should, or that Hugh Kaufman shouldn't be here, or that he should—all of those mumblings, memos and meanderings get turned over to the Department of Justice. It seems like a good place to report charges of wrongdoing. If things are really out of whack, it will come out in the wash.

And finally—isn't it interesting how "the observers" seem to foster preconceived notions about this administration and the environment? I would hope we might dispel one notion—that the protection of the environment and the public health and safety is solely in the domain of those of the other political faith. Check out the record of the Republican Senate and a Democratic House and review the number of environmentally responsible bills that have been passed by those bodies and praised by the President as he signed them into law—endangered species, barrier islands and nuclear waste legislation to mention but three.

Perhaps it would be well for us all—congresspersons, "the observers" and the public we serve to consider again the words of Edmund Burke: "Those who would carry the great public schemes must be proof against the most fatiguing delays, the most mortifying disappointments, the most shocking insults and worst of all—the presumptious judgment of the ignorant beyond their design."●

SIXTY-FIFTH ANNIVERSARY OF ESTONIA'S PROCLAMATION OF INDEPENDENCE

● Mr. LEVIN. Mr. President, last Thursday, on February 24, the Estonian Community of Detroit gathered to commemorate the 65th anniversary

of Estonia's Proclamation of Independence. Estonian-Americans all over the United States took time to reflect on the significance of the event, but also to bring attention to the fact that Estonians enjoyed independence for only a brief moment in history.

Mr. President, I sent a letter to the Estonian community in Detroit to be read at their gathering and ask unanimous consent that it be printed in the RECORD.

The letter follows:

FEBRUARY 27, 1983.

ESTONIAN COMMUNITY OF DETROIT,
c/o Mr. Raimond Tralla, Oak Park, Michigan.

DEAR FRIENDS: Once again you are gathering to commemorate the anniversary of the Proclamation of Independence of the Republic of Estonia.

It is now 65 years since that day, February 24, 1918, when the people of Estonia established an independent government. And, the people of Estonia enjoyed a period of peace and freedom but it was all too brief.

Forty-three years ago, in 1940, the Soviet Union occupied Estonia, and it, along with Lithuania and Latvia, became a captive nation. To this day, Estonia lives under the oppressive heel of the Soviet Union.

On this day, therefore, as on similar days every year, we pause to remember the past and its glorious history—to think of the present and how we can help our fellow human beings everywhere—and to dream of the future, when Estonia, and all captive nations will once again be free. The battle will not end until all such nations regain their sovereignty and independence.

In the meantime, I know that you will continue to be the watchdogs in this country of your culture, traditions and customs and continue to maintain your strong identification with your roots and your sense of community. America is enriched by your presence.

I am sorry that I cannot be with you today to personally express my thoughts to you. I wish you well in all your endeavors and look forward to a long association with you.

Sincerely,

CARL LEVIN.●

AID TO EL SALVADOR IS IMPERATIVE

● Mr. HELMS. Mr. President, yesterday the White House announced that Congress will be urged to supply an additional $60 million in aid to El Salvador for 1983. President Reagan is requesting this emergency military assistance to counter leftist guerrillas who continue to gain strength in that country. I believe that it is extremely important the El Salvador receive this aid as soon as possible. On Monday of this week, Deputy Assistant Secretary of State, Nestor Sanchez, said the army had less than a 30-day supply of ammunition. Furthermore, our own security is inescapably linked to the security of our allies and trading partners.

On the other side, the guerrillas continue to be well equipped both from Nicaragua and Cuba. I might point out that whereas the United States devotes 3 percent of its security assistance to Latin America, the Soviet Union spends 8 percent. United States inability—or unwillingness—to come to the aid of the Salvadoran Government will simply strengthen the Nicaraguan and Cuban position in the region.

Mr. President, the real issue is whether the United States will, for obvious national interest, develop a policy of commitment to ensure the future of democracy in El Salvador. Failure to grant El Salvador these additional funds would again demonstrate that the United States is not willing to defend the principles of democracy against a determined and programed international Communist aggression.

Mr. President, in dealing with El Salvador it is essential to recall March 28, 1982, when one of the highest voter turnouts ever in the history of democratic elections occurred. Despite death threats by the FDR guerrilla group, more than 80 percent of the Salvadoran voters went to the polls. The United States cannot ignore this remarkable exercise in democracy.

This should be kept in mind when analyzing the pressure by some elements in this country to force the people of El Salvador into a dialog with the FDR to reach a political solution. I am opposed to any negotiations of this nature. The FDR refused to participate in the last elections. Thus, negotiations would be in direct contradiction to the voice and spirit of the March 28 elections, and could give the FDR a role in the government which they have been unwilling to earn through the democratic process.

Those arguing for dialog still have not recognized nor accepted the FDR for what it is—or for what it represents. Neither by fact nor history have they won any popular internal support for their cause. The FDR has been able to survive partially due to the well-orchestrated propaganda machine available to them within the United States. The daily destruction of public and private property caused by the FDR clearly affects all Salvadorans' livelihood, their right to work, to move freely about their country, and to enjoy such basic necessities as medicine, education, and food. By ignoring the violations of human rights committed by the FDR, as well as other guerrilla groups, we provide justification for treason instead of helping develop the necessary democratic solution.

The unmistakable conclusion from the analysis of the March 28 results and the nature of the FDR is that our Government must support the existing legally and democratically elected representatives of the people of El Salvador. We must make it clear to our friends in that country that we reject the principles of the FDR as antidemocratic. We must insist that the FDR reject terrorism and seek acceptance through the democratic process. Only when these steps are taken will it be feasible to expect the Salvadorans to be able to participate in true negotiations for the conditional surrender of the FDR, providing guarantees of life and future participation in the society.

Mr. President, economically El Salvador cannot support itself. I am convinced that their record as the most productive country in the region with the least natural resources will be reaffirmed once peace is established. In the short term, though, they need our help. Aid to El Salvador in the past, though limited, has accomplished a great deal. Political pluralism, a legally elected government and widespread social awareness all have emerged to alleviate the anarchy and turmoil which plagued that country before the United States began providing assistance.

El Salvador is moving in the right direction and further progress depends on our ability to support it in stopping those who have declared themselves diametrically opposed to our values.

Mr. President, I urge the administration to act quickly on sending emergency military aid to our friends in El Salvador. This action is vital to the security of El Salvador, to the security of the United States and, indeed, to the entire hemisphere.●

THE NUCLEAR FREEZE

● Mr. TSONGAS. Mr. President, I commend to my colleagues a resolution issued by the American Physical Society, the main society of American physicists. Among the organization's members are some of the scientists who developed the first nuclear weapons, and many of those who now make such weapons in our national laboratories. The resolution was authored by five of this Nation's most distinguished scientists: Hans Bethe, Herbert York, Sidney Drell, Wolfgang Panofsky, and Marvin Goldberger.

This fall, millions of Americans voted for the nuclear freeze. The momentum of the freeze movement, and the seriousness of American concern for arms control, have made an impression on the prestigious professionals most involved in the technical aspects of our nuclear capability. These professionals have concluded that enough is enough, that efforts to bottle the nuclear genie need more of a sense of urgency. Their resolution calls upon the President and the Congress—together with their counterparts in the Soviet Union—to intensify efforts to reduce the risk of nuclear war by negotiating a verifiable arms control agreement; by inhibiting the further proliferation of nuclear weapons; by banning weapons testing, weapons in space, and tactical weap-

ons; and by ceasing to regard nuclear explosives as ordinary weapons of war.

Mr. President, I ask that the text of the resolution of the American Physical Society be printed in the RECORD.

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

STATEMENT OF THE AMERICAN PHYSICAL SOCIETY

Whereas nuclear war is an unprecedented threat to humanity;

Whereas the stockpile of nuclear weapons distributed around the globe contains the explosive power of more than one million Hiroshima bombs;

Whereas a general nuclear war would kill hundreds of millions of people;

Whereas the aftereffects of general nuclear war are certain to be catastrophic for the survivors and could destroy civilization;

Whereas any use of nuclear weapons, including use in so-called "limited wars," would bring with it substantial risk of escalation to general nuclear war;

Whereas thirty years of vigorous research and development have produced no serious prospect of effective defense against nuclear attack;

Whereas nuclear arsenals of the United States and the Soviet Union are more than adequate for deterrence;

Whereas the continuation of the nuclear arms race will not increase the security of either superpower;

Whereas the proliferation of nuclear weapons to additional countries, especially in areas of high tension, would substantially increase the risk of nuclear war;

Whereas there has been no progress for several years now toward achieving limitations and reductions in strategic arms, either through ratification of SALT II or the negotiations of a replacement for it;

Whereas negotiations intended to achieve a comprehensive nuclear test ban have been indefinitely adjourned; and

Whereas negotiations intended to prevent or inhibit the spread of nuclear warfare to outer space have been suspended;

Be it therefore resolved that The American Physical Society, through its elected Council, calls on the President and the Congress of the United States, and their counterparts in the Soviet Union and other countries which are similarly involved in these vital matters:

To intensify substantially, without preconditions and with a sense of urgency, efforts to achieve an equitable and verifiable agreement between the United States and the Soviet Union to limit Strategic Nuclear Arms and to reduce significantly the number of such weapons and delivery systems;

To conduct, in a similar spirit, negotiations to restrict the use and limit the deployment of battlefield and intermediate range nuclear weapons;

To resume negotiations to prevent the spread of nuclear weapons to outer space;

To take all practical measures to inhibit the further proliferation of nuclear weapons to additional countries;

To take all practical actions that would reduce the risk of nuclear war by accident or miscalculation;

To continue to observe all existing arms control agreements, as well as SALT II;

To avoid military doctrines and deployments that treat nuclear explosives as ordinary weapons of war; and

To initiate serious negotiations to ban the testing of nuclear weapons in all environments for all times as called for in the Nonproliferation Treaty.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive 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 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 a proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD the notifications which have been received.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 1, 1983.

In reply refer to I-00099/83ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-20, concerning the Department of the Army's proposed Letter of Offer to Indonesia for defense articles and services estimated to cost $26 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL No. 83-20

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Indonesia.

(ii) Total Estimated value:

	Millions
Major defense equipment [1]	$24
Other	2
Total	26

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: One hundred fifty thousand 105mm cartridges without fuzes for howitzers.

(iv) Military department: Army (UCP).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending December 31, 1982.

(viii) Date report delivered to Congress: March 1, 1983.

POLICY JUSTIFICATION

INDONESIA—105MM CARTRIDGES

The Government of Indonesia has requested the purchase of one hundred fifty thousand 105mm cartridges without fuzes for howitzers at an estimated cost of $26 million.

This sale will contribute to the foreign policy objectives of the United States by helping to improve the security of a friendly and strategically important country in East Asia.

These cartridges will be used with the howitzers puchased to upgrade Indonesian artillery forces as the primary field artillery of the Indonesian Army.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the government-owned, contractor-operated Kansas Army Ammunition Plant of Parsons, Kansas.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Indonesia.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 1, 1983.

In reply refer to I-00300/83ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-21, concerning the Department of the Navy's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $31 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL No. 83-21

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value:

	Millions
Major Defense Equipment [1]	$0
Other	31
Total	31

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: This case provides for an amendment adding $31 million to an existing agreement valued at $49 million for a total of $80 million worth of follow-on technical support for the Royal Saudi Naval Forces.

(iv) Military department: Navy (RAI, amendment 1).

(v) Sales Commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in Section 28 report.

(viii) Date report delivered to Congress: March 1, 1983.

POLICY JUSTIFICATION

SAUDI ARABIA—FOLLOW-ON TECHNICAL SUPPORT

The Government of Saudi Arabia has requested an amendment adding $31 million to an existing agreement valued at $49 million worth of follow-on technical support for the Royal Saudi Naval Forces (RSNF).

This sale is consistent with the stated U.S. policy of assisting friendly nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services. It will demonstrate the continued willingness of the United States to support the Saudi Arabian effort to improve the security of the country through modernization of its naval forces. In a regional context, enhancement of the defensive capabilities of Saudi Arabia will also contribute to overall Middle East security and stability.

The United States is assisting Saudi Arabia in enlarging and improving its naval force through the Saudi Naval Expansion Program (SNEP). This program began in 1972 and is scheduled to be completed in the mid 1980's. The SNEP includes the purchase of 29 ships and craft plus the supporting shore facilities, equipment, logistical support, and training. This sale will provide for the follow-on technical support essential to effective operations of the RSNF.

This sale of follow-on technical support will not introduce a new military capability into the region nor will it affect the basic military balance in the region.

The follow-on technical support will be provided by the U.S. Navy. There will be no prime contractor.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Saudi Arabia.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

PRELIMINARY NOTIFICATION, PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive 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 a notification was received on March 1, 1983.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room SD-427.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 1, 1983.

In reply refer to: I-00415/83ct

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

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,

PHILIP C. GAST,
Director.●

HIGH-TECH—NO PANACEA

● Mr HUDDLESTON. Mr. President, during recent months we have been inundated with stories about the value of high technology to the U.S. economy. This economic revolution is claimed by some to be the salvation of our depressed economy and a certain cure for our excessive unemployment. As a result of this high-tech hype and the dazzling success stories from Silicon Valley, we have become partially blinded to the underlying economic realities we face.

High technology is vitally important to our national economy and we should aggressively promote its development, but it is not a panacea for the serious economic ills of America. In our scramble to assist these new industries, we must not lose sight of the value and necessity of our basic industries. These so-called "smokestack" industries—steel, automobiles, heavy manufacturing, and coal—have been the foundation of our economic strength and must continue to be for years to come.

The limitations of the new high-tech industries were clearly revealed in two recent articles in the Washington Post which dealt with the announcement, by Atari, to fire one-quarter—1,700—of its U.S. work force in order to shift production to Hong Kong and Taiwan.

One of the articles pointed out that this production shift:

follows the pattern of consumer electronics items such as watches and television

And went on to state that:

The announcement of the move and the large layoff is bound to raise questions about projections that jobs lost in the foundries and auto plants can be replaced easily by jobs in high technology industries and that high-tech industries can perserve the U.S. position in international trade.

Mr. President, I believe that our national economic policy must be a balanced one which recognizes the value and importance of basic industries as well as high-technology industries. Without such a balanced policy, I fear that we will tend to disregard the needs and concerns of the basic industries. As we all know, many of these industries currently are fighting to say alive and will require our long-term support and assistance. I, for one, am not ready to relinquish these industries to our foreign competition, especially at a time when we have almost 14 million Americans out of work.

I ask that both of the aforementioned Washington Post articles be printed in the RECORD.

The articles follow:

[From the Washington Post, Wednesday, Feb. 23, 1983]

ATARI TO FIRE 1,700, SHIFT PLANTS TO ASIA

(By Martha M. Hamilton)

Atari Inc., the video game and home computer manufacturer that has sometimes been used to symbolize America's employment future in high-technology jobs, said yesterday it will fire nearly a quarter of its U.S. work force in a shift of Atari's manufacturing operations overseas.

Atari said that 1,700 workers in California will lose their jobs as a result of the company's decision to shift production from Sunnyvale, Calif., to Hong Kong and Taiwan. The layoffs will be phased in from now to June or July with 600 workers out of a job yesterday.

The production move comes only weeks after Atari's parent, Warner Communications, reported lower-than-expected earnings for 1982 for its consumer electronics division.

Analysts said the production shift, which follows the pattern of consumer electronics items such as watches and television, results from economic pressures in the highly competitive home computer and video games industries. Atari said yesterday it is designed "to reduce escalating manufacturing costs"—such as labor, the value of the dollar and regulatory costs.

The announcement of the move and the large layoff is bound to raise questions about projections that jobs lost in the foundries and auto plants can be replaced easily by jobs in high technology industries and that high-tech industries can preserve the U.S. position in international trade.

"It clearly indicated that the high-tech firms are also moving abroad and that they are no guarantee for absorbing the nation's jobless," said Rudy Oswald, director of research for the AFL-CIO.

The value of high technology in America's future has been espoused by a group that has been dubbed the "Atari Democrats," who advocate shifting resources away from declining industries, such as steel and automobile manufacturing, into the high technology and service industries where growth is expected to occur.

President Reagan, too, echoed some of those sentiments in his State of the Union speech, earning for himself the label "Atari Republican"—a label likely to be revised as a result of yesterday's announcement.

Atari has said that financial consideration dictate that some of its production be moved abroad. "Our computer production costs will go down dramatically in 1983," John Cavalier, president of Atari's Home Computer division, is quoted in Electronic News, a trade publication.

Atari already manufactures some video games in Taiwan and in Limerick, Ireland.

Interviewed by that magazine at the Consumer Electronics Show, Cavalier noted that "there were no [Atari] computers manufactured offshore in 1982. There will be a significant percentage manufactured offshore in 1983." In fact, an Atari spokesman said yesterday, virtually all its home computers will be manufactured abroad.

[From the Washington Post, Sunday, Feb. 27, 1983]

FRAGILE FRONTIER

ATARI'S DEPARTURE ILLUSTRATES FLAWS IN HIGH-TECH JOB SOLUTION

(By Martha M. Hamilton)

Politically, Atari symbolized the notion that high-technology employment could replace jobs lost in the United States in basic industries—that gleaming factories in the Silicon Valley of California could absorb workers from the devastated industrial "rust bowl."

"Atari Democrats" was the label hung on Democrats who advocated more emphasis on developing jobs and international trade through high-technology industries. And when President Reagan touted the role of high-technology in America's future in his State of the Union address, he earned the label "Atari Republican."

As a result, the announcement last week by home-computer and video-game manufacturer Atari, a division of Warner Communications Inc., that it was firing a quarter of its U.S. workforce and shifting production overseas seemed an ironic blow to the notion that high-tech jobs might be waiting for laid-off automobile and steel workers.

But some economists and "Atari Democrats" disputed that conclusion and suggested that what happened to Atari reveals how misleading a simple, catchy phrase can be in a debate over a subject as complex as the nature of America's industrial future.

For one thing, but the time Atari decided to depart these shores and leave 1,700 workers behind, its video games and home computers were no longer high technology. So rapid is the evolution in consumer electronics that yesterday's "gee whiz" can be transformed quickly into today's "ho hum."

"What you see happening here is the industry is changing," said Max Donner, a research associate at the Harvard business school and a consultant to the American Electronics Association. "Some fields which have been clearly high technology have been shifting into mass market standard technology. * * * The technology of a typical $500 personal computer is, in the spectrum of time, no more sophisticated than an electronic watch or a hand-held calculator in 1975."

When such a change occurs manufacturing becomes "more cost driven than technologically driven," he noted. Manufacturers of virtually every consumer-electronics item, as well as manufacturers of textiles and a host of other items, have looked to overseas manufacturing as a way to reduce costs.

"As far as moving a labor-intensive manufacturing facility to the Far East, Atari is really a johnny-come-lately," said Harry Sello, head of a firm that specializes in establishing overseas operations, joint ventures and marketing plans for U.S. firms.

The manufacture of integrated circuits, which helped create today's electronics products, began moving to Taiwan, South Korea and Singapore about 15 years ago. Approximately 90 to 95 percent of the semiconductor industry's assembly work is done overseas, according to industry officials.

"That ended up creating a lot more jobs in the high-tech area in the U.S. because it expanded the markets for those products," Sello said. "It's been a striking growth. It kept the U.S. companies competitive and allowed them to grow."

The basic argument of those who see no reason for gloom in the Atari news is that it makes sense to allow industries that require low-level skills and in which labor costs play a major role to shift overseas. When U.S. firms move production abroad, they are able to keep their market share, which in turn allows more investment in research and development and permits American industry to keep moving toward industrial frontiers, according to advocates of such a view.

According to Donner, the Atari move is actually promising. "It's very encouraging that people are catching on to it as early as they are here, as opposed to with color television and electronic watches," he said. "By the time the color-television industry moved to a global manufacturing strategy with Zenith and RCA looking at manufacturing abroad, 85 percent of the other U.S. manufacturers had already gone out of business, and there weren't any jobs at all."

"We're seeing the creation of all sorts of companies that didn't exist 10 years ago and are now on the New York Stock Exchange," said Rep. Tim Wirth (D-Colo.), one of the most prominent of the so-called Atari Democrats.

The label "contains a couple of ramifications that are very unfortunate and very wrong," said Wirth, who said that the term suggests a narrow focus on electronics and implies such Democrats are writing off basic industries. Not true, said Wirth.

As jobs disappear, as they did last week in Sunnyvale, Calif., when Atari announced its move, other jobs are created. "There are kinds of other things going on in the economy which are very exciting and very challenging," he said. That "argues very strongly for continuing the development of the new frontiers of industry in this country. We do not live in a static economy," Wirth said.

Even so, assuming that jobs will continue to be produced at the shifting frontiers of high technology, there is the question of whether they will be produced in sufficient numbers and whether the workers looking for jobs will mesh with those available.

Electronics manufacturing is moving abroad, a shift created not just by lower labor costs but also because the relative strength of the dollar makes it cheaper to produce overseas, AFL-CIO research director Rudy Oswald noted. Other high-technology fields, such as bioengineering, employ relatively few, scientifically-trained workers.

"The number of high-technology jobs will be very small," Oswald said. "It certainly won't take care of 12 million unemployed, or even the 1.5 million annual net growth in the labor force in the next five years," he said.

"I think the fact that Atari is moving so many jobs overseas is good evidence of the reality that the choice is not between high-tech and smokestack industries," said Harvard economist Robert B. Reich. A prominent economic adviser to Democratic candidates, Reich said the move indicates that "the lowest skill ends in every industry are going to move abroad."

As a result, for competitive survival, he said, the United States must train its workers for what Reich calls "the highest value-added segments in all industries."

Eventually all the low-skilled, routine jobs in every industry will be shifted overseas, Reich said. "But in every industry some highly skilled jobs entailing precision engineering, or maintenance of sophisticated machines or custom design and fabrication" will remain, he said. "We need to move into those niches because those will be the industries of the future," he said. "Potentially there is a lot of employment."

Some low-skill workers will still find some jobs, Reich and others said. Donner said that estimates are that every high-technology job creates 3.4 to eight jobs in support industries. "They are in unglamorous things, such as custodial jobs, clerical work in accounting firms, legal services, trade and banking-related work," he said.

Jobs in such service industries, which already employ a large percentage of the workforce, will never be lost because they must be close to the customer, Reich noted. A McDonald's in Taiwan is no good to customers in Takoma Park. "Unfortunately, there is not a lot of future in those jobs in terms of advancement, job security and just real income," he said.

Many assembly-line workers and others in routine manufacturing jobs can be successfully trained for jobs that require a higher level of skills, he said.

Companies themselves will do the training required for the more skilled jobs, according to Reich. At least they will if they use the savings realized from moving manufacturing abroad to create a different kind of industry in the United States.

"The issue is not moving abroad," he said. "The central issue is whether they move into higher value-added industries."

Even if moves, such as Atari's, bode well for the future, they are painful for the displaced workers. "It is conspicuous by occurring at a time when the emphasis on jobs and unemployment is high," noted Sello.

"In the not-too-far-distand future, it [Atari's move] will create more jobs than have been eliminated in the U.S. by allowing Atari to regain its lost share of the video-game market," he said. But, he added, European and Japanese firms are moving their manufacturing to the same low-cost area. In the intense competition for the market, Atari's eventual success is far from assured.

"The critical question is not answered," Reich said. That question is, in effect, what happens next? "The same question could have been asked in 1940 or 1910 or 1890. Industrial movement is movement constantly to higher value-added production," he said. "Miraculously, if you do move in that direction, markets open up."

But he added, "The problem has been in the last 10 years that we haven't moved."●

THE VOCABULARY OF ARMS CONTROL: PART II

● Mr. PRESSLER. Mr. President, in the RECORD of February 22, 1983, I entered a brief glossary of arms control terms which are in common use but are, unfortunately, a source of common confusion. This is an unproductive situation, given the desire by the public to join in the extremely important discussion of strategic issues.

Mr. President, today, I am providing a further elaboration of strategic and arms control terms and concepts. By providing this vocabulary, I hope that we can reduce the current situation

where specialists speak not only passed each other but also passed the American public. This glossary will be updated and expanded from time to time.

GLOSSARY OF ARMS CONTROL TERMS

Aerospace Defense—All measures to intercept and destroy or otherwise neutralize hostile aircraft, missile and space vehicles in the atmosphere and beyond.

Airborne Warning and Control System (AWACS)—A system of airborne aircraft equipped with radar to detect and track enemy aircraft, and with data processing and communications capability to direct friendly fire at targets thus acquired.

Air Breathing—Using a power plant requiring the intake of air for combustion of its fuel, and therefore limited to operation within the Earth's atmosphere, as distinguished from rocket-propelled. Specifically said of bombers and cruise missiles, or jointly as the "air breathing" leg of the U.S. nuclear delivery system triad.

Air Defense—All measures, active and passive, taken to reduce or nullify the threat and effectiveness of an enemy air attack; targets may include missiles operating in the Earth's atmosphere.

Air Launched Ballistic Missile (ALBM)—A ballistic missile transported aloft by a carrier aircraft and launched from that aircraft in flight. A concept previously considered for MX deployment.

Air-Launched Cruise Missile (ALCM)—A cruise missile designed to be launched from an aircraft.

Anti-Ballistic Missile (ABM)—A defensive missile used to intercept and destroy or otherwise neutralize an attacking ballistic missile in the upper reaches of the atmosphere and beyond (endoatmosphere and exoatmosphere).

Antisubmarine Warfare—The conduct of air and naval operations related to the tracking and destruction of hostile submarines, or otherwise designed to limit the activities and neutralize the threat of enemy submarines; embraces both tactical and strategic operations.

Area Defense—Measures to protect a given geographical area from the threat of enemy attack, as distinguished from point defense. Specifically, area defenses established by anti-ballistic missile systems would offer protection to population centers, as opposed to weapon sites, usually by engaging attacking missiles in mid-course or earlier.

Area Target—A target covering a significant geographical area, such as a populated region or large military base.

Assured Destruction—(1) The capability of a nation's strategic nuclear forces to inflict damage at levels unacceptable to any aggressor(s), and of a reliability undiminished by a surprise attack executed against these forces; (2) conversely, the recognition by one nuclear power that, by using its strategic forces against another, it invites a response which credibly threatens unacceptable damage to itself.

Ballistic Missile—(1) a missile launched and sustained in flight by non-aerodynamic forces and following a natural trajectory after termination of propulsive force determined only by gravity and drag in the atmosphere; (2) specifically, an unmanned strategic nuclear delivery vehicle, including rocket boosters and one or more reentry vehicles, launched from land, sea or air.

Ballistic Missile Early Warning System—(BMEWS)—An electronic surveillance network of three stations designed to detect attacks by ballistic missiles and to alert authorities, as well as to communicate tracking information.

Bomber—An airplane specifically designed to carry and drop bombs or air-launched missiles, classified by U.S. ACDA by type in reference to combat operating range at design gross weight and bombload as follows:

Short-range: less than 3500 miles maximum.

Medium-range: 3500-6000 miles maximum.

Long-range: over 6000 miles maximum.

Circular Error Probably (CEP)—A measure of the accuracy of a strategic offensive deliver system, specifically the average distance by which a warhead may be expected to miss its aim point. Better understood as "circle of equal probability," CEP is the radius of a circle centered around an aim point, within which a given warhead has a 50% chance of falling.

Cooperative Measures—Measures taken by one side in order to enhance the other side's ability to verify compliance with the provisions of the agreement. Such measures can be voluntary or negotiated.

Countervalue—The employment of strategic air or missile forces to attack selected enemy population centers, industries, and resources and institutions which constitute the social fabric of the society.

Dense Pack Basing—A concept for reducing the vulnerability of land-based ballistic missiles by maximizing fraticide efforts of nuclear detonations (see vocabulary of February 22, 1983). This concept holds that by deploying missiles in close proximity to each other, the first detonation of an attacking nuclear weapon would destroy or disable other attacking nuclear warheads.

Early-Warning Radar—Defense system of radar installations situated for early detection and notification of the launch or approach of unknown weapons or carriers.

Electronic Jamming—The deliberate radiation, reradiation, or reflection of electromagnetic energy with the object of impairing the use of electronic devices, equipment, or systems (radar, surface-to-air missiles, interceptor aircraft) being used by an enemy.

Electron Magnetic Pulse (EMP)—A product of a nuclear explosion which has disabling effects upon electronic systems. EMP creates the need for appropriate hardening of any weapon system whose effectiveness might otherwise be nullified in the electronic environment of nuclear effects (e.g., bombers, warheads).

Enhanced Radiation—The effects of and the technology employed in that class of controlled-effects nuclear weapons designed to intensify nuclear radiation in the target area by attenuation blast and heat.

First Strike—Generally, the first offensive move of a war. Specifically, the launching of a coordinated strategic nuclear attack before the opponent has used any strategic weapons himself.

Although a first strike is not necessarily a disarming attack, in common usage, "first strike capability" implies the ability to sufficiently disarm an opponent so that retaliation is either foreclosed or limited to tolerable levels.

Fission Weapon—Nuclear warhead whose material is uranium or plutonium which is brought to a critical mass under pressure from a fuze detonation to create an explosion that produces blast, thermal radiation, and nuclear radiation. Yield per pound of fissionable material is equivalent to 8,000 lbs. TNT. Commonly known as atomic bomb.

Flexible Response—Refers to the strategic doctrine enunciating a military capability to respond to enemy aggression across the entire conflict spectrum. Specifically refers to a U.S. strategic doctrine of deterrence originating in the early 1960's and expressed in the current NATO strategy MC 14/3, supporting a credible U.S. capability to employ conventional and nuclear weapons in a response short of massive retaliation.

Fractionation—The division of the payload of a missile into several warheads. The use of a MIRV payload is an example of fractionation. The term "fractionation limits" is used to describe the Treaty limitations on the maximum number of reentry vehicles per missile.

Fusion Weapon—Nuclear warhead whose material is deuterium and tritium which is brought to a critical mass under heat from a primary fission reaction (thermonuclear) to create an explosion that produces blast, thermal radiation, and nuclear radiation. Yield per pound of fusion material is equivalent to 26,000 lbs. TNT. Commonly known as hydrogen bomb.

Global Ballistic Missile Defense-1 (GBMD-1)—A concept for the space-based deployment of a non-nuclear ABM defense. This proposal calls for the use of off-the-shelf technology to deploy a network of space-based missile interceptors which would attack Soviet ICBMs in their boost (initial) phase off light (also see: High Frontier).

Global Ballistic Missile Defense-2 (GBMD-2)—A follow-on to GBMD-1. This system would use more advanced technologies, perhaps including laser weapons, to attack ICBM warheads in their coast phase (the middle flight phase between boost and reentry) (also see: High Frontier).

Ground-Launched Cruise Missile—A cruise missile launched from ground installations or vehicles.

Hardening—Protection of a target, such as a weapon site or communications center, with concrete, earth, and other measures so as to withstand the effects of a nuclear attack. ICBM silos are examples of targets hardened to the greatest overpressure.

Hard-Site ICMB—One that is in a fixed site (silo) hardened for protection against the effects of a nuclear attack.

Hard Target—Any weapon site, command and control facility, production center, blast shelter or other strategic target which has been hardened for protection against the effects of nuclear attack.

Hard Target Kill Potential—Destructive capability of a nuclear weapon or force measured specifically in relation to hard targets. Such potential varies inversely with the overpressure of different targets.

Heavy Bomber—The term used in SALT II to describe those aircraft included in the aggregate limitations of the agreement. Heavy bombers consist of four categories of airplanes:

(a) current types are the B-52 and B-1 for the U.S. and the TU-95 (Bear) and Myasishchev (Vison) for the Soviets;

(b) future types of bombers which can carry out the mission of a heavy bomber in a manner similar or superior to that of the bombers listed above;

(c) types of bombers equipped for cruise missiles capable of a range in excess of 600 kilometers; and

(d) types of bombers equipped for ALBMs.

High Frontier—A new concept for ballistic missile defense using space-based weapon to be associated with plans for the utilization

of space for science and commerce (also see, Global Ballistic Missile Defense 1 and 2).

Intercontinental Ballistic Missile (ICBM)—Land-based, rocket-propelled vehicle capable of delivering a warhead through space to a target at ranges in excess of about 3,000 nautical miles.

ICBMs constitute one leg in the U.S. "triad" of present strategic nuclear delivery systems.

Launcher—A facility, mechanism, naval vessel, airborne carrier or other transporter designed to serve as the platform from which a strategic missile (or, in one case, bombs) may be ejected and/or propelled into a trajectory toward its target.

Because SALT II proposes to verifiably limit the number of deployed strategic delivery systems through attention to the numbers of launchers, they are of central concern: specifically, SLBM launching tubes in missile submarines, ICBM launching sites, ALCM carriers, and long-range bombers.

Launch-on-Warning—The triggering of retaliatory strikes upon notification that an enemy missile attack has been launched, but before any attacking warheads have reached their targets, avoiding the risk of pre-launch attrition to friendly strike forces.

Launch Weight—The weight of the fully loaded missile itself at the time of launch. This would include the aggregate weight of all booster stages, the post-boost vehicle (PBV), and the payload.

Light ICBM—Class of U.S. and Soviet ICBMs of lesser size and throw-weight than heavy ICBMs; specifically, U.S. Minuteman missiles and Soviet SS-11, 13, and 17 missiles. The inclusion of the Soviet SS-19 in this class has been a matter of contention (see heavy ICBM).

Look-Down/Shoot-Down—Airborne surveillance and tracking radar capability unique in its filtering process, which allows overhead airborne early warning and control aircraft to distinguish low-flying aircraft from the "ground clutter" of surface activity, combined with the communications and data-processing capabilities to direct the neutralization of such aircraft.

MX—Missile Experimental. Any weapons system which has the designation X is in its development stage. Once deployed, the X designation is replaced either by a number or a name, or it is simply removed. The MX missile currently under development by the Reagan Administration will be renamed the "Peacekeeper" missile, according to President Reagan.

Mobile ICBM Launcher—Equipment which launches an ICBM and which can move or be moved from one location to another. Mobile ICBM launchers could include ICBM launchers on wheeled vehicles, launchers on vehicles which travel on rails, and launchers which are moved among launch-points which might themselves be "hard" or "soft."

Mobile Missile—A ballistic missile which can be transported, either freely or within defined constraints, so as to vary points of launching, and counter enemy targeting of strategic offensive weapons. Specifically, any land-based ICBM or IRBM which is not deployed in a fixed site (silo). A variety of mobility modes have been considered, including the use underground trenches and alternate-site shelters. The Soviet SS-20 missile is currently operational in a mobile mode.

Modernization—The process of modifying a weapon system such that its characteristics or components are altered in order to improve the performance capabilities for that weapon system.

Multiple Aim Points (MPS)—A basing concept proposed by the Carter Administration for the MX missile. This deployment plan has also been called the "shell game" basing concept for it would involve the construction of more silos than missiles and would involve deceptive relocation of missiles from time to time.

Nuclear Proliferation—Refers to the expansion of nuclear capabilities. In most instances, the reference is to the spread of nuclear weapons to nations that at present lack nuclear capabilities. Such proliferation is also referred to as horizontal proliferation. Occasional reference is made to vertical proliferation, the growth of nuclear arsenals of the nuclear weapons states.

Nuclear Weapon—A bomb, missile warhead, or other deliverable ordnance item (as opposed to an experimental device) that explodes as a result of energy released from a fusion or fission reaction, or both.

Older Heavy Ballistic Missile Launcher—A heavy ballistic missile launcher for an ICBM of a type deployed before 1964.

The Soviet SS-7 and 8 have been included in this class. The U.S. Titan II is the only older heavy ballistic missile of current significance to SALT II.

Overkill—Destructive capabilities in excess of those which logically should be adequate to destroy specified targets and/or attain specific objectives.

Overpressure—The measure, expressed in pounds per square inch (psi), of the pressure created by nuclear blasts and, conversely, of a target's ability to withstand such blasts. Accordingly, it is a measure of the force demanded of a nuclear weapon in order to disable a given target, usually referring to a hard target.

Parity—A condition of equality between opposing strategic forces, made difficult to measure because of its qualitative, as well as quantitative, nature.

As a force structure standard, parity demands that capabilities of specific forces and weapon systems be approximately equal in effectiveness to enemy counterparts.

Passive Defense—Those measures intended to protect against the dangers of enemy attack which achieve their effectiveness not by acting on the attacking forces, but by securing or removing friendly forces or assets. In the case of a nuclear attack, passive defenses permit the ability to absorb an attack, through hardening and sheltering against the effects of a nuclear explosion.

Point Defense—Defensive measures designed and organized to defend a point target, such as a naval vessel or a fixed-site ICBM (as opposed to an area target).

Point defenses, including ABM, deployed in that role, characteristically engage a hostile target in the terminal stage of its approach.

Preventive War—War initiated in order to forestall an opponent's acquisition of military preponderance.

Rapid Reload—The ability of a missile launcher to reload and launch multiple missiles so as to conduct multiple strikes as part of the same attack.

Reaction Time—The amount of time permitted a defending or retaliatory force between the initiation of hostile action and the required response.

Research, Development, Test and Evaluation (RDT&E)—The full cycle of technical procedures and management decisions which creates a program for the acquisition of a new weapon (or other) system and brings that system up to the point of initial deployment.

Saturation Attack—The use of weapons in large numbers to overload enemy defenses and/or to blanket areas that contain known or suspected targets.

Sea-Launched Cruise Missile (SLCM)—A cruise missile launched from a submerged or surface ship.

Second-Strike—A retaliatory attack in response to a first strike. Also refers to the strategic doctrine which rejects pre-emptive or preventive attacks on a potential aggressor.

A second-strike capability of high confidence is the primary basis for U.S. and Soviet nuclear deterrence.

Silo—Hardened, underground facility for a fixed-site ballistic missile and its crew, designed to provide pre-launch protection and to serve as a launching platform. High-yield, precision nuclear weapons are required to destroy a silo construction.

Soft Target—Any target not protected against the blast, heat, and radiation produced by nuclear explosion. Generally refers to unprotected populated areas.

Strategic Defense—All measures, active and passive, taken to reduce the threat of strategic attack and to protect national and friendly assets from the hazards of general war. Included are ABM defenses, interceptor aircraft, warning systems and civil defense.

Strategic Missile—A missile system designed to deliver a nuclear warhead against strategic targets on enemy territory, whether launched from air, land, or sea.

Soviet strategic missiles are designated SS- or SS-N-; U.S. counterparts are Titan, Minuteman, Polaris, Poseidon, and Trident to come. Until the deployment of the U.S. ALCM, all strategic missiles will continue to be ballistic.

Strategic Offense—Forces and measures existing to mount a nuclear attack against enemy strategic targets, designed to destroy the enemy's war-making capacity.

Strategic Targets—Military or civilian targets, such as manufacturing centers, raw material sources, power systems, communication and transportation facilities, weapon stockpiles and strategic forces, whose destruction undermines the enemy's capacity and will to make war.

Submarine-Launched Ballistic Missile (SLBM)—A ballistic missile carried in and launched from a submarine, which affords mobility and concealment for a missile force.

SLBM's constitute one "leg" in the current U.S. triad of nuclear delivery systems. Current models are Polaris and Poseidon, with Trident in development. Soviet counterparts are SS-N-4, 5, 6, and 8, with SS-NX-17 and 18 still officially in development. Treaty definition should be consulted.

Tactical—Brought to bear at the level of localized battle areas in order to influence the course of hostilities by engaging enemy forces. General purpose forces are tactical in nature.

Throw-Weight—A measure of a ballistic missile's capacity to project a payload into a trajectory toward a target. Specifically, the maximum useful weight which has been flight tested on the boost stages of a given missile. Useful weight includes reentry vehicles, penetration aids, dispensing and release mechanisms, reentry shrouds, covers, and propulsion devices, along with their propellants.

Warhead—In a nuclear weapon system, such as a bomb or missile RV, that compo-

nent which houses the fuze and the explosive element to be delivered on target. A nuclear weapon, in its narrowest sense.

Weapon System—A distinct military weapon taken to include all integrated parts and all components essential for operational use of the weapon and successful direction of a payload to its target. In the case of a strategic weapon, the warhead(s), targeting and guidance systems, delivery vehicle and launch platform all comprise the system.●

(At the request of Mr. BYRD the following statement was ordered to be printed in the RECORD:)

THE STATE OF BLACK AMERICA

● Mr. GLENN. Mr. President, on January 19, 1983, the National Urban League released its eighth annual report entitled "The State of Black America, 1983." The report, a comprehensive assessment of the status of the Nation's largest minority, consists of eight major papers prepared by noted black scholars. These papers reveal many troubling statistics about life in black America. Some of the major findings were set forth in an article which appeared in the Washington Post. I ask that this article, "Blacks Worse Off Than A Year Ago * * *" be printed in the RECORD at the conclusion of my remarks.

Mr. John E. Jacob, president of the National Urban League, introduced the report at Howard University on behalf of the 72-year-old, nonprofit community service organization and its 118 affiliates. One of the principal concerns that Mr. Jacob expressed in his introductory remarks was that blacks should not be left out of the "inevitable restructuring" of the economy. I ask that Mr. Jacob's thoughtful remarks appear in the RECORD immediately following my remarks.

Mr. Jacob's concern is very real. Many jobs lost from our older industries will never return. As Mr. Jacob points out, blacks are concentrated in our older and more vulnerable industries and too often are the last hired and the first fired.

Thus, as we begin to prepare our Nation for the age of technology that has been thrust upon us, we must insure that blacks and minorities are not left out. It is imperative that they are trained for productive jobs and have the opportunity to acquire and develop new skills for the jobs of the future.

Mr. President, all Americans must share equally in the opportunity to learn and acquire these new skills so that everyone can fully compete for today's jobs, as well as for the jobs of tomorrow.

The articles follow:

REMARKS BY JOHN E. JACOB, PRESIDENT, NATIONAL URBAN LEAGUE, INC.

Today, the National Urban League releases its annual report on the State of Black America.

At the press conference releasing last year's report, I pointed out that we have been publishing this comprehensive analysis of the condition of black Americans since 1976. And I went on to say the following:

"Never in that time has the State of Black America been more vulnerable. Never in that time have black people so strongly felt themselves under siege. Never in that time have black economic and civil rights gains been under such powerful attack. Never in that time have so many black people been so alienated from their government."

That terrible situtation intensified over the past twelve months. The state of black Americans has become more desperate. The ranks of the black poor sharply increased. About half a million more adult blacks are jobless. Our unemployment rate is now 25 percent higher than it was at this time last year. Millions of poor people have been forced off the welfare rolls, off the food stamp rolls, off nutrition, school lunch and health programs.

Vital survival programs were slashed at the same time that the black economy was plunged even deeper into Depression. The result was to drive already disadvantaged people to the wall.

A year that started with savage cuts in poor people's programs ended with a riot in Miami. I do not want to imply a causal connection. But we must draw the obvious conclusion that intolerable living conditions, lack of opportunity, and perceived hostility breed an explosive anger that could erupt anywhere, anytime.

It is simply not true that we are all in the same boat—that the troubled national economy hurts everybody. Just about every measurement you care to choose—and there are a busload of statistics in this State of Black America report—show black people suffering disproportionately.

What's more, white Americans know that when the economy recovers their conditions will improve. But black people have no such assurances. We've always had double the white unemployment rate and triple the white poverty rate. We've never fully participated in post-recession recoveries. We are concentrated in the most vulnerable industries today, those that will never again employ as many people as in the past. Last hired, we are the first fired and the Administration's anti-affirmative action policies ensure we will be last rehired.

So a major question facing the nation in 1983 is whether the inevitable restructuring of the American economy will include black people. Will we get a fair share of the jobs, the education and the training opportunities, or will we be denied them as in the past and present? Will current economic and social policies change for the better, or will we contunue to be victimized by them?

Our nation's economic and social policies are like the runaway Soviet Cosmos satellite—fragmented, out of control, and dangerous.

Those policies were firmly rejected by the voters in 1982. But I see few signs that the Administration or the new Congress understand the rejection of those policies by the voters or the dangers those policies carry for this nation.

Instead, we still hear rumors of more cuts in already decimated programs that help people survive. There is still hand-wringing over the deficit without action to ring it into line by restoring tax cuts for the affluent and cancelling the Pentagon's blank check. And there is still the incredible belief that by passing a token job training program and a highway repair program that might create only 300,000 jobs we have done what is necessary to cut the unemployment rate.

Our elected representatives have to understand that the misery that stalks our land cannot be tolerated; the growing chasm between rich and poor, white and black, employed and unemployed, suburbs and cities, is a split that drains our society of vitality and hope.

Americans can't look at those unemployment figures, and say "that's tough." We can't look at the soup lines and say, "too bad." We can't look at the kids hanging out on street corners with no education, no jobs, and no future, and say, "it's their problem."

It is not their problem. It is our problem—and all of us must come together to help solve it.

That is why I am calling on Congress to launch a bipartisan program of national economic recovery, with special attention to the needs not only of the so-called New Poor, but also of the disadvantaged who have traditionally suffered discrimination and poverty.

I call on our elected representatives to declare a State of National Economic Emergency and to implement our call for a Universal Employment and Training system.

Such a system would guarantee jobs and training for all. It would combine public works, improved public services, partnership with the private sector, and a creative industrial policy.

These are extraordinary times. They demand extraordinary measures.

[From the Washington Post, Jan. 20, 1983]

BLACKS WORSE OFF THAN A YEAR AGO, URBAN LEAGUE STUDY FINDS

(By Spencer Rich)

Black Americans are worse off than they were a year ago and bearing "a disproportionate share of the hardships" from high unemployment and domestic spending cuts, the National Urban League said yesterday in its annual survey of the state of black America.

"Black America ended 1982 in worse shape than in 1981," said the report. "Two statistics are enough to tell the story. Black unemployment was 15.5 percent at the end of 1981. Black unemployment was 20 percent at the end of 1982."

The league called for a large new public-private jobs and training program aimed among other things at rebuilding "the decaying infrastructure of the nation." It also called for a halt to cuts in the food stamp, school lunch and other programs for the poor, plus more vigilant affirmative action and other civil rights enforcement.

Urban League President John E. Jacob, in an introduction, said 1982 "was not a good year, and of course, no year is, to be black and poor in America." The report placed much of the blame on the Reagan administration. Jacob also said the problems of blacks were not confined to the poor.

He deplored "what has happened to the black middle class, which is as it is in all societies, a bastion of strength and a source of motivation within black America." Only 30 percent of black U.S. families can be called middle class, compared with 56 percent of whites, and their position is "precarious," Jacob said, with few reserves to overcome "the bad years that are now upon them."

About one in three blacks lived below the official government proverty line, compared with one in 10 whites, the report said.

Some other major findings of the survey.

Blacks, now totaling 26.5 million, are to some extend migrating back to the South and also to the West, and there has been

some movement out of cities to suburbs, but they still cluster heavily in cities. This is especially true of the black poor.

The 30 percent of black families that were middle class or well-to-do in 1980 (defined as having an annual income over $20,000) were up from the comparable 27 percent in 1970 but down from the 32 percent in 1979.

About 42 percent of black hosueholds were female-headed in 1980, up from 30 percent in 1970. About 44 percent of black children under 18 lived in such families, double the 1970 figure.

Black unemployment was 20 percent in October 1982, and among teen-agers, 50 percent. Personal income was falling and living standards were declining, though largely among the 40 percent of families with the lowest incomes. Blacks generally earned about $59 for every $100 that whites earned from jobs.

Blacks got 17.5 percent of their total income in 1980 from transfer payments, such as welfare, up from 12.6 percent a decade earlier.

In March, 1981, only a third of black women 15 and over were married and living with husbands. Another third were never married, and the rest were separated, divorced or widowed. Half of female-headed households were poor, a slight improvement over 1969, and black women were the poorest of the major race-sex groups in society. But black women were moving significantly out of private household employment.

Blacks in 1977 owned 231,203 of the nation's 14.7 million businesses, mostly small businesses and sole proprietorships, and had $8 billion (2 percent) of the $4 trillion gross receipts received by all businesses.

Life expectancy for blacks in 1979 was 68.3 years to 74.4 years for whites; high unemployment and poverty tended to create depression and low self-esteem, resulting in high rates of alcoholism, drug abuse, suicide, mental illness, child-abuse and wife-abuse and crime. Five times as many black youths die from homicide per 100,000 population (42) as whites (8), and 46 percent of all people in prisons are blacks.

Blacks are 12 percent of total population, but make up 33 percent of the Army, and within the Army have a high proportion of combat roles, where they learn few skills marketable in civilian life.

In 1940 there were 45,000 black undergraduates in colleges, only 10 percent of them in non-black colleges.

By 1980, there were 926,700 and seventenths were in non-black colleges, but recent cuts in educational aid made further growth difficult, especially in private colleges.●

(At the request of Mr. BYRD the following statement was ordered to be printed in the RECORD:)

SALUTE TO COURT AIDES

● Mr. GLENN. Mr. President, with much enthusiasm, I congratulate two fellow Ohioans, Doris A. Dennison and Walter J. Kramer, who have devoted much of their lives to improving the legal system in my State. At a time when the value of devoted public service is too often ignored, it is refreshing to report that the Portage County Bar Association will acknowledge its appreciation on March 23, 1983, by presenting these two fine people with certificates of merit for outstanding service. Mrs. Dennison and Mr. Kramer have demonstrated unfailing patience and courtesy, devotion to duty and attentive service to both the public and to members of the Bench and Bar Association in Portage County.

Mrs. Dennison, presently the assignment commissioner for the Portage County Common Pleas Court, was selected for the position in 1972. She previously worked for 5 years as the Jury Commissioner and receptionist for the Court of Common Pleas and as 2 years as secretary to the 11th District Member of Congress from Ohio. Mrs. Dennison has also been active in local charity work, educational activities, Little League Baseball, and political campaigns. She and her husband, Robert, have three childre and are the proud grandparents of a grandson.

Mr. Kramer, currently administrator for the Portage County Juvenile Court, was chosen for his position in 1967 by the late Honorable Sam Summers. Mr. Kramer first joined the juvenile court as a probation officer in 1951 and then became chief probation officer in 1960. Prior to his work in juvenile court, Mr. Kramer served as a Kent City patrolman for 5 years and as a member of the U.S. Air Force for 4 years. He has long been active in the Fraternal Order of Police, the Kent Masonic Lodge, the Northeastern Ohio Youth Commission and the Ohio Court and Correctional Association. His community work has included area youth sports organizations, the Cub Scouts, the Kiwanis Club and others. He and Muriel, his wife of 44 years, reside in Kent, Ohio.

Again, I congratulate Mrs. Dennison and Mr. Kramer for their long and faithful service to the public interest. Their contributions have done much to improve the quality of life in Portage County.●

(At the request of Mr. BYRD the following statement was ordered to be printed in the RECORD:)

HIGH TECHNOLOGY IN AMERICA

● Mr. HART. Mr. President, I am pleased to join Senator TSONGAS and Senator STENNIS in introducing the High Technology Morrill Act. My hope is that this bill will do for high technology what the original Morrill Act of 1862 did for American agriculture—namely, make it the most highly productive and most globally competitive industry in the world.

America's economic strength has been built on being out front on the leading sectors of the time. We must act swiftly and boldly to insure that America retains its current position as the world's technological and service leader.

Like the original Morrill Act, this bill fuses the interests of industry, the education community and Government (both State and Federal) into a forward-looking national initiative—this time devoted to sharpening the competitive edge of America's knowledge-based industries which are facing a serious global challenge.

Specifically, the bill encourages partnerships nationwide between State government and industry to provide matching grants for higher education. The funds would be used primarily to upgrade curricula in science, engineering, and technology-related fields. The role of the Federal Government is limited to providing national direction and shared funding of the program.

In short, this is a bottom up approach—specific projects would be initiated by local industry in cooperation with education and State economic development agencies. Such joint project initiation by a corporation and campus appears to me the wisest and most effective way to proceed—it insures that programs respond to legitimate technological needs, it makes wise use of educational resources, and it satisfies economic development priorities.

Mr. President, this is truly a bill for America's future that is firmly ground in today's realities and challenges. The decentralized thrust of the bill and its incentives for partnership initiatives by industry, education and State governments should make it appealing to Members on both sides of the aisle.

My hope is that we in this body can put into place this year a legislative platform as creative and farsighted as Senator Morrill's platform over a century ago.●

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, following the disposition of the resolution of ratification regarding the International Expositions Treaty, I ask unanimous consent that the Senate stay in executive session to consider the nomination of Margaret M. Heckler, to be Secretary of Health and Human Services.

Further, I ask unanimous consent that there be no more than 10 minutes, equally divided, on the nomination, to be divided between the chairman of the Finance Committee and the ranking minority member or their designees.

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

CONCLUSION OF MORNING BUSINESS

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

EXECUTIVE SESSION—AMENDMENT TO THE 1972 PROTOCOL TO THE 1928 CONVENTION CONCERNING INTERNATIONAL EXPOSITIONS

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will now go into executive session to consider the Amendment to the 1972 Protocol to the 1928 Convention Concerning International Expositions (Treaty Calendar No. 3).

Time for debate on the resolution of ratification shall be limited to 20 minutes, to be equally divided between and controlled by the chairman of the Foreign Relations Committee and the ranking minority member, or their designees, with the proviso that no understandings, reservations, conditions, declarations, and statements to the resolution be in order.

Mr. STEVENS. Mr. President, has a rollcall vote been ordered on this mattter?

The PRESIDING OFFICER. A rollcall vote has not been ordered.

Mr. STEVENS. Mr. President, I ask for the yeas and nays on the treaty.

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

The yeas and nays were ordered.

Mr. STEVENS. Is the treaty now before the Senate?

The PRESIDING OFFICER. The treaty is before the Senate now.

Mr. STEVENS. I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally to both sides.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection it is so ordered.

SHIPPING ACT OF 1983

Mr. STEVENS. Mr. President, as in legislative session, I ask unanimous consent that in the engrossment of S. 47, the enrolling clerk make the following change on page 85, between lines 17 and 18: At the beginning of my Amendment No. 468 to Senator THURMOND'S Amendment No. 467, the word "No" should be inserted prior to the words "Common carrier by water * * *."

Mr. BYRD. Mr. President, reserving the right to object—and I will not object—it is my understanding that nobody on this side objects, so I have no objection.

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

Mr. STEVENS. I thank the distinguished Democratic leader. That is a technical error that occurred in the presentation. I appreciate his consideration.

HEALTH FAIR PROGRAM

Mr. STEVENS. Mr. President, as in legislative session, I send to the desk, on behalf of Senator THURMOND, Mr. LAXALT, and myself, a resolution, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is it the intention of the acting majority leader that the time be charged against the time on the treaty?

Mr. STEVENS. Yes.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 79) to commend the value of the health fair program.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. THURMOND. Mr. President, I am today cosponsoring a sense of the Senate resolution in support of the health fair program.

This year, I once again have the distinct privilege of having Senators LAXALT and STEVENS join me as sponsors for the Annual Senate Health Fair, which began yesterday and ends tomorrow, March 4. This is a major free service to all our Senate employees and is made possible through an all-volunteer effort. Both this health fair and the one which occurs simultaneously on the House side will serve as the annual national kickoff event for health fairs that will be held nationwide during the month of April.

In addition to the three cosponsors on the Senate side, there are three cosponsors on the House side: Speaker THOMAS "TIP" O'NEILL, Congressman ALBERT GORE, and Congressman CHARLES RANGEL.

Health fairs represent a prime example of private sector initiatives because they provide valuable services to the community without any financial assistance from the Government. For example, last year's national health fairs involved over 100,000 volunteers who provided over three-quarter million volunteer hours to deliver health screening services to the public. These services were valued in excess of $100 million, and the associated health education and health promotion services were worth at least twice that amount. All of this was done as a cooperative effort of the corporate, media, and volunteer communities with little Government involvement and no Government money. The 1982 health fairs were made available to approximately 65 percent of the American people, and the 1983 program has been expanded to potentially reach 85 percent of our Nation's population.

Mr. President, these impressive accomplishments could not have been made without the assistance of many important organizations. In order to recognize particular contributions of these groups, and to officially kick off the 1983 national health fair program, a ceremoney will take place on Friday morning, March 4, in the caucus room of the Russell Senate Office Building. During this event, particular members of the corporate sector, media, volunteer community, and government will be recognized for the outstanding contributions they have made in promoting this worthwhile service. The representatives receiving awards will be: Mr. G. Elsy, president of the American Red Cross, for the volunteer community; Mr. Alan Neuharth, CEO and vice president of the Gannett Corp., for the media; Mr. Kenneth Derr, president of Chevron, USA, for the corporate sector; and Gen. John W. Vessey, Chairman of the Joint Chiefs of Staff, for the Government.

Dr. Timothy Johnson, editor of the Harvard Medical Newsletter and medical reporter on ABC's "Good Morning America," will emcee the ceremony, and the keynote address will be delivered by acting Secretary of Health and Human Services Thomas R. Donnelly, Jr.

Mr. President I should also like to pay tribute to Dr. John Brensike, a visionary individual who founded the National Health Screening Council for Volunteer Organizations (NHSCVO), a private nonprofit organization which assists communities in planning and implementing health fairs. I commend Dr. Brensike and the NHSCVO staff for the pioneer spirit and dedication which enabled them to institute health fairs and to insure their success over the years.

Mr. President, health, fairs serve to increase public awareness of the importance of health education, and these services often help detect situations in which preventive medical action is appropriate. While screening of this type is not intended to be a substitute for a complete physical examination by a personal physician, these tests can assist in educating individuals about potential health problems. For this reason, I believe that it is altogether fitting that the Senate give special recognition to the invaluable service that health fairs render to the public.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 79

Whereas the Health Fairs sponsored by the National Health Screening Council for Volunteer Organizations will provide hundreds of millions of dollars of health education and screening to citizens without charge throughout the United States;

Whereas major representatives of the corporate sector, community organizations, and the media have joined in sponsoring such fairs;

Whereas over 100,000 American citizens will donate their time in such fairs to help serve their fellow Americans;

Whereas many agencies of the executive branch of the Federal Government and many State and local government have contributed in-kind resources to this effort;

Whereas the entire Health Fair Program receives no government tax dollars and yet is the largest health education and health promotion program in the United States;

Whereas the Health Fair Program is an outstanding example of effective and efficient cooperative use of existing resources to provide needed community services; and

Whereas Members of Congress and employees of the legislative branch have the opportunity to participate in a Health Fair on March 2, and March 4, 1983, which inaugurates the Health Fair Program for the coming year: Now, therefore be it

Resolved, That the United States Senate commends those involved in the Health Fair Program, from the individual volunteer to the largest corporation, encourages others to become involved or expand their involvement in this program and similar programs, supports efforts to help maximize the availability of these valuable Health Fair services to all citizens, and urges persons throughout the nation to take advantage of the health education and screening services offered through the Health Fair program.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR CERTAIN ACTION DURING ADJOURNMENT OF THE SENATE

Mr. STEVENS. Mr. President, as in legislative session, I ask unanimous consent that the RECORD remain open today until 3 p.m. for the introduction of bills, resolutions, and the submission of statements.

I also ask unanimous consent that committees may have until 3 p.m. today to file reports.

I ask unanimous consent that committees may file reports tomorrow between 10 a.m. and 3 p.m.

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

PROGRAM

Mr. STEVENS. Mr. President, it is the intention of the joint leadership to ask for a rollcall vote on the pending treaty.

Following that, we will have a brief period for debate, if anyone seeks to debate the Heckler nomination.

Following the vote on the Heckler nomination, it would be the intention of the leadership to adjourn.

Has that order been entered?

The PRESIDING OFFICER. There is an order to adjourn.

Mr. STEVENS. What is the time for convening on Monday?

The PRESIDING OFFICER. 10:30 a.m.

Mr. STEVENS. Is there an order to proceed at that time to the Montreal Protocols?

The PRESIDING OFFICER. The Senator is correct.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT TO THE 1972 PROTOCOL TO THE 1928 CONVENTION CONCERNING INTERNATIONAL EXPOSITIONS

The PRESIDING OFFICER. The hour of 12 noon having arrived, the Senate will consider Executive Calendar No. 3, Amendment to the 1972 Protocol to the 1928 Convention Concerning International Expositions.

The clerk will state the resolution of ratification.

Executive Calendar Item No. 3, Amendment to the 1972 Protocol to the 1928 Convention Concerning International Expositions.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of an Amendment to the Protocol of November 30, 1972 (TIAS 9948) to the Convention of Novmeber 22, 1928, Concerning International Expositions (TIAS 6548, 6549).

The Senate proceeded to consider the resolution of ratification.

Mr. PERCY. Mr. President, this resolution gives the Senate's advice and consent to the ratification of the Amendment to the 1972 Protocol to the 1928 Convention Concerning International Expositions—the first treaty to be acted upon by the Senate in the 98th Congress. The purpose of this amendment is to permit the United States and Spain to commemorate the discovery of the Americas in a two-site exposition in Chicago and Seville in 1992, and France to commemorate the French revolution in 1989.

Under the protocol, 10 years must elapse between universal expositions occuring in different countries, or 7 years in exceptional circumstances. The amendment will permit the American/Spanish expositions and the French exposition to be held only 3 years apart. The amendment is an acknowledgement that historic events do not necessarily occur in the intervals established for commemorative expositions by the Bureau of International Expositions (BIE). The BIE is the international body that governs world's fairs.

In order for the amendment to enter into force, four-fifths of the BIE's General Assembly must approve it. To date, 14 of the General Assembly's 45-member nations have done so. The United States, Spain, and France are working cooperatively to secure ratification of the amendment by June 15, when the BIE meets formally to register the exposition dates.

I am pleased to note that in transmitting the amendment to the Senate, the President expressed his strong support for it. He stated:

I strongly support the holding of a universal exposition to commemorate the discovery of the Americas and have previously designated Chicago as the site in the United States for that purpose. I recommend that the Senate give prompt consideration to the amendment and advice and consent to its acceptance.

Expeditious action by the Senate is, indeed, necessary so that the United States may exercise a leadership role in urging other nations to accept the amendment.

Mr. President, Chicago has previously hosted two major world expositions: The 1893 Columbian Exposition, where George Washington Gale Ferris introduced his famous wheel, and the 1933-34 Century of Progress. Both of Chicago's earlier fairs were cultural and diplomatic successes. Both were profitable.

Chicago fair organizers project that the 1992 exposition, titled the Age of Discovery, will create 100,000 jobs, draw approximately 60 million visitors, and leave Chicago with a new 500 acre lake front park and $3 billion in civic improvements. BIE officials characterized the Chicago effort as, "a textbook exercise that will set the standards for all nations that follow."

The unprecedented two-site exposition in Chicago and Seville is an innovative means to link the United States and Seville, the city from which Columbus set sail for the New World. This proposal was originally raised in meetings I had in Spain in November of last year with U.S. Ambassador Terrance Todman and Spanish fair organizers, including Enrique Perez-Hernandez, the Vice Chairman of the Spanish National Committee for the Celebration of the Fifth Centenniary of the Discovery of the Americas. In working with Spain on the proposal for the dual expositions, we offered cooperation, not confrontation. We agreed on a proposal that is in the interest of both nations. The world is big enough for two fairs.

Mr. President, on February 22, I chaired a Foreign Relations Committee hearing on this matter, and received testimony in support of the resolution from my good friend Tom Ayers, the chairman of the Chicago World's Fair 1992 Corp., William

Morris, Assistant Commerce Secretary for Trade Development, and Jayne Plank, Director, Office of Intergovernmental Affairs, Bureau of Public Affairs, Department of State. Following the hearing, the Foreign Relations Committee, by voice vote, favorably reported the amendment to the Senate for its advice and consent. I urge my colleagues to adopt this resolution.

Mr. President, I ask unanimous consent that the testimony before the Foreign Relations Committee of Tom Ayers, who has worked diligently and exercised great leadership on behalf of the Chicago World's Fair, be printed at this point in the RECORD.

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

STATEMENT OF THOMAS G. AYERS

My name is Thomas G. Ayers. I am chairman and president of the Chicago World's Fair 1982 Corporation. Immediately prior to assuming this responsibility, I was Chairman and chief executive officer of Commonwealth Edison Company, the electric utility serving Chicago and northern Illinois. I am pleased to be given the opportunity today to encourage your support of the pending Treaty Document 98-1, Amendment to the 1972 Protocol to the 1928 Convention Concerning International Expositions.

This amendment, which will permit large, universal category expositions to be held less than seven years apart in exceptional cases, is the culmination of more than two and one-half years of planning and hard work by the 1992 Corporation to win both domestic and international approval for a universal class world's fair in Chicago.

Chicago '92 would be the first universal exposition in the Western Hemisphere since Expo '67 in Montreal—a lapse of 25 years. The last universal category fair in the world was in Osaka, Japan, in 1970. And, it will be almost 60 years since the American Midwest has had an opportunity to experience the tremendous cultural and educational benefits of a world's fair . . . not since Chicago's own "A Century of Progress" in 1933 and 1934.

The 1992 Corporation researched and submitted its application for Chicago '92 in August, 1981, to the U.S. Department of Commerce. The Commerce Department finished its review of Chicago's plans in November, 1981, and formally represented Chicago at the December meetings of the General Assembly of the Bureau of International Expositions in Paris. I should note that the B.I.E. already had been apprised of Chicago's intention to bid for a 1992 exposition as early as June, 1980.

In turn, the B.I.E. sent its Pre-Inquiry Team to visit Chicago in May of last year. Based on the team's recommendations, the B.I.E. voted on June 24 to grant Chicago a "provisional date reservation." On November 11, President Reagan officially designated Chicago as the country's choice to host a world's fair in 1992, and directed the Departments of Commerce and State to seek "date registration" for Chicago from the B.I.E. At its December meeting, the B.I.E. gave "final date reservation" to Chicago and to Seville, Spain, to host one universal category fair in 1992, to be split between the two sites.

An Amendment to the Protocol is needed at this time, because Paris, France, also was given a "final date reservation" for a universal category fair in 1989, to celebrate the bicentennial of the French Revolution, only three years prior to the Chicago-Seville exposition. Approval of these expositions was made at the December, 1982 meeting of the full B.I.E. General Assembly, without a single dissent.

In giving date reservations to the two expositions, the member countries effectively recognized the overriding international significance of both the bicentennial of the French Revolution and the Columbian quincentennial, and that historic events may not always fit into the time restrictions imposed by the existing B.I.E. Convention.

Nevertheless, it is imperative that the United States formally approve the Amendment as soon as possible, so that our country can then take the lead in urging those B.I.E. members who have not yet ratified the Amendment to do so. Prompt action, which would result in B.I.E. "date registration" this June, is important, if the 1992 Corporation is to stay on schedule and within budget in its planning for Chicago 1992.

Let me spend a few minutes to explain why the United States should be permitted to host the world in 1992, and some of the benefits accruing to us if we do.

To be called the "Age of Discovery," the Chicago 1992 exposition would celebrate six centuries of human invention and innovation—the 500 years since the discovery of the Americas by Christopher Columbus, and the century to come. Although the United States has hosted special category fairs, such as last year's Knoxville exposition and the planned New Orleans fair in 1984, these are only one-fifth to one-tenth the size and scope of the universal category exposition which we are planning.

At the center of America's heartland, Chicago is within one day's drive of one-quarter of the U.S. population. Based on our initial marketing studies, Americans will account for approximately 88 percent of thee 55-65 million visitors expected to attend Chicago 1992. In addition to the great manufacturing and industrial centers which lie within the Midwest, the region also is an enormously bountiful agricultural network.

Clearly, then, a fair in Chicago would allow this important Midwestern audience a unique opportunity to gain first-hand knowledge not only of how mankind's great discoveries have been achieved in the past, but also those which may be made during the next century in this country and around the world. It is hoped that one of the enduring consequences of this knowledge will be to inspire greater understanding and goodwill toward all nations. This is especially critical if the global challenges, such as poverty, malnutrition, education, and cultural development are to be met effectively in the century to come.

In this regard, Chicago 1992 hopes to attract exhibits from more than 75 foreign countries. International pavilions are to be constructed adjacent to three of the city's existing, world-renowned cultural institutions (the Shedd Aquarium, the Adler Planetarium and the Field Museum of Natural History), which are located on the site.

Chicago's experience with two previous world-class fairs—the only American city with these credentials—has given us an enormous boost to our fair planning. The 1992 fair marks the 100th anniversary of Chicago's first successful universal class fair—the 1893 "World's Columbian Exposition." Our second fair—"A Century of Progress" exposition—was held in 1933 and 1934 to mark the 100th anniversary of the city's beginnings. Both these fairs were not only enormous cultural successes, but they were financially sound despite the difficult economic times under which they were held, namely the monetary Panic of 1893 and the Great Depression.

These fairs demonstrate, then, Chicago's proven ability to host an exposition of truly global significance—to construct a site of unparalled natural and architectural beauty, to attract a large audience of both exhibitors and visitors, and to maintain financial integrity, despite uncertainties in the economy.

The Chicago '92 exposition is being organized by the not-for-profit Chicago World's Fair—1992 Corporation, a coalition of more than 50 leaders from the Chicago metropolitan area who represent many of the country's most prominent financial institutions, businesses, labor groups, and cultural organizations, along with state and local governments, news media, and civic and ethnic groups.

Chicago '92 has strong backing throughout the Chicago area and the entire Midwest. We have received more than $900,000 in cash contributions from private sources and, perhaps even more importantly, approximately $3 million in donated services, during the planning and approval phase. No federal, state or city money has been contributed.

In addition, government on every level, including Chicago's mayor and legislative council, the governor and legislative assembly of Illinois, and the U.S. Congressional delegation from Illinois have endorsed the project. The governors and U.S. Congressional delegations from all the states contiguous to Illinois also have expressed their support for the exposition, as have scores of businesses, community groups, environmental organizations and labor unions.

Midwestern residents certainly are solidly behind Chicago '92. In a sophisticated public opinion survey, 88 percent of the respondents said they were in favor of the idea of a Chicago World's Fair, while even higher percentages of Hispanics and Blacks interviewed—90 and 92 percent, respectively—were enthusiastic about having an exposition in Chicago.

Total revenues from Chicago '92 are estimated at $750 million in 1982 dollars, and are projected to modestly offset expenses, which are estimated at $743 million. Working capital for the exposition is expected to be generated through the sale of bonds, with permanent financing to be arranged following receipt of B.I.E. "date registration."

Benefits from the exposition to the local and national economy have been estimated as follows (in 1981 dollars): Additional business receipts of $1.85 billion, increased wages of $475 million, almost 100,000 jobs; 20,000 construction jobs, 15,000 jobs during the operation of the exposition—and, many of these will be entry-level positions suitable for teenagers and young adults, and estimated 60,000 additional jobs in fair-related businesses, taxable personal income of nearly $619 million, and immediate tax revenues of about $288 million.

The Chicago '92 site itself also will provide the long-lasting residual benefit of a new park of some 500 acres, adjoining Chicago's existing majestic lakefront park system. This new fair parkland may become the

future home of new or expanded cultural institutions, joining the three great museums I mentioned earlier at the south end of one of the most impressive cultural centers in the United States.

These are only some of the direct economic impacts—many others, such as related new business development, residual tourism enhancement, and so forth—are impossible to measure, and yet must surely be counted among the significant benefits of Chicago '92.

In addition to these tangible benefits, a final word should be said about the world's fair experience itself. For millions of Americans who otherwise might never travel overseas, Chicago '92 truly will be a "once-in-a-lifetime" opportunity to view the full spectrum of mankind's knowledge and artistry, right here in their own backyard. Such an experience surely stimulates the minds and imaginations, and especially the aspirations, of all who attend for years to come—an important legacy to succeeding generations of Americans, whose future will depend more heavily on their ideas and ideals, as natural resources become increasingly limited. Chicago '92, then, will be more than a six-month exposition, it will be a global watershed for humanity's dreams as we enter the 21st century.

And, too, as plans for Chicago '92 are publicized around the globe, especially in light of the many cooperative efforts which will be undertaken with our sister site in Seville, the spotlight of the world will focus on the United States as the showcase for the finest examples of six centuries of mankind's achievements during our Columbian "Age of Discovery" celebration.

In closing, I thank you again for allowing me to testify here today, and urge you to promptly recommend ratification of the Protocol Amendment.

Mr. STEVENS. Mr. President, I yield back all the time that remains on this side.

Mr. BYRD. Mr. President, I yield back the time on my side.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the resolution of ratification.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Maryland (Mr. MATHIAS), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from California (Mr. WILSON) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from New York (Mr. MOYNIHAN), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

The PRESIDING OFFICER. Are there any Senators in the Chamber wishing to vote or changing their vote.

The yeas and nays resulted—yeas 84, nays 0, as follows:

[Rollcall Vote No. 7 Ex.]

YEAS—84

Abdnor	Ford	Mitchell
Andrews	Garn	Murkowski
Armstrong	Gorton	Nickles
Baucus	Grassley	Nunn
Biden	Hatch	Packwood
Bingaman	Hatfield	Pell
Boren	Hawkins	Percy
Boschwitz	Hecht	Pressler
Bradley	Heflin	Proxmire
Burdick	Heinz	Pryor
Byrd	Helms	Quayle
Chafee	Huddleston	Riegle
Chiles	Humphrey	Roth
Cochran	Jackson	Rudman
Cohen	Jepsen	Sarbanes
Cranston	Johnston	Sasser
D'Amato	Kasten	Simpson
Danforth	Kennedy	Specter
DeConcini	Lautenberg	Stafford
Denton	Laxalt	Stennis
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lugar	Thurmond
Domenici	Matsunaga	Tower
Durenberger	Mattingly	Trible
Eagleton	McClure	Tsongas
East	Melcher	Warner
Exon	Metzenbaum	Zorinsky

NOT VOTING—16

Baker	Hollings	Randolph
Bentsen	Inouye	Wallop
Bumpers	Kassebaum	Weicker
Glenn	Long	Wilson
Goldwater	Mathias	
Hart	Moynihan	

The PRESIDING OFFICER. On this vote the yeas are 84, the nays are zero. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NOMINATION OF MARGARET M. HECKLER, OF MASSACHUSETTS, TO BE SECRETARY OF HEALTH AND HUMAN SERVICES

Mr. STEVENS. Mr. President, we will now turn to the nomination of Margaret M. Heckler, of Massachusetts, to be Secretary of Health and Human Services.

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of Margaret M. Heckler, of Massachusetts, to be Secretary of Health and Human Services.

Mr. DOLE. Mr. President, on March 2, 1983, the Committee on Finance held an executive session on the nomination of Margaret M. Heckler to be Secretary of the Department of Health and Human Services. The committee unanimously reported this nomination.

As I am sure my colleagues are aware, Mrs. Heckler has served in the House of Representatives for over 16 years, and has proven herself to be a strong defender of the rights of our less fortunate citizens. We can be confident that Mrs. Heckler will earnestly represent the segment of our population served by the Department of Health and Human Services, within the constraints imposed by the current budget situation.

Mrs. Heckler has committed herself to keeping the lines of friendship, cooperation, and consultation open with the Congress, and has set forth two broad goals of particular interest. First, to have the Department focus more on long-range problems and long-range solutions. Our current experience with the crisis surrounding the financial solvency of the social security fund certainly argues for a long-range prospective, particularly with respect to the health financing programs.

Second, Mrs. Heckler has set for herself the goal of being a catalyst for caring in America, for the young, the elderly, the sick, the handicapped, and the needy. An important perspective for the administrator of an agency with responsibility for programs like AFDC, child support, medicaid, and disability.

Mr. President, I am pleased today to report the committee's recommendation of Mrs. Heckler, and ask that this nomination be confirmed.

Mr. KENNEDY. Mr. President, it is a privilege for me to support the nomination of my colleague from Massachusetts, Margaret Heckler, as Secretary of Health and Human Services.

Massachusetts takes well-deserved pride in our Commonwealth's long bipartisan tradition of public service to the Nation. Over the years, many distinguished men and women of our State have given unselfishly of themselves. By the sincerity of their commitment and the excellence of their achievement, they have made real and lasting contributions to the common good of our society, to the well-being of our citizens, and to the character of our country.

The Cabinet Department which Mrs. Heckler has been called to serve bears one of the highest public trusts, because it is the agency primarily concerned with the quality of life for all our people, not just the few who have wealth and privilege, but the many others who seek the enduring goals of economic progress and social justice

that have always been the hallmark of the American dream.

Mrs. Heckler and I served for 16 years together in the Congress. Although I have disagreed with her on a number of issues, I have always respected her ability. She will bring important strengths to her assignment as chief executive officer of the largest agency of the Federal Government.

She may have lost a congressional district last fall, but with her new responsibility she has gained a larger constituency—one that is now being asked to bear a heavy sacrifice in these hard economic times. Millions of Americans who depend so much on HHS will place their trust and hope in Mrs. Heckler—the elderly, the sick, the poor, the young, the handicapped, the disadvantaged, and all those who need our help the most.

More than any other Cabinet officer, Mrs. Heckler will be the guardian of the social safety net. I am confident that she will serve her new constituency with wisdom and understanding and meet her new responsibility with fairness and compassion—as her public trust, and ours, requires.

In sum, I believe that President Reagan has chosen a worthy successor to our colleague, Dick Schweiker. Margaret Heckler has been a credit to Massachusetts and to the Congress. I take pleasure in commending her to the Senate, and I urge her confirmation.

Mr. PACKWOOD. Mr. President, it had been my intention initially to vote for Peggy Heckler for Secretary of Health and Human Services. That would have been my intention until we had the confirmation hearing on her where four or five Senators on the Finance Committee quizzed her at some length about her views of overturning Supreme Court constitutional decisions by statute.

I ask unanimous consent that at the end of my remarks there appear pages 35 to 62 of the transcript of the Finance Committee hearings, where the questions and answers on this subject appeared.

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

(See exhibit 1.)

Mr. PACKWOOD. Mr. President, the reason that I am so bothered—and the transcript will show it rather clearly—is that Peggy Heckler feels strongly on the subject of abortion. I respect her views on it; she is very, very strong in support of her position on pro-life and is opposed to the right of a woman to have a choice on abortion. She is so strong in that position that there is every indication in her answers to the questions that she would do anything, including urging the President to take action to overturn the Supreme Court in the case of Roe against Wade. Roe against Wade is the decision that gives a woman the right to a choice on the subject of abortion under a constitutional right to privacy.

Try as we might, Senator BAUCUS, Senator MITCHELL, Senator MOYNIHAN, and myself, could not budge Mrs. Heckler from the position that she appeared to have, namely that it was perfectly all right to overturn the Supreme Court in that fashion. Because of her intensity of feeling on the subject of abortion, I am afraid she would encourage the President to support the kind of action which so many of us oppose so strongly.

We indicated to her that this was not a new topic; it had been debated extensively on the Senate floor. In questioning her we attempted to draw her into the subject of statutorily overturning a Supreme Court decision on some issue other than abortion. We talked about prayer. We mentioned the fact that in the midfifties, there were efforts to overturn the Supreme Court in some of its Subversive Activities Control Board decisions; in the sixties there had been efforts to overturn apportionment decisions by statute. We were neither quizzing her about a new topic, nor about one that has not been extensively debated over a long period of time in Congress.

Again and again, returned to the subject of the danger of overturning Supreme Court decisions involving constitutional law by statute. Each time she returned to her position that she felt so strongly about the subject of abortion that she would be willing to use a statute to reverse the Supreme Court.

I admire Peggy Heckler—I will work with her. I am delighted that the President has appointed a woman; I hope he appoints more women to different Cabinet positions. However, I feel bound to vote against her. I feel sad about it. I like her. I will continue to work with her. I hope she can do a good job in this position. I think she can. But I hope she will not encourage the President or anyone else to try to reverse the Supreme Court in constitutional decisions by the passage of a statute by a sheer majority vote in the House and in the Senate.

EXHIBIT 1

Mrs. HECKLER. No. I was not familiar with Mr. Svahn. I had heard his testimony as a member of Congress on social security issues earlier. I was—in the discussions about whether or not I would accept this post and about the availability of this Cabinet post, discussions did include the suggestion that there was an Under Secretary under consideration who had been well known by many at the White House and would be suggested and nominated at the same time that I would be.

I met him prior to my making a decision on this Cabinet post, and I feel he has a very fine reputation and I think the White House and the President, who are those who know him best, have strong confidence in him. And I expect to have a very good working relationship with him.

But I also intend to be the Secretary of this Department.

Senator PRYOR. Thank you. My time has expired.

The CHAIRMAN. I would just say, I guess when you're out of town you would have a telephone.

[Laughter.]

Mrs. HECKLER. Yes. But I would not like to suggest there is any unease. I would expect a good working relationship here and will strive for it.

The CHAIRMAN. Senator Packwood.

Senator PACKWOOD. Peggy, you and I have known each other a good many years, and you are indeed a fighter. And you indicated earlier, while you would be a loyal member of the Administration, you had no hesitancy to fight within the Administration for your views.

Let us presume that the present court decisions on the snitch regulations are upheld at the Supreme Court level, indicating that HHS cannot impose the regulations they attempted to impose unless the law were then changed by Congress. What would be your advice to the President as to whether or not the law should be changed at that stage?

Mrs. HECKLER. Well, it is a little hard to forecast future events, and certainly we do not know what the courts will decide. I would not prejudge court action. I think the Court in its process will examine all facets of this, and arguments can be raised in the court process that will have great color and weight.

The fact of the matter is the President himself feels strongly about this issue, and I have discussed the issue with him. He has taken the position that the Department supports, and if he chooses to continue to pursue that course through a legislative approach suggesting a change in law, then my role would be to support that. The issue has been closed, really.

Senator PACKWOOD. What will your advice to him be at that stage, however, when he decides whether or not to come and seek a change in the law?

Mrs. HECKLER. The President knows my views on the subject and I understand his. And I have respect for those who take the other side of this issue. I understand their concerns, the concerns of families.

Senator PACKWOOD. At the moment the President has not taken a position on whether the law should be changed. His position is that the law allows HHS to do what they have done.

Mrs. HECKLER. Right.

Senator PACKWOOD. What I want to know, what your advice to him will be if the court decisions that are presently pending are upheld.

Mrs. HECKLER. My advice will depend upon the circumstances as they exist at the time the issue arises.

Senator PACKWOOD. All right, let's go to another subject. And here I am interested in your personal opinions, because you are well aware from having seen different Cabinets operate that some people rise and some people fall within the Cabinet, and some Cabinet Secretaries are tremendously successful, some others not.

And a great deal of it relates to the diligence with which the Cabinet Secretary will pursue his or her views. You are a lawyer.

Mrs. HECKLER. Yes.

Senator PACKWOOD. What do you legally think about the attempt to reverse the Supreme Court decision on abortion by statute?

Mrs. HECKLER. I have always voted for the Hyde amendment. I am pro-life. I sincerely believe in that position.

Senator PACKWOOD. That is not what I mean. Those are not reversals. What do you think of the effort to take away jurisdiction from the courts to decide the issues like abortion by statute?

Mrs. HECKLER. I feel that the issue—the Hyde amendment has to be finalized into permanent law.

Senator PACKWOOD. That is not the Hyde amendment.

Mrs. HECKLER. I know that, but I am saying that should be the first course.

Senator PACKWOOD. I want to know what you think personally about the efforts to reverse the Supreme Court's decision on abortion by passing a statute that says, henceforth the Supreme Court may not hear cases involving abortion.

Mrs. HECKLER. I feel that obviously the issue is one that is of such great magnitude and seriousness that it is one that I would discuss with the President and indeed debate with him and indeed consider with him. And I have to say, Senator, that regardless of whatever view I might hold, I would certainly carry forth on his view and pursue the stand that he takes.

Senator PACKWOOD. Well, I would hope so. I would hate to think we are going to have a Cabinet full of Secretaries that are going to go off willy-nilly in their own direction. What I am curious about is your personal view.

Mrs. HECKLER. My personal view is not as significant as the President's view, Senator.

Senator PACKWOOD. What is your personal view?

Mrs. HECKLER. I simply have felt that we need to solidify the progress made, and I happen to consider it progress, in stopping federal funding on abortion. And I feel and have felt for some time that going beyond that would not be timely because the issue has not been resolved with any finalization.

And now in the House, with the new rules, the riders to appropriation bills banning the use of federal funds for abortion, which was the Hyde amendment, will no longer be in order. So the first step will have to be banning this.

But I am personally very, very opposed to abortion, and I feel ultimately that that is my strongest stand on the issue. I have not prejudged all future issues.

Senator PACKWOOD. Let me ask you this, Peggy. My time is up but I will come back to it. Do you intend to answer my question about your personal view, personal view as to whether we should try to overturn the Supreme Court decision by a statute which prohibits their taking jurisdiction, whether it be abortion or school prayer or any other particular decision that involves what they call a constitutional right?

Mrs. HECKLER. I would say, Senator, that my positions are formulated very, very decisively on the issues that really have come before me more as a Member of the Congress. I have not faced those issues finally and have never quite determined ultimately that the door was totally closed.

But given my strong feelings about the right to life, I cannot imagine myself coming down on the other side of the issue.

Senator PACKWOOD. What does that mean?

[Laughter.]

Mrs. HECKLER. It means that when faced with a major question on the issue, my own strong convictions on the right to life will I think dominate my own thinking. Now, that does not close the door to consideration of a specific statute or specific events or specific wording, and indeed the total composite of a legislative package or a constitutional proposal.

Senator PACKWOOD. Might I have one last question, Mr. Chairman?

The CHAIRMAN. Yes.

Senator PACKWOOD. Let me just ask your general philosophy on the attempt to prohibit the Supreme Court from having jurisdiction over any particular constitutional case by the act of passing a statute that says they may no longer hear cases involving that subject. Forget abortion, forget prayer. What is your judicial philosophy about that legal approach?

Mrs. HECKLER. I would doubt very much that it would be effective. I do not think you can reverse a constitional provision with a statute.

Senator PACKWOOD. No, I hope you cannot. I hope you are right.

Mrs. HECKLER. As a lawyer, that is my immediate response.

But let me just say, Senator, I am in great support of really those steps taken by government which will advance in my judgment the right values, and I think that the steps have to be legally correct. At the same time, I will say that as a lawyer I do not agree with the *Roe* v. *Wade* decision and I feel that really that in my judgment and my interpretation, that was a decision that created out of whole cloth a new theory. And I have not the greatest admiration for the decision.

So that I would review any issue that related to that subject with that attitude in mind.

Senator PACKWOOD. Well, I would like to quote to you there Robert Bork's testimony on this very issue. He thinks *Roe* v. *Wade* was awful. He was the Solicitor General. The President appointed him to the Court of Appeals. But I thought his reasoning on this subject was extraordinary, after he went through eight or nine pages and concluded that *Roe* v. *Wade* said, namely that there could be an unconstitutional decision that is unconstitutional.

But you cannot have unconstitutional decisions of the Court, because the Constitution is what the Court says it is. Bork then came down in opposition to trying to change the Constitution by statute, because he said you do not cure a deformation of the Constitution with a greater deformation of the Constitution, which would be a legislative reversal of a Supreme Court decision.

I would hope that would be your legal opinion.

Mrs. HECKLER. Well, we have, as I understand it, 300 lawyers to enlighten my legal thinking at the Department, and certainly a general counsel of enormous stature. I feel that these are complex and serious issues, and I have given a great deal of thought to these issues, and feel very strongly that I have to say, Senator—and you and I have disagreed on this issue many times before—I think that the law must be observed and the Constitution must be honored.

At the same time, I also have deep respect for the right to life in this society and would hope to err not in the law or in public policy strategy in terms of dealing with that. But I do have that very, very strong commitment to this concept, and I would expect to honor that in my role.

The CHAIRMAN. Thank you, Mr. Chairman.

Senator Mitchell.

Senator MITCHELL. Thank you, Mr. Chairman.

And Mrs. Heckler, I join the other members of the Committee in welcoming you here today, and look forward to what I am confident will be your prompt approval and confirmation of your nomination.

Senator Packwood has raised a question of very, very great relevance and I think gravity today. I am not going to ask any more questions because he has asked you about it, but I would just make this point.

I am concerned that your earlier answer to one of his questions comes dangerously close to saying that the end may justify the means, when you said that because of your strong commitment to the right to life position you could not imagine coming down on the other side.

I respect that positon. It is obviously a deeply held one. There are many people in this country who have very strong feelings like yours and in opposition to abortion. But the fact of the matter is that there is an effort under way to really dislodge the solid system which we have had for 200 years of three branches of government, and that it is not just abortion. As Senator Packwood has pointed out, there are efforts to deprive the Supreme Court of jurisdiction to achieve indirectly what cannot be achieved directly, either through legislation or through enactment of a constitutional amendment.

And this is a very dangerous thing, Mrs. Heckler. It goes beyond just the issue of abortion and strikes at the very roots of our system of government. And I would urge you to study this with some care and caution, and to reflect upon the views that Senator Packwood has expressed, again not on this particular issue of abortion, but on the issue of whether or not Congress can by a simple majority deprive the Supreme Court of jurisdiction in an area in which the Congress is displeased by the Court's decision.

That in my judgment and my personal opinion is plainly unconstitutional. More than that, if carried forward in the manner which some are attempting to carry it forward, it will subvert the form of government which has served us so well for a couple of centuries.

It is a very serious matter and I would strongly urge you to review it, and particularly to review your response which indicated that because of your deep feelings on this one issue you cannot imagine coming down on the other side. No end justifies any means.

Mrs. HECKLER. I would not suggest that I would accept that philosophy, because I do not believe that the end justifies the means in any case. And I will say that I will ponder the issue very, very deeply, both as a lawyer and as a public servant, and I will not allow my private feelings to stand in the way of what I consider to be my judgment.

And I also intend to honor the law, and should this Congress pass laws with which I do not agree, I am only too familiar from sitting on your side of the aisle that indeed, that the Congress has always been thwarted by the lack of adherence to its will or its purpose in passing a law. And now that I find myself on the other side, I intend to honor that purpose as much as possible.

But I also would say that I want there to be no mistake about where I stand in terms of a commitment on the issue.

Senator MITCHELL. There is no question about that and that was not the thrust of Senator Packwood's question. It was in the method being attempted to achieve a particular objective, abortion being but one example and others exist in legislation pend-

ing in the Congress today, so-called Court-stripping bills.

That is the issue. It is not one's feelings on the issue of abortion.

Mrs. HECKLER. I understand totally and I understand your points as well and certainly will ponder them.

The CHAIRMAN. Senator Baucus?

Senator BAUCUS. Thank you, Mr. Chairman. Mrs. Heckler, I want to join Senator Pryor and others who served with you in the House in our previous incarnation and say to you how much we enjoyed serving with you then and wish you the very best of luck. Because as Senator Mitchell said, obviously, you will have a very difficult time riding herd and controlling the reins over a very large and very difficult department.

And certainly, if Mrs. Burford at EPA is having some difficulty with that agency, that would indicate to me that anyone who is nominated to be Secretary of HSS is going to have probably potentially more problems over an agency that is that much larger.

I, too, was struck, as I think Senator Packwood was and Senator Mitchell, with the response to Senator Packwood concerning attempts of Congress by statute to overturn Supreme Court decisions. The response struck me, in my view—and I am only one senator, but in my view it is clear that Congress cannot, by statute, overturn Supreme Court decisions on federal constitutional issues.

That is to say, Congress could not, by statute, abolish the First Amendment. That would certainly be ruled unconstitutional I think by the Supreme Court. But even more important, it would entirely obliterate the separation of powers as a basis for our form of government. And if Congress by statute can obliterate the First Amendment, abolish the First Amendment, the Congress, by statute, is abolishing the Constitution.

Mrs. HECKLER. Exactly.

Senator BAUCUS. And if that is the case, it seems to me we no longer have a constitutional form of government, but it is a rule by majority only by the whims, the instant whims, of the instance majority, and no longer the form of government that we hold so dear to us.

So with that in mind, and with your answers agreeing with what I have said thus far, how can you possibly say that you will think about and discuss with the administration statutes that would overturn or bills that were introduced in Congress, attempts by statute to overturn Supreme Court decisions?

Mrs. HECKLER. Well, I think there is a great difference between abolishing the First Amendment and having the issues that are raised in every court, every issue that is brought to the courts——

Senator BAUCUS. You think there is a difference; that is, that there are some Supreme Court decisions interpreting the Constitution that Congress can overturn by statute, and there are some other Supreme Court decisions interpreting the Constitution that Congress cannot overturn? What is the difference?

Mrs. HECKLER. What I am saying is that I see the sacredness of the declaration of rights, but my instinct at the moment is to say that while I would agree with the general premise that a legislative enactment cannot repeal a constitutional provision that is added to the Constitution or has that force, then I would have to look at the legal intricacies. And frankly, Senator, I have not reviewed these in terms of prospective issues before the Department and before the Congress relating to such basic questions as you have raised. I would have to ponder this and review my constitutional history, and indeed, look at these questions.

I have always been asked whether I supported this or that constitutional amendment and that was a different proposition. I am not sure of the scope of the legislative proposal that might be forthcoming, and whether or not they would be violative of the Constitution, and I would want to be refreshed and informed.

Senator BAUCUS. I am sorry, my time is running quickly here. I raised the question because to restore, to increase American confidence in government, I think it is important for the American people to believe that their public officials are going to abide by the rule of law. And certainly, the Constitution is paramount.

So I would encourage you and the others in the administration to keep that more firmly in mind than I think has been the case in the past because it would help, I think, restore some needed confidence.

Turning to another matter, Senator Chafee mentioned the cost of Medicare. He very correctly raised that issue. No one has disputed that the trust fund will, as you said, be in balance by, what, 1986 to 1987. In fact, by 1983, it will be about $200 billion out of balance, and a couple of years later, 1995, it will be about $400 billions out of balance.

The problem, many say, is even worse than the problems we presently face with Social Security. What do you intend to do about that? What advice do you have or what mechanism are you putting in place so that we can address that problem? and earlier on rather than later.

Mrs. HECKLER. Well, I would say, Senator, that indeed, the administration does have some proposals which will deal with the problem and, of course, the recommendations of the Bipartisan Commission on Social Security offers some hope for the short run. Our prospective payment proposal should, hopefully, provide a more effective cost incentive program and will be a saving.

But I will say that there is also in place an Advisory Council on Social Security which is working on the Bowen Council appointed by Secretary Shweiker and is presently devoting its time to this and will respond to the Department, which we have made available to the Congress immediately in July. We are going to look for long-term answers, and we feel that the prospective payment approach is the first step.

Senator BAUCUS. I appreciate that, and my time is up. But in my humble opinion, the prospective payment approach is not going to solve very much of the problem at all. And the problem is much, much more difficult than that.

Mrs. HECKLER. I would agree with you, Senator. I do not say that this is the magical answer, but I think it is a necessary and important structural change that is a good beginning. But much more has to be done and we have to look at this because it is a very serious and colossal problem.

Senator BAUCUS. Thank you.

The CHAIRMAN. Senator Chafee?

Senator CHAFEE. Thank you, Mr. Chairman. Mrs. Heckler, I would remind you that the line of question which Senator Packwood and Senator Mitchell and Senator Baucus were pursuing here is not a hypothetical line. We have these issues before us and had them in the last session and had them in the session before and undoubtedly will have them this session; namely, overruling constitutional decisions by legislative fiat, which deeply disturbs many of us. So I do hope that you will be able to give that some attention and further thought.

Have you given any thought to developing some kind of a proposal to deal with the issue of health benefits for the unemployed? I know you are new on the job and it is a massive undertaking, but I would be interested in any thoughts you have on that.

Mrs. HECKLER. Senator, I am not in the job yet, but it is a massive undertaking and I have been attempting to learn as much as possible about the Department in the last month. And this has been a very, very time-consuming task and will be very absorbing for sometime to come.

I will say that I am genuinely sympathetic to the need to find an answer, but totally unprepared to suggest one today. I will look at it in depth.

Senator CHAFEE. Well, I thank you. I would urge you to do so, and have your brain trust have that high on their agenda because it is a matter that deeply concerns me and I am sure it deeply concerns you as well.

Mrs. HECKLER. It does, indeed.

Senator CHAFEE. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Moynihan?

Senator MOYNIHAN. Mr. Chairman, lest I not be heard on the subject, may I just join my colleagues in their comments with respect to the issue of court stripping. And I think I can put it into perspective for you. You were not part of this debate which went on all last autumn here in the Senate.

The proposition, which some of us felt to be deeply unconstitutional; others felt, at very least, subversive of the American constitutional arrangements, was before the Congress and before the Senate. And there was a majority in favor of that matter, which would truly alarm many of us. And we had to go through "extended debate" and four motions on cloture before it was finally taken down.

And those of us who felt this to be so unconstitutional were concerned that we never heard a word from the Executive Branch in a matter which seemed to us clear, a matter about which Judge Bork, a distinguished scholar, a professor of law at Yale before the President appointed him to the Court of Appeals here, had no question in his mind. And we can have differences of opinions on many things but in defending the Constitution we have to be together.

Now, I think when you get a chance to look at this, I have a sense your instincts will come out exactly where ours were, but I would ask you to comment on that now.

Mrs. HECKLER. Senator, as you know, we live in two worlds. Or I did as a member of Congress. You have your Senate world in which you have your own agenda, a very absorbing and important one. We in the House were absorbed on other issues. Obviously, there are always two sides to every argument, and these each have their right to an advocate before the court.

I certainly will review your extensive debate on the subject and ponder it, and as I sat here I wondered what position Secretary Schweiker had taken on this, and now you have resolved that. No position, is that right?

Senator MOYNIHAN. No position.

Mrs. HECKLER. Well, I am thoroughly aware of the views of the members of this

committee and respect those views and will take them into consideration and certainly will pursue this subject.

Senator MOYNIHAN. Thank you. That is all we could ask of you.

The CHAIRMAN. Senator Pryor?

Senator PRYOR. I have no further questions, thank you.

The CHAIRMAN. Senator Packwood?

Senator PACKWOOD. Peggy, let me give you an example and, again, I want your personal opinion. I am trying to find out your personal opinion on this.

You have a kidnapping, a Lindbergh type situation. A suspect is caught. He says a few things to the police officer on the way to the police station. The trial is held, the defendant pleads self-incrimination and refuses to take the stand. The police officers take the stand and indicate what the person had said on the way to the police station. The defendant is convicted and sentenced to death.

The case goes to the Supreme Court and they reverse it on the grounds of violation of self-incrimination with respect to the police officers. They should not have been allowed to testify. The country is up in arms about this person whom they think ought to be hung or shot or however we execute people now. And a bill comes along to deny the Supreme Court the right to review cases involving self-incrimination. What would your position be?

Mrs. HECKLER. That is a very extensive situation that you have detailed, and I would like to say this, Senator. I am seeking to be confirmed by this body to head one of the most important and demanding departments in this government. I am preparing myself to handle their issues and their problems.

At this moment, I feel very relieved that I am not seeking a position on the court. [Laughter.]

I feel very strongly that I want to assure you that the law will be enforced, regardless of my personal views. The law, as it is expressed and enforced, will be honored by my department, and I can make that commitment to you.

As to pondering all of the hypothetical legal cases that could occur in any segment of this society, I frankly have been so immersed in human services and human development and Social Security and Medicare that really, I would have to reflect more thoughtfully and at a quieter, more peaceful moment than this.

Senator PACKWOOD. Well, then, Peggy, let me say this in conclusion. That, to me, is a discouraging answer. This is not a new subject. It is not a new subject just this week or this month. We went through this in the mid-fifties with some bills introduced by Senator Jenner to take away from the Supreme Court the right to hear cases involving subversives; to just take it away. We went through it in the mid-sixties on reapportionment when the court finally said after 150 years no longer can you have these gerrymander districts, and there were bills introduced in Congress to take away the court's jurisdiction.

And now we have got it on abortion, and I regard it as the most dangerous ploy to undermine our form of government that we can have. And to say you have not thought about it when you have been in the Congress for 16 years and we have had these issues amazes me.

Mrs. HECKLER. Senator, I did not say that I had not thought abut the bills on abortion. when you asked me about criminal rights and privileges and whether or not they will be——

Senator PACKWOOD. I am asking you about the issue that we have had now for 25 years of taking away the jurisdiction of the court by statute because of a particular passing passion led by a fury of contemporary Cotton Mathers who want to reverse a decision they do not like. That is not a new issue, and it is not going to go away.

Mrs. HECKLER. No, it is not a new issue and I think it deserves a great deal of attention. I think that the issues that relate to the abortion question have been some of the most divisive facing the Congress in all the years that I was there. And, indeed, I consistently, as I told you and as I think you well know, have voted in favor of the pro-life position.

I do not proclude any future judgment on constitutional questions based on the language of a proposal and its implications. But to say that we can never change any postion ever taken by a court, and that to deny the right of a Congress to express the will of the American people is a situation and a proposition that I am not about to embrace at this time.

Senator PACKWOOD. I was going to pursue the subject of a constitutional amendment which I regard as a legitimate way to try to change the Constitution. We are going to have a debate on that, and I will say to Senator Hatch's credit, he has restrained himself in the past on this issue. He has wanted to go the constitutional amendment route. I will oppose him on it. But it is a legitimate way to go, and the way our founders intended we should go.

I do not think in their wildest imagination they ever thought, when they set up the division of branches of government, that the United States Congress ought to have the right to take away from the Supreme Court the ultimate decision as to whether or not an act was constitutional.

The CHAIRMAN. Senator Baucus?

Senator BAUCUS. Mrs. Heckler, not to belabor the point but as you think about this hearing today and in particular, the issue raised by Senator Packwood and most of the rest on this panel today, let me tell you that when Robert Bork was before the Judiciary Committee in his confirmation hearing, he was asked this very question.

He did not hide behind the cloak of ambiguity, but instead stated forthrightly that he was very much opposed to any court stripping measure at all. He felt that so strongly he was willing to say that openly at his confirmation hearing, even though, as you have indicated and others have indicated, Robert Bork is very much opposed to the Roe versus Wade decision.

Mrs. HECKLER. I have great respect for Robert Bork. I also feel that there are valid arguments on the other side of the issue, and I really would not preclude my opportunity to look at those from the perspective of a member of—a Cabinet member and a representative of the Department of Health and Human Services and a representative of the President.

I would consider it essential to look at the other sides of these arguments, but I happen to have very little respect for the Roe versus Wade decision. I have read it extensively, I cannot follow its legal reasoning. I would agree with Robert Bork on that subject, and to think that the Congress of the United States is foreclosed from considering any other option in addressing what I consider to be a very poor judicial ruling is a proposition that I am not about to embrace at this point.

Senator BAUCUS. Well, I think all of us are surprised we have gotton into this so deeply. Senator Packwood indicated earlier——

Mrs. HECKLER. I am very surprised. [Laughter.]

The CHAIRMAN. No one told you it would be easy. [Laughter.]

Senator BAUCUS. Senator Packwood mentioned there are ways that Congress can address this issue. Senator Hatch has a constitutional amendment, and that is the process that our founding fathers provided. But I think, too, that our founding fathers in no way envisioned that Congress, by a whimsical majority, by statute, could overturn Supreme Court decisions.

So I hope you think very, very deeply about that because I think it is probably one of the most important matters that is going to come out of this hearing today.

Mrs. HECKLER. Well, I think that the issue is a very important one, and I also feel that those who have fought on the other side of it in the Congress have valid reasons for the positions they have taken.

And I think when a member of Congress, or when the Congress sees positions taken by the court that they think are very out of line with precedent or judicial reasoning, that should they necessarily be usurped from having any alternative approach. Obviously, the constitutional amendment is the usual approach, and that is a correct one. But to foreclose all other legal options—the drafting of a law, the impact of a statute, I think goes beyond a commitment that I would like to make today.

The CHAIRMAN. Thank you, Senator Baucus. Are there any other questions on HHS? [Laughter.]

Mrs. HECKLER. Are we back to HHS?

The Chairman. Yes. I do have some questions that we would like to have answered in writing; questions from Senator Packwood and Senator Heinz.

Mrs. HECKLER. Certainly.

The CHAIRMAN. And Senator Moynihan, and there may be others because a number of the members are in other hearings, as you know.

Mrs. HECKLER. Yes, I do understand.

Mr. PRESSLER. Mr. President, I rise today to commend the administration for its outstanding choice for the demanding position of Secretary of Health and Human Services, Mrs. Margaret Heckler, and I stongly support her nomination.

It has been my pleasure and privilege to know Peggy Heckler since my student days at Harvard University. Later in my political career I had the good fortune to cross paths with Mrs. Heckler in the U.S. House of Representatives. During that time, we became close personal friends and I was very pleased to work with her on issues affecting the rights of women in this country. During the 4 years I served with her, Peggy Heckler was a leading advocate on women's issues. She sponsored legislation to establish equitable treatment of women in obtaining financial credit. As each bill came to the floor, she led the way on women's rights.

At one point during our past friendship, I had the opportunity to visit Mrs. Heckler's congressional district in Massachusetts and I enjoyed meeting

many of her friends and supporters. My home State of South Dakota was able to reciprocate this hospitality when her daughter served as an intern in one of South Dakota's television stations. I have also been pleased to visit with Peggy and her husband John on a number of occasions in their home. Her family is very supportive of all her achievements, and I want to wish all the Hecklers the very best as Peggy assumes her new position.

This country is very fortunate to have a woman of Mrs. Heckler's caliber and experience. She will do an outstanding job, and I look forward to continuing our working relationship as she assumes her new duties.

Mr. JEPSEN. Mr. President, I commend Peggy Heckler for her steadfast, unfettered commitment, for her concern with respect to the sanctity of human life.

I should like to state further for the RECORD that the Supreme Court at one time, in the Dred Scott decision, indicated that black people were not humans and were just another form of property. They were wrong then. They were wrong in the Wade against Roe decision when they said that an unborn child is not a human being.

So I commend Margaret Heckler for her unfettered commitment and respect for the sanctity of human life.

Mr. THURMOND. Mr. President, I rise today to express my support for the nomination of former Congresswoman Margaret Heckler of Massachusetts to be Secretary of the Department of Health and Human Services.

Mrs. Heckler brings to her new job 16 years of Capitol Hill experience. She represented the 10th Congressional District of Massachusetts for eight consecutive terms. At the close of the 97th Congress, she was the ranking female Member of Congress and the 24th ranking Member of the House of Representatives. Additionally, she was the senior Republican member of the Joint Economic Committee, the Science and Technology Committee, and the House Committee on Veterans' Affairs. Secretary-designate Heckler also previously served on the House Committees on Banking and Currency, Agriculture, and Government Operations. She was a founder and steering committee member of the Textile Caucus. She also founded the Congresswoman's Caucus and cochaired the group.

Mrs. Heckler is an attractive, intelligent, energetic, and courageous lady who is well-qualified to serve the President and the Nation as Secretary of Health and Human Services. Her years of service have proven her to be innovative and possessed of those leadership qualities necessary to head one of the largest Cabinet agencies in the Federal Government.

Mr. President, Mrs. Heckler's extensive experience in the workings of Government will be of great value to her and to the Nation as she faces the new challenges before her. I am confident that she will be an asset to the President's Cabinet as well as the Department of Health and Human Services, and I certainly wish her well.

Mr. STEVENS. Mr. President, I yield back our time.

Mr. KENNEDY. Mr. President, I yield back our time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Margaret M. Heckler, to be Secretary of Health and Human Services? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from California (Mr. WILSON) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from New York (Mr. MOYNIHAN), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 82, nays 3, as follows:

[Rollcall Vote No. 8 Ex.]

YEAS—82

Abdnor	Byrd	Dodd
Andrews	Chafee	Dole
Armstrong	Chiles	Durenberger
Baucus	Cochran	Eagleton
Bentsen	Cohen	Exon
Biden	Cranston	Ford
Bingaman	D'Amato	Garn
Boren	Danforth	Gorton
Boschwitz	DeConcini	Grassley
Bradley	Denton	Hatch
Burdick	Dixon	Hatfield
Hawkins	Matsunaga	Rudman
Hecht	Mattingly	Sarbanes
Heflin	McClure	Sasser
Heinz	Melcher	Simpson
Huddleston	Metzenbaum	Specter
Humphrey	Mitchell	Stafford
Jackson	Murkowski	Stennis
Jepsen	Nickles	Stevens
Johnston	Nunn	Symms
Kassebaum	Pell	Thurmond
Kasten	Percy	Tower
Kennedy	Pressler	Trible
Lautenberg	Proxmire	Tsongas
Laxalt	Pryor	Warner
Leahy	Quayle	Zorinsky
Levin	Riegle	
Lugar	Roth	

NAYS—3

East	Helms	Packwood

NOT VOTING—15

Baker	Hart	Moynihan
Bumpers	Hollings	Randolph
Domenici	Inouye	Wallop
Glenn	Long	Weicker
Goldwater	Mathias	Wilson

So the nomination was confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination of Mrs. Heckler.

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

SENATE SCHEDULE NEXT WEEK

Mr. BYRD. Mr. President, is the acting Republican leader prepared to state for our colleagues who may be listening in on the squawk boxes whether or not there will be any more rollcall votes today and what the situation is on Monday?

Mr. STEVENS. Mr. President, I am delighted to respond to the Democratic leader's request.

There will be no further votes today. We will stand in adjournment until Monday, when we will take up the Montreal Protocols. If there is a rollcall vote ordered on that, it will take place on Tuesday. We then have another nomination to take up after the Montreal Protocols, and that is the nomination of Lewis Arthur Tambs to be Ambassador to Colombia. If there is a rollcall ordered on that, it will take place following the vote on the Montreal Protocols on Tuesday.

It is not contemplated that there will be any votes on Monday as we deliberate on the two matters in executive session. There will be votes, if ordered, on Tuesday. It is our intention to move as quickly as possible next week to the jobs bill and, following that, as the majority leader mentioned, we will try to take up the social security matter. And then following that we will take up the first concurrent budget resolution.

Mr. BYRD. I thank the distinguished Senator from Alaska, the acting Republican leader.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

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

The PRESIDING OFFICER (Mr. HUMPHREY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

15-MINUTE RECESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 1:17 p.m., recessed until 1:32 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HUMPHREY).

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COAL AND THE 98TH CONGRESS: A LEGISLATIVE AGENDA

Mr. HEFLIN. Mr. President, I rise to address myself to some very important and related issues that will face the 98th Congress. Today, I only wish to discuss briefly the following legislative issues: coal, acid rain, inland waterways, coal port decongestion, and coal research and development.

COAL

We all recognize the important role that coal must play in meeting our future energy needs. For this reason, I want to bring to my colleagues' attention several legislative matters that the Senate will address this session affecting the future use of coal, both domestically and internationally,

The coal industry is in a depressed state, as is the general economy. While the national unemployment rate hovers just above 10 percent, unemployment in the coalfields is over 25 percent. United Mine Workers President Trumka stated before a House committee on February 9 that unemployment in his union stands at 32 percent, or over 45,000 UMW members. Therefore, any legislation we act on relative to coal should focus on returning miners to work in the near term and expanding the market potential in the long term.

ACID RAIN

Acid rain or acid deposition is difficult to discuss because of the highly charged emotions that it generates. Visions of fish and vegetation dying are conjured up by the media and the villain is allegedly sulfur dioxide emissions from coal-fired powerplants in the Midwest. The fact is, the scientific community is divided as to the actual cause of acid deposition. To impose rigid controls now on coal-fired powerplants—before we know if they are really the source of acid deposition—will cost thousands of additional miners their jobs and electric consumers billions of dollars. In a December 1982 study by the State of Kentucky Department of Energy entitled, "Economic Impacts of the Senate Acid Rain Bill," it is estimated that further controls on sulfur dioxide emissions could increase electrical cost by 32 percent and lead to the loss of 62,000 jobs.

Recognizing that we do have an acid deposition problem, I have endorsed and am cosponsoring the legislation introduced by Senator ROBERT BYRD (S. 454) on February 3, 1983. The Byrd bill accelerates the ongoing acid deposition study to a 1987 completion date. By then, we should certainly have enough facts to act decisively. This bill also provides a program to mitigate the harmful effects of acid deposition on certain bodies of water and forests. The bill further provides positive action, yet does not impose a controls program that will unnecessarily cripple an already depressed coal industry.

INLAND WATERWAYS

If coal is to play an increasing role in meeting our energy needs, we must have a transportation network to insure that coal gets from the mines to the ultimate user. Passage of the Staggers Rail Act of 1980 has put the Nation's Railroads in a healthy financial state. To augment rail transport, however, we must rebuild a network of aging locks and dams that are essential to water transport of coal. Coal is currently the largest single commodity moving on our inland waterways, accounting for nearly 30 percent of all tonnage transported. This is expected to increase to 50 percent by the turn of the century. For this increase to take place, however, there are some essential improvements that must occur at several key locks and dams, including the Oliver Lock on the Black Warrior River in my State of Alabama. For these improvements to occur, Congress must authorize funds now accumulating in the inland waterway trust fund. There is more than $100 million in this fund to begin necessary improvements. Action in 1983 would end a 5-year lapse in funding inland waterway improvements and begin the restoration of an essential link in our national transportation network.

COAL PORT IMPROVEMENT

It is essential for our ports to be dredged to a level to allow them to accommodate super colliers. Currently, no U.S. port can handle these large vessels, which are the wave of the future in the coal exporting business. Last year, we exported over 100 million tons of coal, a level which far exceeded our expectations of a few years ago and significantly aided our balance of trade. The extent to which we can increase these exports will significantly assist our allies in freeing themselves from the noose of OPEC. As with acid rain, Democratic leader BYRD has indicated his intent to take the lead in a legislative effort to alleviate our port problems. Again, I urge my colleagues to get behind his initiative.

COAL RESEARCH AND DEVELOPMENT

The administration has attempted to reduce the coal R&D budget to a level that represents "close out" funding only. The proposed fiscal year 1983 budget represented a 75-percent reduction over fiscal year 1982. Through the efforts of Senators BYRD, HUDDLESTON, FORD, and others, this funding level was increased to an acceptable level. We now find ourselves facing the same fight for fiscal year 1984.

If coal is the cornerstone of our future energy policy—as Energy Secretary Hodel has asked on numerous occasions—then should we not have a technology development program that will allow us to burn it more efficiently? The answer is, of course, yes. I look forward to working with other supporters of the coal R&D program to insure that the fiscal year 1984 funding level is again adequate to prepare for the future.

While there are other legislative issues such as coal pipelines, rail rate regulation, and Federal coal leasing that may be brought before the Senate this session, the ones discussed above will receive priority attention from me.

SUPPORT OF REPEALING THE INCREASE IN TRUCK USER FEES

Mr. HEFLIN. Mr. President, last December during the hectic days of the lameduck session, Congress hastily approved the Surface Transportation Act of 1982. Even though the intent of this bill was to repair our Nation's badly worn roads and bridges, I could not support its passage because it imposed further tax burdens on the American people. Furthermore, it was approved by Congress without careful scrutiny into the devastating effects it

would have on our Nation's trucking industry.

Before passage of the Surface Transportation Act the maximum use tax on the heaviest trucks was set at $240 per year. Under this bill, the heavy vehicle user fee is scheduled to eventually rise to $1,900. This is an almost 800-percent increase in truck taxes and clearly too burdensome for most truckers to bear. Furthermore, this is not the only tax increase truckers must pay. They must also bear the additional burden of an increase in the fuels tax and an increase in the excise tax on tires.

Small truckers will be particularly hard hit as a result of the increase in truck user fees. Many truckers in my home State of Alabama have expressed to me their inability to carry the additional burden of these taxes at a time when they are struggling merely to survive the current recession. Freight rates have not increased in several years while costs have skyrocketed. For the first half of 1982, freight carriers made only 71 cents for every $100 of gross revenues. It is unrealistic to believe that the higher user fees can be passed to the shipper through rate increases. This would only force shippers to look for alternative means of transporting their goods. Also, many truckers in my State own only one or two trucks and drive less than 25,000 miles per year. Nonetheless these truckers will be forced to pay the same user fees as the large commercial haulers.

We can all agree that our Nation's highways and bridges are badly in need of repair and reconstruction and I strongly support efforts to go forward with this work. However, under the present situation, we are asking too great a sacrifice of our Nation's truckers, which in many cases, will be forced out of business because of their inability to pay this tremendous increase in taxes.

In order to correct this inequitable situation, I am jointly sponsoring with Senator BOREN legislation to repeal the scheduled increases in the truck user fees. I believe this legislation is necessary if we are to insure a viable and healthy trucking industry. I strongly urge my colleagues to join me in supporting this important legislation. I ask unanimous consent that the attached letters appear in the RECORD following this statement. Thank you, Mr. President.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

KENNEDY, ALA.,
January 21, 1983.

DEAR SENATOR HEFLIN: I know it won't do any good to write this letter but maybe I can get my feelings out in the open. This deal of the highway use tax on trucks is going to kill us small working people. The 5 cents gas and fuel tax is bad enough but how on earth can a man make a living for his family and have to pay that kind of tax. My husband is a log hauler. They don't get any more for hauling now than they did four or five years ago. The tires, insurance, equipment and upkeep of those trucks are almost double now. If the use tax was going to have to go up, why such a jump from $210.00 per truck to $1600.00. That sure isn't going to help the economy any, in fact it's going to stop lots of jobs. If you know anyone that can help us please try to do so.

Yours truly,

MRS. EULIE TAYLOR.

AXIS, ALA.,
February 10, 1983.

Hon. HOWELL HEFLIN,
U.S. Senate, Washington, D.C.

DEAR SIR: We feel it is time for our voices to be heard concerning the additional federal taxes imposed on independent truckers. We feel it is unfair, as we're not even making the minimum wage after truck expenses, which I will itemize for you later.

The cost of everything is up—fuel seems to be coming down some, but not nearly enough—and the freight rates are so low, it is very hard to make a living. The price of fuel and permits is not consistent from one state to another.

This is a breakdown of cost of operation:

Truck payments	16,922.25
Ala. (IRP) base plate	1,117.86
Truck insurance	3,494.00
Fuel	25,544.41
Oil	501.69
Parts and repairs	4,073.31
Tires	1,385.16
Total	53,038.68
Tolls and permits	490.85
Highway use tax	407.84
Weight tickets	43.00
Complete check charges	591.50
Telephone—long-distance only	949.09
Payments on business loans	4,200.00
Daily allowance 20.00 day—food on the road	8,360.00
Total	15,042.28
Income for 1982	75,990.19
Expenses on truck	68,080.96
Difference	7,909.23

Out of what is left, we have to maintain our household, utilities, telephone, hospital insurance and food.

We feel it is unfair to pay the federal highway use tax and then have to pay the highway use tax to states like Ohio and ton mileage tax in states like Colorado and N.Y. This is double taxation and we have to pay it if we travel in those states. It would be easier if all the states had a uniform method to collect for taxes, license, and permits.

Note the amount paid in tolls. We feel it is wrong to have to pay all the other use taxes and still have to pay tolls in many of the states on interstate highways, such as Okla., Ill. and most all of the Northeastern states. This money can't be used on the highways, as their highways are in worse condition than states that don't charge tolls.

There needs to be a change in the tax structure and freight rates, so we can live with it and still make a living. I might add that both my husband and I drive our rig and barely make ends meet.

Hope we will be hearing from you soon.

Sincerely yours,

——— ———.

DEAR MR. HEFLIN: I am soliciting your help in getting some relief in our problems as Independent Truckers and/or-owner operators.

In Etowah County, the Gadsden, Ala., area, there are approximately three to four hundred independent truckers and owner-operators.

The recently passed legislation by the Congress and Senate to increase fuel tax by five cents per gallon, and the 800 percent road use tax increase will force the greater majority of all of us out of business. We were just barely hanging on before this Legislation was passed.

We as independents are furnishing and maintaining the expensive equipment. Loading, transporting and delivering the merchandise, for a lesser net profit than most company drivers make for just driving a company's vehicle. This is a matter of record.

The independents shut down in 1979 caused by very high rising fuel cost would have put us out of business then. But the Government came thru with a fuel surcharge that saved us then. However, the ICC later deregulated the industry and took away the surcharge and allowed the carriers to incorporate it in the rate. The carriers have now cut the rates far below what they were before the surcharge was added. This has allowed the carriers who belong to the AGA and use owner-operators to retain at least 80 percent of the fuel surcharge and they do not pay any highway use or fuel tax at all. Yet a lot of them have 500 to 1,000 trailers that are being pulled by owner-operators who pay all the taxes. On fuel and highway use, all state and local taxes on the equipment.

This allows carriers in this method of operation to derive approx. 40 percent of total revenues without any of the tax obligations afore mentioned.

We definitely must have some relief in this situation or we are all out of business and if this happens, the carriers will have to furnish all this equipment and I guarantee you if this happens, freight rates will increase 100 percent or more and will be passed on to the consumer.

Please consider our plight and try and help us in this fight for mere survival.

Sincerely,

ED MESSER.

STAR TRUCK PARTS,
Birmingham, Ala., January 27, 1983.

The Honorable HOWELL HEFLIN,
U.S. Senate, Washington, D.C.

DEAR SENATOR HEFLIN: This letter is written to ask your support for reducing the Federal Road Use Tax burden that has been placed on trucks and truckers. In dealing with truckers and truck owners on a daily basis, I am very familiar with their operations and business problems.

Most independent and small fleet operators (70 percent) do not control the rates that they receive for their services. Many regulated carriers in the Birmingham area do not own one single truck, yet they control rates and take high commissions from the revenue. Exempt haulers (logs, coal, produce, etc.) encounter the same problems with large paper mills, coal producers, and food brokers. The truck owner must pay all expenses and TAXES, yet cannot price his services. In a situation that is, at best, a break even business, there is no way that thousands of dollars more in taxes, per truck, can be paid.

This tax burden will put thousands of large and small operators out of business.

Please consider the following facts concerning trucks.

1. New truck sales are down 50 percent from 1979.

2. Over 8,000 Diesel Trucks were repossessed in Alabama in 1982.

3. 30 percent of the new truck dealers (large trucks) in Alabama have gone out of business in the last two years, with others to go out soon.

4. Truck load freight rates are at, or below, the rates charged in 1978.

5. The new Road Use Taxes for one year will be more than the combined profits of all regulated trucking companies for the past 3 years.

Please, your help is needed.

Sincerely,

JERALD BROOKS.

SYLACAUGA, ALA.

Senator HOWELL HEFLIN,
U.S. Senate,
Washington, D.C.

DEAR SIR: I am writing to voice my opinion on the Taxes imposed on the Truckers.

I, myself, work at Floyd & Beasley Transfer Co. Inc., and I know it's hard enough now days to make a profit without these added (Tax) cost. Many Companies have went at least Two Years without giving a Pay Raise, simply because they can't afford to. Other Companies such as McLean have sold out because of hard times in the Trucking Industry, others have entered Chapter 11 Bankruptcy. It is regrettable that this happened. That is why I am writing, because I am very concerned that if we don't do something about these Taxes that many more Companies such as Floyd & Beasley will be forced to sell or enter Chapter 11 Bankruptcy.

When things are this tough on large Companies then common sense will tell you that its twice as hard on the Independent Truckers.

What good are better Highways if there is no one to run them. I can't understand what good a Jobs Program is if it causes more job losses than it employs. I realize we need to create more jobs but, there has to be a better way to do so.

Sincerely,

JEFF MCGRADY.

ATHENS, ALA.

Senator HOWELL HEFLIN,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR: We are in full agreement that our roads and bridges are in dire need of repair, however, we do not feel the truckers should take the full brunt of this expense.

Gasoline prices have decreased so the additional 5¢ per gallon tax will not hurt the motorist. Diesel prices have not come down; therefore, the additional taxes would be a major expense on the truckers.

Rates on almost all commodities shipped on trucks are so low the truckers are having an extremely difficult time making expenses, which have continued to increase.

Raising taxes, such as the Highway Use Tax increase, and taxes on tires, trucks and other equipment necessary to move freight across this Country will make it impossible for the truckers to make any profit, much less a decent living.

Truckers are already paying each state very high taxes for running in them and these taxes have also increased recently.

Raising the weights trucks can carry can in no way compensate the truckers for these additional taxes. The customers order the weights they need and many loads are lighter than even present laws allow. We do need each State to have the same legal length and weight laws but this will not increase revenue enough to even start to compensate the trucker for these additional taxes.

If these taxes remain on the truckers, we will all be out of business and added to the high unemployment already in existence.

We realize all must pay taxes, but we now pay such high fuel taxes, plates and permit charges to each State. The roads and bridges could be new if all the money went for that.

Be fair to us, we are an important industry and necessity to the economy of this country. Putting us out of business is not a good solution to this problem.

If less money was given to Foreign Aid and instead used for the people in the United States, we could balance the budget and be more humane to our own people in need.

Charity does begin at home, and we all need "aid" here.

Thank you for your consideration in this matter.

Sincerely,

ROBERT and SANDIA RIDINGER.

GADSDEN, ALA.,
Feb. 7, 1983.

DEAR SIR: As a owner-operator in Trucking I wish to express my view to the user-fees that are being imposed.

I only drive 40,000 miles per year yet I will have to pay the same as the ones that drive 150,000 miles and some even more. I believe it is too much at a time when we are on the verge of collapse.

Any help you can render will be appreciated.

Yours Truly,

L. V. CLAYTON.

JANUARY 17, 1983.

Senator HOWELL HEFLIN,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR HEFLIN: I use approximately 25 truck owner-operators in my business and every one of them tell me that they will be parking their trucks the 31st of January and remained parked until something was done about these new taxes.

Please get a meeting and do all that you can to get the Surcharge or some type of extra revenue that goes direct to the trucker installed. If something is not done immediately to appease them, me and anyone else depending on the trucking will be without any business.

The estimated additional cost per truck at a minimum figure is:

Gasoline at .05 per gallon (average 4 miles per gallon)	$1,500
Tire tax (average weight, 125 No. per tire) at $.50 per lb. 1 set of tires per year, 18 at $62.50	1,125
Federal highway use tax—additional per truck	1,377
Total	4,002

Plus the additional excise tax on truck and trailer when purchased, in which the amount is a question mark.

Respectfully,

BILL TIDWELL.

P.S.—I believe the truckers would accept the gasoline tax if the other taxes were repealed.

Gadsden, Alabama, February 7, 1983.

Senator HOWELL HEFLIN,
U.S. Senate
Washington, D.C.

DEAR SENATOR HEFLIN: We, the independent truckers, think the fixed Highway Use Tax bill is unfair and too high.

There are thousands of people who make themselves a job with one truck or more. These owner-operators have gross incomes ranging from $25,000 per year to $100,000. The small income truck will pay the same tax. This will put the small business man without a job. This bill was suppose to create jobs not make unemployment.

Our revenue is down due to deregulation and competiton and our taxes are to be higher, this is hard for the independent contractor to understand. We are in favor to increase Highway Use Tax. Independent Truckers work on a percentage basis with no guarantee of monies. We think an increase at the fuel pumps would be more accurate on the way a truck is running his gross income. Even a percentage of the gross income would be fairer, an example of ½ percent up to 1 percent.

With deregulated rates and the sagging economy, freight rates have gone down considerable for the past 14 months. There is no room in the independent trucker's business for fixed taxes in today's profit and economy.

For general information the following is some of the problems the trucker is up against.

We are willing to do away with the surcharge and take our percentage of the gross. As all trucking companies are now interpreting this differently. The surcharge bill was originated to help the independent truckers to pay higher fuel cost. As of now, the large companies are keeping most of the surcharge.

With 100 percent to begin on gross revenue. The company divides 1.15 percent to roll out surcharge. The company pays to the contractor 12.5 cents as of February 10, per dispatched mile which does not equal to the money they are taking away from the independent trucker.

The company's expenses are made up of cargo and liability insurance. Maintaining offices to collect freight charges.

The owner-operators then have to pay their own workman's compensation. Our company deducts 4.3 percent workman's compensation. The owner-operator also pays his bobtail insurance and a portion of cargo insurance which ours amount to $20.00 per month.

All the other incurred charges that go to the independent contractor such as fuel, tires, repairs, payments on tractors and trailers, compensation insurance, hospital insurance, social security tax, income tax, apportioned tags which can cost as much as $1100.00, permits for each state and ad valorem tax.

A large portion of the tax to be collected from the Highway Use Bill will go to the railroads to bail them out of any financial strain. They are our biggest competion with low rates that certainly put a financial strain on the trucking industry.

We need help before we can pay higher taxes.

Yours truly,

BOBBY J. MCKEE
and 48 others.

DIRECTING SENATE LEGAL COUNSEL TO REPRESENT SENATOR MOYNIHAN AND SENATOR D'AMATO

Mr. STEVENS. Mr. President, I send a resolution to the desk on behalf of the distinguished Republican and Democratic leaders and ask for its immediate consideration.

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

The legislative clerk read as follows:

A resolution (S. Res. 81) to direct the Senate legal counsel to represent Senator MOYNIHAN and Senator D'AMATO in the case of Municipal Electric Utilities Association of New York State v. Ronald Reagan, et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. BYRD. No objection.

The Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, this resolution is necessary in order that legal counsel may appear to represent the two Senators mentioned as defendants in an action brought against the Commission, all of its Commissioners, President Reagan, Representatives KEMP, CONABLE, NOWAK, and LAFALCE, as well as the two Senators mentioned.

The matter will be heard tomorrow in the Federal district court. That is the reason for the urgency.

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

The resolution (S. Res. 81) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 81

Whereas the case of *Municipal Electric Utilities Association of New York State* v. *Ronald W. Reagan, et al.*, Civil Action No. 83-0595, is pending in the United States District Court for the District of Columbia;

Whereas the complaint in this action names the Honorable Daniel Patrick Moynihan and the Honorable Alfonse M. D'Amato as parties defendants;

Whereas, pursuant to sections 703(a) and 704(a) of the Ethics in Government Act of 1978 (2 U.S.C. 288b(a) and 288c(a) (Supp. V 1981)), the Senate may direct its counsel to defend the Senate, its Members and officers, in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Moynihan and Senator D'Amato in the case of *Municipal Electric Utilities Association of New York State* v. *Ronald W. Reagan, et al.*

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE ON MONDAY

Mr. STEVENS. Mr. President, I ask unanimous consent that, following the convening of the Senate on Monday, no resolutions come over under the rule, the call of the calendar be dispensed with, and the Journal of the proceedings be approved to date.

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

ADJOURNMENT TO 10:30 A.M. MONDAY, MARCH 7, 1983

Mr. STEVENS. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment.

The motion was agreed to; and, at 1:43 p.m., the Senate adjourned until Monday, March 7, 1983, at 10:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate March 3, 1983:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Margaret M. Heckler, of Massachusetts, to be Secretary of Health and Human Services.