SENATE—*Thursday, September 19, 1985*

(Legislative day of Monday, September 16, 1985)

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

The PRESIDENT pro tempore. Our prayer will be offered by the Reverend Paul Durham, pastor of the Radnor Baptist Church, Nashville, TN. He is sponsored by Senator ALBERT GORE.

PRAYER

The Reverend Paul Durham, pastor, Radnor Baptist Church, Nashville, TN, offered the following prayer:

Let us pray.

Dear Father in Heaven.

We thank You today for the blessings that You have been so kind to give to us.

I pray for our President and his staff as they make decisions every day.

Now Lord, this great Senate body, wilt Thou bless our President and every Senator, as only You can do by Your love.

I pray for wisdom and knowledge to be given to them as they think, plan, pray, and vote on every issue that comes before them.

Dear God, may Your love abound with each and this love be so demonstrated that, as goes the Senate, so goes our Nation, and also as goes the Nation, so goes our world; that we will find love and peace with all Your people everywhere, and above all, that we have peace with Thee. I pray this prayer in Your name. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Tennessee [Mr. GORE].

The PRESIDENT pro tempore. The Senator from Tennessee.

REV. PAUL DURHAM

Mr. GORE. Mr. President, I thank the majority leader for this courtesy. It is indeed an honor for me to welcome the Reverend Paul Durham, and to thank him on behalf of my colleagues for such an inspiring and insightful message. Reverend Durham is pastor of Radnor Baptist Church, which has a congregation of more than 2,500. I have attended services there on occasion. The last time I attended church there, I resolved to invite Revered Durham to deliver the opening prayer of the Senate so we can all benefit from his guidance.

This happens to be the 32d wedding anniversary of Reverend Durham and his wife, Nadene. They have four sons and three granddaughters. I thank them for taking the time to come to Washington and join us in the Senate for a moment of reflection and prayer.

RESERVATION OF MINORITY LEADER'S TIME

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. I ask unanimous consent that the minority leader's time be reserved.

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

SCHEDULE

Mr. DOLE. Mr. President, following the leaders' time, Senator PROXMIRE has 15 minutes under a special order, and there will be a period for routine morning business until 10:30. Then we resume consideration of S. 1200, the immigration bill.

I hope we can limit the debate to the immigration bill. We are hoping for passage of that bill, and I urge my colleagues who wish to debate the Social Security matter to save that for another bill. It has nothing to do with the immigration bill.

The immigration bill is very important legislation. It is my view that if we pass it this early in the session, it will bring pressure on the House to act, and we can end up with a good immigration bill this year, something that has been needed in this country for a number of years.

I hope my distinguished colleagues, the Senator from Pennsylvania [Mr. HEINZ] and the Senator from Arkansas [Mr. BUMPERS], would be willing to work out some arrangement so they can bring up Social Security with all its implications at a later date.

Again, I point out that we will be in session tomorrow; there will be votes tomorrow. We would like to complete action on Superfund this week, along with the D.C. appropriations bill, H.R. 3087, and also Senate Joint Resolution 77, the compact of free association.

That is one on which we hope we can keep off any amendments, any trade amendments. It is something that must be passed, as I understand it, before the week is out. We have had calls from the distinguished Secretary of State, Secretary Shultz, and from the White House. It is not a partisan matter at all, it is something that must be done. I urge my colleagues who have trade amendments to wait for another vehicle. There will be another piece of legislation along soon.

I have discussed this matter with the distinguished chairman of the Committee on Energy, Mr. MCCLURE. I know he has discussed it with the distinguished President pro tempore, Mr. THURMOND, and other Senators on both sides of the aisle to see if we can work out some short time agreement.

RETURN OF BENJAMIN WEIR

Mr. DOLE. Mr. President, last May, on the first anniversary of the kidnaping of Benjamin Weir, a number of Senators came to the floor to pray for his release and the release of the other Americans still held hostage in Lebanon. Late yesterday, we learned that our prayers for Reverend Weir had been answered. After 16 months in captivity, he has been returned to his country and reunited with his family. I urge all my colleagues to join me in welcoming him back. Let us hope that the remaining hostages will also soon be returned safely. Our prayers are still with them and with those who are working tirelessly for their release.

MARTIN LUTHER KING HOLIDAY

Mr. DOLE. Mr. President, yesterday, Mrs. Coretta Scott King was the guest speaker of the National Press Club. The topic of her speech was the celebration of the first official observance of the Martin Luther King, Jr., Federal holiday, to occur on January 20 of next year. Mrs. King's articulate and thoughtful comments evoked a standing ovation from those in attendance. I recommend that all Members and their staffs read Mrs. King's speech for guidance as to how they might contribute as preparations begin for the national celebration. As a member of the King Federal Holiday Commission, I believe that Congress should provide an example in helping to make next year's observance a big success.

Mr. President, I ask unanimous consent that the text of Mrs. King's remarks be printed in the RECORD.

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

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

REMARKS BY CORETTA SCOTT KING—NATIONAL PRESS CLUB LUNCHEON

Mr. Hess, distinguished ladies and gentlemen of the press, fellow commissioners and honored guests. It is a great privilege for me to stand before this same forum that once gave my husband the opportunity to carry his message of love and nonviolence to the world.

Monday, January 20, 1986 will be an occasion for the celebration of the legacy, life and dream of a man with a special vision for America and the world.

What makes this holiday special?

For the first time in the history of this great Nation, we are honoring a peacemaker, a messenger of nonviolence—a drum major for justice, love and righteousness who was a native son of America.

Under his leadership, nonviolent protests brought about the greatest social change in the history of this country. I believe this tells us much more about what America stands for than all of our nuclear weapons and great technological achievements.

His leadership, not just of black Americans, but of all Americans, lifted a heavy burden from this country. Where others preached hatred, he taught the principles of love, nonviolence and a patriotic commitment to making democracy work for all Americans.

Martin raised his mighty eloquence for love and hope, rather than for hostility and bitterness. He took the tension he found in our Nation, a tension of injustice and channeled it for the good of America and all her people. I only wish that those few who oppose the holiday could understand that Martin had a deep and abiding faith in the American dream.

The establishment of the Federal Holiday Commission represents an unshakeable commitment to make this holiday an all-American celebration, consistent with the national theme "Living the Dream." Let it be a day when people of all races, cultures, religions, politics and stations in life unite in a spirit of brotherhood to honor an American son, hero and patriot.

President Reagan has called for "a celebration of freedom and justice which will unite all our citizens."

The act of Congress which established the holiday states: "the holiday should serve as a time for Americans to reflect on the principles of racial equality and nonviolent social change espoused by Martin Luther King, Jr."

Martin's Day, therefore, should be a time for peace and nonviolence in all our human relationships and in every aspect of our personal lives . . . a day when all of us put aside our differences and join in a spirit of togetherness in recognition of our common humanity.

The Federal Commission is calling upon all Americans to sign a special pledge card, which you have in your press kits, committing themselves personally to "living the dream" by: "loving, not hating; showing understanding, not anger; and making peace, not war"

We also have a special "world" pledge card which we hope will be signed by people all over the world, especially the young.

Many Americans are not aware that Martin is honored throughout the world for his work for universal peace and justice, international sisterhood and brotherhood and advocating and working for the elimination of hunger and poverty.

For his efforts on behalf of international justice and universal peace, he was awarded the Nobel Peace Prize. This is why many countries and international organizations have approached the Commission asking about what observances are planned to mark the King holiday abroad.

I am happy to be able to tell you today that people and organizations all over the world will be taking part in the international observance of the holiday. We are in touch with the United Nations; the leaders of some 65 countries; world religious leaders and international peace and human rights organizations. We are asking that nations and people all over the world make Martin's birthday a day of peace, a day of amnesty and a day of mercy, forgiveness and reconciliation with all adversaries.

We have also contacted the Secretary General of the United Nations and Secretary of State Schultz requesting that the United Nations pass a resolution calling on all nations and liberation movements to cease all violent actions for one day on January 20, 1986 in honor of Dr. King and our common humanity. We fully expect that much of the world will join America in celebration on January 20.

We must also continue to struggle nonviolently for the goals and objectives for which Martin gave his life. We must work and pray for world peace and genuine disarmament. Martin said that "True peace is not merely the absence of tension; it is the presence of justice." I think this means we must continue to work for an end to poverty and world hunger. We should work for freedom and self-determination in South Africa and against other unjust and repressive systems everywhere. We must remain vigilant in support of civil and equal rights in America as well as firm in support of human rights all over the world. In so doing, we truly honor the life and work of Martin Luther King, Jr. in a meaningful way.

Our Federal Commission asked Congressman Ralph S. Regula, Republican of Ohio and State Senator Clarence Mitchell, III of Baltimore to head a committee which would work with legislatures on the passage of State holiday legislation. So far, only 10 States and Puerto Rico have not enacted legislation for observing Martin's birthday on January 15 or on the third Monday. Several of these States have bills pending.

Many corporations are observing Martin's birthday on the 15th or the 3rd Monday. I cite only two, the Kellogg Company and the Equitable Life Assurance Society of the U.S. as outstanding examples. I am also delighted to see the great unions of America making the observance of Martin's birthday part of their labor contracts.

And now, a word about the holiday events. There will be national events in both Atlanta and Washington, D.C.

On Thursday, January 16 in Washington, D.C., there will be a congressional tribute to Martin at the U.S. Capitol and the unveiling of a bust in the Rotunda. Federal employees will hold a noon tribute rally at the Department of Commerce auditorium and in late afternoon, a diplomatic reception will be sponsored by D.C. Mayor Marion Barry, co-chairperson of the Federal Commission's Committee on Special Events and the Washington, D.C. diplomatic corps.

On Monday, January 20, in Atlanta, we will hold our 18th annual ecumenical services at historic Ebenezer Baptist Church and award the Martin Luther King, Jr. Nonviolent Peace Prize. A wreath-laying ceremony will follow at Dr. King's crypt. Afterward, the official national march and parade will be held in Atlanta, featuring participants from the fifty States, U.S. territories and several nations.

Monday evening, Stevie Wonder, chairperson of the Entertainment Committee for the Federal Holiday Commission and a board member of the King Center, will present a 3-hour prime time network tribute to Martin, featuring some of the great entertainers and personalities of our Nation and the world.

Many of you know that the King Center has been observing Martin's birthday since 1968, long before the Federal holiday. The King Center's schedule of events will start on Sunday, January 12 with its interfaith service and continue through the 20th. Let me call your attention to three of these events: Friday, January 17 is the labor/management/Government/social responsibility awards breakfast, co-chaired by U.S. Secretary of Labor, William Brock; William Lucy, president of the coalition of Black Trade Unionists and John D. Ong, president and CEO of B.F. Goodrich Company.

On Saturday, January 18, the center will sponsor its second national action symposium on poverty and world hunger. This forum will bring together the major international and international organizations concerned with poverty and world hunger issues, including representatives of the American Government and the United Nations.

On Sunday, January 19, the center will sponsor, in cooperation with the United Nation's Special Committee Against Apartheid, an international conference against apartheid. I am delighted to report that the right Reverend Desmond Tutu and his family will be with us in Atlanta on both January 19 and 20.

You have been provided with a detailed schedule of King week 1986 activities and the national events. These are just a small part of the hundreds of activities that are being planned by the 50 State holiday commissions and other localities with the assistance of the League of Cities, Conference of Mayors, civil rights and human rights organizations, business and labor groups, United Way organizations, civic and social groups, schools, colleges and universities, religious organizations, veteran organizations and many others. Tributes to Martin are being planned by professional athletes and special television programs will be aired by public broadcasting and the Turner Broadcasting System.

The Federal Commission receives no Federal funds and must seek donations and probono services to carry out its mission. I'm grateful to Governor James Thompson of Illinois, our vice chairperson; Senate Majority Leader Robert Dole and Mr. Edward Jefferson, chairman and CEO for the Dupont Company, for helping us to raise funds and also, to Mr. Jesse Hill, Jr., president of the Atlanta Life Insurance Company, former Attorney General Nicholas Katzenbach, former Attorney General Edward Levi, Congressman Jack Kemp, Mayor Andrew Young, individual commissioners and of course, all those who have contributed. The Commission now has offices in Washington, D.C., and Atlanta and a special thanks must go to Secretary Samuel Pierce of the U.S. Department of Housing and Urban Development, for helping us to secure donated Federal Government space, essential resources and loan personnel. Staff in these offices come from most of our Federal departments and agencies. The Commission also owes a special thanks to Vice President Bush who has worked with us and encouraged us every

step along the way. Also, to Secretary of State George Shultz, Secretary of Defense Caspar Weinberger and Charles Wick, Director of the United States Information Agency.

From Congress: Speaker Tip O'Neill; Senators Charles McC. Mathias and Ernest Hollings; Congressmen Ralph Regula, William Gray, Mickey Leland, John Conyers; Walter Fauntroy; the Black and Hispanic Caucuses and former Congresswoman Katie Hall. From the ranks of organized labor, Murray Finley, president of the Amalgamated Clothing and Textile Workers Union, AFL-CIO who has headed an outstanding labor committee for the Commission, consisting of not only the international unions in the AFL-CIO, but also the great unions like the Teamsters, Mine Workers and many others. We thank Lloyd Davis, our executive director and all our staff. I wish time would permit me to thank individually every member of the Federal Commission; the men and women and young people who serve on our national committees and the firms that have provided us with legal, accounting and other essential services, probono.

You will see from the literature produced by the Commission that we are calling upon Americans to fly the U.S. flag proudly on January 20 in honor of Martin, who loved this great Nation. We are asking houses of worship to ring their bells at 12 o'clock noon and all drivers to turn on their lights at the same time in honor of Martin and for peace, unity and goodwill among all people.

I am pleased that the Federal Holiday Commission decided to encourage the King Center to provide the leadership in developing the official memorabilia to commemorate the holiday. The following items have been designated as official items and will be made available to the public through the center: a medallion with Dr. King's image on it that is packaged in a plastic encasement with a historical summary and chronology of Dr. King; a button with the image of Dr. King; a lapel pin with the image of Dr. King and three images of Dr. King in art prints and lithograph posters. Additionally, two textbooks have been written by Dr. King's sister, Mrs. Christine King Farris, entitled: "Dr. Martin Luther King, Jr.: His Life and Dream". The books have been published by Ginn and Company, in conjunction with the King Center for School Systems and Educators. The book will be offered in elementary and intermediate editions, for use in grades 3-5 and 6-8. There may be a few more items which the King Center will officially designate for the holiday and announcements on these items will be made at a later date.

Martin once said, "it is time for all people of conscience to call upon America to return to her true home of brotherhood and peaceful pursuits". He showed us how much good a single life devoted to God and humanity can accomplish. His philosophy of nonviolent social change is the very foundation of American democracy and it has never had more relevance than it does today.

It was Martin's belief that "an individual has not started living until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity. . . ." He said "life's most persistent and urgent question is, 'what are you doing for others?' "

This is the challenge he left us and his holiday offers all of us an opportunity to honor his memory by pledging to do all we can to make a new world, where his dream of freedom, justice, peace and love will grow and flourish.

Thank you. I am now ready for questions.

Mr. President, I reserve the remainder of my time. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ORDER TO VITIATE SPECIAL ORDER FOR SENATOR PROXMIRE

Mr. DOLE. Mr. President, I am advised that Senator PROXMIRE will not need his special order, and I ask unanimous consent that that be vitiated.

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

Mr. DOLE. I hope that understanding is correct.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 10:30 a.m., with statements therein limited to 5 minutes each.

MYTH OF THE DAY: THAT THE HUGE DEFICITS DO NOT BRING SHORT-TERM EUPHORIA

Mr. PROXMIRE. Mr. President, today's myth is that the record shattering series of Federal deficits during the past 4 or 5 years have handed this country an unmitigated economic disaster. The myth embodies the belief that no economic benefits have or will come from these deficits. And this, Mr. President, is a myth. The fact is that at this very moment America is enjoying the benefits. And those benefits are very great. It is also a fact that this all time record shattering series of Federal deficits represents the most reckless and irresponsible fiscal policy in American history. This Senator is convinced that they will cause this country to pay a very dear price in the future. But that is in the future.

Consider the present. First, the series of deficits has immensely stimulated the American economy. After all, between 1980 and 1985 the national debt more than doubled. It will certainly exceed $2 trillion by the end of next year. What did that do to the economy? Plenty. Massive increases in Federal spending year after year, combined with a reduction in tax rates, greatly increased economic activity and the number of jobs. Nonagricultural, private sector jobs shot ahead by an astounding 8 million between 1980 and 1985. In fact, the American economic expansion was so great that it sharply increased economic activity throughout the world, particularly which such trading partners as Canada, Japan, Mexico, and Western Europe. Almost everyone has missed the plain fact that this short-term bonanza flowed not from some innate American blessedness or virtue. It flowed from the reckless U.S. fiscal policy.

Take Herbert Stein. Dr. Stein is one of the wisest and most competent economists in the country. He served with distinction as Chairman of the Council of Economic Advisers in both the Nixon and Ford administrations.

On July 29, Dr. Stein wrote in the Wall Street Journal a brilliant diatribe against congressional protectionism. He argued that the $123 billion adverse balance of trade suffered by America this year did not reduce American jobs. As proof, Dr. Stein pointed to the huge increase in American jobs in the past 5 years during the time the balance of trade was worsening. If Dr. Stein is wrong, how come jobs did grow by a huge 8 million at the same time the U.S. trade balance was becoming the worst by far in our long history? Don't ask, Dr. Stein. He said nothing about the enormous fiscal deficits that swamped the trade deficit. But, of course, the fiscal deficit is exactly what permits the United States to import $123 billion more than it exports while at the same time increasing employment.

The short-term job increase is only one of the silver linings that bedeck the deficit's dark clouds. If there is one simple lesson most students learn in elementary economics, it is that persistent deficits drive up prices. They may cause inflation. And they do, usually. Big deficits have certainly done that in places like Israel and post-World War I Germany and present day Argentina. But in America in 1985? No, indeed, the deficits have been accompanied by an astonishing moderation in inflation. The double-digit inflation scare of a few years ago has vanished. Inflation bobs along at a relatively pleasant rate of 3 or 4 percent. The Post-Hoc-Ergo-Propter Hoc crowd might even contend that the deficits have reduced inflation. Of course, the reduction in inflation is the handmaiden of the heavily adverse balance of trade. There is enough idle capacity, unemployment, and excess commodities in the world so that even our $200 billion deficits fail to put much upward pressure on prices. Our immensely adverse balance of trade has indeed helped keep our unemployment rate about 7 percent, and higher than it was 5 years ago. In the process it has held down American prices. Foreign goods are cheaper and

competition from foreign goods keeps American goods cheaper than they otherwise would be.

But how about interest rates? If there is one economic element that deficits should raise it is interest rates. After all, don't the huge deficits require borrowing and year after year increases in borrowing? The demand for credit rises as the deficit and national debt rise. The Federal Reserve Board can print the money to satisfy the credit but only at the cost of roaring, bellowing, runaway inflation. Really? Then how come inflation is behaving like a purring pussy cat and interest rates have been falling for months? Answer: Interest rates have been falling because the Federal Reserve Board is accommodating the increased demand for credit by increasing the money supply—a whopping 10.6 percent in the first 6 months of this year. The domestic economy slowed to a 1-percent growth rate in the first 6 months of 1985 in spite of the huge deficit and the Fed's expansive monetary policy. And foreign lenders are rushing to take advantage of risk free and relatively enticing interest rates in the United States.

So, Mr. President, there you have the insidiousness of the deficit. The myth that the utterly irresponsible peacetime Federal deficits are strictly bad economic news is a myth. In the short run they have been accompanied by rapidly expanding employment, moderate inflation, falling interest rates and an American contribution to international economic well being not experienced since the Marshall plan.

What is insidious about all that? It makes it very hard to persuade the Congress and the President to buck all that happy jive, when bucking it means cutting or killing popular spending programs and, worst of all, increasing taxes. It is especially hard when honesty compels us to admit that in the short run such action will reduce the number of jobs, slow the economy, and probably bring on a deep and long recession. Malthus sure said a mouthful when he called economies the dismal science.

STOP THE NUCLEAR ARMS RACE NOW

Mr. PROXMIRE. Mr. President, the weakest argument for continuing the nuclear arms race is that the United States must rush to catch up with the Soviet Union. According to this pitch, the U.S.S.R. is ahead of the United States in overall military power. It is not. But the assumption that the Soviets are ahead is essential to give even the shadow of legitimacy to the arms race. For those who accept this assumption the argument turns like this.

If we negotiate in those areas where they are ahead, we negotiate from weakness. The Soviets will understandably argue that both sides should stop and stand fast where they are at the moment. This would freeze our country into a position of permanent inferiority. This argument is applied by the Reagan administration to the proposal to stop testing antisatellite weapons. It is applied to the proposed agreement to end all nuclear weapons testing. It is applied to the proposed nuclear freeze. Why is this Reagan argument wrong? Well, it is wrong, seriously and tragically wrong. Here is why:

First, there is absolutely no credible evidence that the United States is behind the Soviet Union in nuclear capability. Both superpowers have about the same number of strategic and tactical warheads. Each country has the nuclear capability to destroy the other utterly several times over. If either has an advantage in delivering nuclear weapons on the adversary's homeland, that advantage lies with the United States. By some calculations the United States can deliver 13,000 strategic nuclear warheads on the Soviet Union. The Soviet Union can deliver about 9,000 on the United States. But the numbers are academic because a small fraction of either number would totally destroy either superpower.

A second clear and critical advantage lies with the United States. The U.S. nuclear weapons are far less vulnerable. More than 70 percent of the Soviet nuclear arsenal is concentrated in stationary, land based ICBM's. This is without doubt the most vulnerable mode. Less than 25 percent of the American arsenal is in this vulnerable mode. On the other hand the United States has a nearly 3-to-1 advantage in nuclear warheads based on submarines with 50 percent of U.S. deterrent based in this, the most secure and least vulnerable mode.

In strategic bombers, the other virtually invulnerable basing mode, the United States has literally 10 times as many strategic warheads as the Soviet Union. These advantages for the United States are greatly enhanced because United States nuclear weapon equipped bombers are in the air far more than their Soviet counterparts and United States nuclear weapons bearing submarines spend far more time out of port and at sea than Soviet subs. If the nuclear weapon advantage right now lies with either superpower, it lies with the United States. The time for this country to get on with arms control negotiations based on comparative strength is now.

There is no more urgent or critical mission for our Government than to end the nuclear arms race. As the Catholic bishops have rightly argued, ours is the first generation since Genesis that has developed the military power to wipe mankind as a species off the face of the Earth. Does the nuclear arms race increase the threat of nuclear war? Of course it does. The superpowers continue to develop ever more devastating and threatening nuclear weapons. The United States develops a brandnew breakthrough that permits each nuclear missile to carry a number of independently targeted nuclear warheads. With a year or two the Soviet Union matches the United States coup and both superpowers massively increase their destructive capability. Today, we develop lasers that can strike with great force and at the speed of light. Tomorrow the U.S.S.R. will develop their own devastating lasers.

And worse—much worse is yet to come. Just over the horizon lies the antimatter bomb. This new super-nuclear development will constitute an enormous step-up in the power of our nuclear arsenal. Think of it. Nuclear fission made atomic power possible. Nuclear fusion brought on the hydrogen bomb. Both released a huge new increase in explosive power. But, it was still a relatively small part of the total energy available in a nuclear explosion. The antimatter bomb will release not a fusion or fission fission fraction of the energy in matter but all the energy—all of it in a nuclear explosion. The explosive power would dwarf the A bombs and H bombs.

What is the military significance of antimatter explosions? The military significance is that one small, light, easily transportable warhead could utterly devastate every section of a huge metropolitan area like the five boroughs of New York City or all of Moscow. We will have the antimatter bomb soon. The Soviets will have it shortly after. Could an end to nuclear testing end this aimless march to the destruction of human life? It would certainly have a fighting chance to end it, particularly if we apply our superb technology to developing means of verifying compliance with an agreement to stop testing. If we do this, is the United States locked in a permanent position of inferiority? No way!

The Under Secretary of Defense for Research reported to the Congress this year that our Defense Department's comparison of United States and Soviet standing in the 20 most important areas of military technology shows that the United States leads in 15 areas. The two superpowers are tied in five. The U.S.S.R. leads in none! If ever there were a time to stop the race no country can win, it is now. Let us give a treaty stopping the arms race a full, fighting chance. How do we do that? We do it by devoting our marvelous technology to verification. We do it by aggressively using the Standing Consultative Commission to insist on compliance into an agreement that both sides will keep because it is the only way to survival on both sides.

ABUSE OF SOVIET JEWS

Mr. PROXMIRE. Mr. President, the Anti-Defamation League of B'nai B'rith and the National Conference on Soviet Jewry recently published a booklet entitled, "Trapped in the Soviet Union."

The booklet gives summary biographies of 20 Jewish prisoners of conscience and 39 refuseniks. Prisoners of conscience are Jews whom the Soviets jail on trumped-up charges when, in truth, they simply taught Hebrew or tried to practice their religion freely and in peace. Refuseniks are Jews denied the right to leave the Soviet Union. Often they want to join family members in Israel.

The Soviet Union denies Soviet Jews their right of freedom of religion. The booklet draws attention to this policy of abuse and points out that during the past year the Soviets have increased their harassment of Hebrew teachers and Jewish activists in the U.S.S.R.

The Jews profiled in the pamphlet represent only a handful of the thousands of Jews who struggle to maintain their religion and to emigrate to Israel.

Members of Congress have always strongly supported the rights of Soviet Jews. Many of us have adopted refusenik families. Some of us correspond with and have met refuseniks during trips to the Soviet Union. Finally, 300 Senators and Representatives participate in the Congressional Coalition for Soviet Jews.

Mr. President, I am proud to take part in the activities of the Congressional Coalition for Soviet Jews. In fact, every Member of Congress should take pride in its efforts to secure the rights of Soviet Jews.

We cannot, however, take pride in the Senate's failure to ratify the Genocide Convention. In fact, I am ashamed at our handling of the treaty.

Although the abuse of Soviet Jews is not genocide, it is a situation well on its way to becoming genocide.

We cannot call upon the Soviets to end their prelude to genocide because we have thrown aside the Genocide Convention—the one tool that would legitimately allow us to ask the Soviets to end their abuse of Jews.

Why do we do everything we can to stop the abuse of Soviet Jews, yet deny ourselves the moral weight of the Genocide Convention? Why do we abhor the Soviets and all other human rights violators, yet refuse to ratify the Convention? Why do we bemoan the ruthless suppression of religious rights, yet delay ratification of the treaty that would help stop these abuses?

Mr. President, 36 years is too long to wait. It is time to back our strong words with action. It is time to prove to the world that we seriously want to stop the abuse of Jews. It is time to act to prevent all forms of genocide. It is time, Mr. President, to ratify the Genocide Convention.

UNITED STATES-SOVIET COOPERATIVE ACTION AS A FOUNDATION FOR SUBSTANTIVE EAST-WEST PROGRESS

Mr. PELL. Mr. President, the conduct of superpower diplomacy raises a perennial and fundamental question of cause and effect: Should we expect a general improvement in East-West relations only after we have achieved progress in such central substantive areas as nuclear arms control? Or is the converse in fact more realistic: To seek some measure of comity in superpower relations as a precondition to major substantive progress?

For some years, my personal inclination has been to view the establishment of a businesslike, mutually respectful atmosphere as an essential first step toward progress on major East-West issues. It is indeed precisely for that reason that I have regarded with apprehension the demonstrated penchant of this administration to engage in flights of rhetorical bellicosity toward the Soviet Union. Verbal theatrics, however psychologically satisfying and politically expedient they may be, are in my judgment little related to the demands of a superpower statesmanship aimed at erecting a stable structure of peace.

Two years ago, I chaired a delegation of Senators to Moscow for a meeting with General Secretary Yuri Andropov at a point when superpower relations were already in a condition of serious deterioration. Pursuant to my belief concerning the need to establish an atmosphere conducive to substantive progress, I raised with Secretary Andropov the idea of initiating cooperative superpower activity in certain peripheral subject areas as a needed step toward progress in the crucially important but stalemated nuclear arms negotiations. I was, I confess, seriously disappointed at his rather blunt rejection of this approach. The Soviet leader's attitude was, I inferred, a reflection of Soviet resentment at Reagan administration rhetoric, and also of a calculated Soviet determination to allow no diversion from the Geneva negotiations at a moment when the Kremlin still hoped to derail NATO's impending nuclear deployments.

For the past 2 years, United States-Soviet relations have undergone little discernible change, and certainly scant improvement. But two significant factors have altered in the United States-Soviet equation. First, the successful commencement of NATO nuclear deployments has essentially removed that issue from the Soviet and United States agendas. Second, the ascension of Mikhail Gorbachev has seemingly brought to a close the extended Soviet succession crisis, which posed one significant obstacle to the possibility of United States-Soviet rapprochement.

Last month, to meet the new Soviet leader I traveled again to Moscow with a Senate delegation led this time by the minority leader, Senator BYRD. Hopeful that the change in circumstances and Soviet leadership might have induced some change in attitude, I took the opportunity during the delegation's meeting with Secretary Gorbachev to suggest the desirability of certain United States-Soviet cooperative measures as a means of improving the climate in East-West relations. Specifically, I identified three subject areas:

Joint superpower leadership in promoting a comprehensive multilateral immunization program for the world's children;

Superpower cooperation in international environmental assessment;

Initiation of an extensive United States-Soviet political and academic exchange program—possibly funded by outstanding Soviet lend-lease debts to the United States—along with a resumption of significant United States-Soviet cultural exchanges—possibly commencing with a U.S. visit by the Bolshoi Ballet.

I am pleased to report that, in contrast to his predecessor, Secretary Gorbachev did not appear adverse to the concept inherent in these suggestions, and indeed conveyed an evident interest in reestablishing the atmosphere necessary for substantive progress in the superpower relationship. Having derived a measure of optimism from his response, I shall urge our own administration to give careful consideration to the particular suggestions I proferred in Moscow and, more generally, to the concept of cooperative activities as first—rather than final—steps in the superpower diplomacy to come.

Our central aim—our solemn obligation—will remain the achievement of reductions in the nuclear threat posed to all mankind by the superpower arsenals. But prudently devised cooperative activities can create an effective foundation for the protracted negotiations necessary to attain that goal. Let us then—on both sides of the superpower rivalry—undertake the creative diplomacy needed to build such a foundation for the improved and stable East-West relationship on which the world's future so crucially depends.

CONSTITUTION WEEK

Mr. THURMOND. Mr. President, the greatest document ever conceived by mortals in pursuit of self-government is our own Constitution. By carefully writing this outline for responsi-

ble government, our forefathers literally rewrote the rules of citizenship and public responsibility.

As a trustee of the Freedoms Foundation at Valley Forge, I am excited over the development of another document which can have a major impact on our Nation.

The Center for Responsible Citizenship, an important arm of the Freedoms Foundation, has produced its first product: the Bill of Responsibilities. This is the result of much careful consideration by the Foundation's board of directors and council of trustees.

I ask unanimous consent that this document be printed in the RECORD at the conclusion of my remarks so that my colleagues can share its poignant message.

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

BILL OF RESPONSIBILITIES

Preamble. Freedom and responsibility are mutual and inseparable; we can ensure enjoyment of the one only by exercising the other. Freedom for all of us depends on responsibility by each of us. To secure and expand our liberties, therefore, we accept these responsibilities as individual members of a free society:

To be fully responsible for our own actions and for the consequences of those actions. Freedom to choose carries with it the responsibility for our choices.

To respect the rights and beliefs of others. In a free society, diversity flourishes. Courtesy and consideration toward others are measures of a civilized society.

To give sympathy, understanding and help to others. As we hope others will help us when we are in need, we should help others when they are in need.

To do our best to meet our own and our families' needs. There is no personal freedom without economic freedom. By helping ourselves and those closest to us to become productive members of society, we contribute to the strength of the nation.

To respect and obey the laws. Laws are mutually accepted rules by which, together, we maintain a free society. Liberty itself is built on a foundation of law. That foundation provides an orderly process for changing laws. It also depends on our obeying laws once they have been freely adopted.

To respect the property of others, both private and public. No one has a right to what is not his or hers. The right to enjoy what is ours depends on our respecting the right of others to enjoy what is theirs.

To share with others our appreciation of the benefits and obligations of freedom. Freedom shared is freedom strengthened.

To participate constructively in the nation's political life. Democracy depends on an active citizenry. It depends equally on an informed citizenry.

To help freedom survive by assuming personal responsibility for its defense. Our nation cannot survive unless we defend it. Its security rests on the individual determination of each of us to help preserve it.

To respect the rights and to meet the responsibilities on which our liberty rests and our democracy depends. This is the essence of freedom. Maintaining it requires our common effort, all together and each individually.

MICHAEL VAN LEESTEN

Mr. PELL. Mr. President, William Raspberry, in his column in today's Washington Post, has featured Mr. Michael Van Leesten, the executive director of the Opportunities Industrialization Center in my home State of Rhode Island. Mr. President, the great bulk of Mr. Van Leesten's substantial energies have been devoted to social progress, education and job development. His is an extremely capable and articulate spokesman for the black, Hispanic, and blue collar communities in Rhode Island. Mr. Van Leesten's career is a monument of achievement dating back to the fair housing debates as well as the voting and civil rights struggles. He has long been, and continues to be, a prime mover in developing educational, employment and economic opportunities for countless Rhode Islanders.

It is fitting, Mr. President, that William Raspberry has chosen to focus on Michael Van Leesten's views regarding minority job development. It is fitting for two reasons: First, Mr. Van Leesten's professional background is one of demonstrated ability and tangible results in this area; second, Mr. Van Leesten's ideas, views and programs are compelling, timely and successful.

Mr. President, we expend considerable energy here in the Senate examining ways of creating jobs and economic opportunities for our citizens. This is a vital portion of our legislative function. The Raspberry article briefly describes the efforts that Michael Van Leesten is making with the Rhode Island OIC. The Rhode Island OIC is attempting, with considerable success, to create private sector, minority owned businesses and jobs. These efforts must be applauded and encouraged. There can be no doubt during this time of huge Federal deficits that initiatives such as those undertaken by Mr. Van Leesten and OIC are not only commendable—they are becoming increasingly necessary.

Mr. President, I ask unanimous consent that the full text of the Raspberry article be printed in the RECORD. I urge my colleagues to read this article about these efforts to enhance the ability of our citizens to empower themselves economically.

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

CREATING JOBS

(By William Raspberry)

PROVIDENCE, R.I.—For Michael Van Leesten, executive director of Rhode Island's Opportunities Industrialization Center, it is a philosophical tightrope. OIC needs federal money. It could not run its extensive job training and placement program without federal help.

At the same time, the Reagan administration's cutbacks of federal support for such social-action programs as OIC make clear to Van Leesten how dangerous it is to be dependent on the government. In a way, it's like welfare, he says. You need, it, but it is deadly to become addicted to it. The way out is the same in both cases, he believes: to become self-supporting.

As a result of that belief, the Rhode Island OIC is taking a different direction from that of its sister organizations around the country. Instead of training its low-income, mostly minority clientele for jobs in somebody else's work place, the local OIC is trying to create its own jobs right here in South Providence.

"The idea is we eventually want to be able to supply our own budget from the profits of companies we own an interest in," Van Leesten says. "That isn't something that can be done overnight, but we expect to be a little less dependent on federal grants next year than we are this year, and a little less dependent than that the year after."

It's not just empty talk. Already a consortium of which OIC is a member has acquired Pawtucket-based Peerless Precision, a $2 million machined-metals company. Van Leesten hopes to move the entire operation, of which OIC owns half, to a new industrial park in South Providence, therby creating new job and training opportunities.

Another of the Rhode Island OIC's joint projects—this one in conjunction with Roger Williams Foods and the University of Rhode Island—is the formation of American Surimi, a company that will produce a high-protein fish product that can be textured, shaped and flavored to mimic a variety of seafoods at a cost far below that of the real thing. OIC will use the Surimi production venture as a means of providing jobs, job training and income to finance its operation.

The 46-year-old Van Leesten has a raft of other ideas, including Nexus, a scheme to encourage black Americans to invest in African ventures (the Philadelphia-based OIC, founded by the Rev. Leon Sullivan, has training operations in nine African countries). Meanwhile, he's constantly trying to persuade the city's young black professionals not to limit their ambitions to good jobs with downtown firms but to consider starting and managing their own companies, preferably in South Providence.

"I'm really talking about the necessity of building something that will make a permanent difference, that will help not just OIC but the minority community here to become more independent," says Van Leesten.

"We've had to struggle so hard just to get the opportunity to work for someone else that a lot of us find it difficult to think in long-term, institutional terms. But what I have in mind is to help minorities here to become an integral part of the business structure—not just consumers and job-seekers but producers and employers," he says.

Nor is Van Leesten talking charity. He is unapologetic that each new venture enhances his personal economics. For instance, in addition to his $50,000 salary as OIC executive, he is paid a fee as chairman of Peerless Precision.

What he preaches is not so much the notion of personal sacrifice as a different approach to the problems of low-income minorities: "I'm not saying that we don't need help from the society. Maybe there never will be a time when we won't need some help. But the major part of that help must come from our own efforts. That's the only way we'll ever attain real economic power."

HISPANIC HERITAGE WEEK

Mr. DOLE. Mr. President, this week, the Nation is observing Hispanic Heritage Week. Since 1968, we have set aside this special time to officially pay tribute to Hispanic-Americans and their contributions.

Beginning with Queen Isabella's support for Columbus' voyage to the New World, Hispanics have played a unique and imporant role in our Nation's historical development. Today, there are no fewer than 17.6 million Hispanics residing in this country, contributing and achieving in all areas of society, be it business, academia, sports, or the arts.

The accomplishments of Hispanic-Americans in the field of politics and government service is particularly noteworthy. At every level of government, Hispanic-Americans are assuming their rightful place—on school boards, city councils, in Governors' mansions, and the Congress of the United States. And in the Senate, an important precedent was recently set when Ernie Garcia became the first Hispanic to be appointed Sergeant-At-Arms.

America is a country of diversity—a land of immigrants—her customs and mores defined by a citizenry that represents a wide array of national origins. The Hispanic culture—which itself is a melting pot of nationalities, bonded together by common customs and traditions—has richly contributed to American life.

Throughout the country, various Hispanic organizations have been holding special events, festivals, and exhibits in proud celebration of Hispanic Heritage Week. I salute these organizations, and the businesses, and public and private agencies which have joined them, in making this year's observance a great success.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. COCHRAN. Mr. President, I ask unanimous consent that I may speak as if in morning business.

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

SUSAN AKIN, ANOTHER MISS AMERICA FROM "OL' MISS."

Mr. COCHRAN. Mr. President, I know that most Senators by now realize that our newest Miss America is another Miss Mississippi. Last Saturday evening, in Atlantic City, Miss Susan Akin of Meridian, MS, a student at the University of Mississippi, was selected as Miss America.

All of us in Mississippi are very proud of this. It carries on a great tradition of Miss America's being selected from the Magnolia State of Mississippi.

Miss Akin is the fourth Mississippian to have been awarded this title since the pageant began in 1920. Prior winners from my home State include Mary Ann Mobley, from Brandon, MS, who was a classmate of mine at the University of Mississippi in 1959; then Linda Mead, the very next year, in 1960, from Natchez, MS, was selected as our Miss America. Cherly Prewitt, from Ackerman, MS, was selected as Miss America in 1980.

Let me say that Miss Akin is not just pretty and talented, she is also a dean's list scholar majoring in broadcast journalism at the university, a member of Pi Beta Phi Sorority, and is an outstanding young woman in every way. She is an excellent choice to carry on this great tradition in our State and I am sure she will serve with great distinction as our newest Miss America.

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

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

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I am not going to do anything, I say to my colleagues, except simply to urge those who are holding up passage of S. 1200 with debate on Social Security, whether it ought to be on or off budget, to try to come to terms so that we can move on and pass this bill, because we still have Superfund legislation which we hope to conclude this week, and we had hoped to be able to address a couple of appropriation bills. I know there is a lot of pressure from Senators on both sides who have official business elsewhere starting tomorrow, but the leader is in a position where we have already frittered away about 20-some hours trying to resolve a nongermane, nonrelevant matter to the immigration bill. I do not say it is not important. It is important.

The question is whether Social Security should be on or off the budget. We could argue that for months and probably will, but I would rather not do it on the immigration bill.

It is my hope that we might work out some satisfactory language, satisfactory to the distinguished Senator from Pennsylvania [Mr. HEINZ] and the distinguished Senator from Arkansas [Mr. BUMPERS], that would not preempt their rights later on, that would preserve the argument and their leadership, and still finish the immigration bill early this afternoon, move back to Superfund, and then line up some time tomorrow for a couple of appropriations bills.

I say to my colleagues that, about 1:30, if there is no action, we may start some of our own.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KASTEN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

IMMIGRATION REFORM AND CONTROL ACT OF 1985

The PRESIDING OFFICER. The Senate will now resume consideration of the unfinished business, S. 1200, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1200) to amend the Immigration and Nationality Act to effectively control the unauthorized immigration to the United States, and for other purposes.

The Senate resumed consideration of the bill.

Pending: Heinz Amendment No. 623 (to Hawkins Amendment No. 622), of a perfecting nature, to express the sense of the Senate regarding the separation of Social Security Trust Funds from the Unified Federal Budget.

Mr. SIMPSON. Mr. President, may I inquire as to what the pending amendment is?

The PRESIDING OFFICER. Amendment No. 623.

Mr. SIMPSON. That is the amendment of Senator HEINZ?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. That is with regard to the Social Security issue?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. Mr. President, I want to indicate that I am well aware of the intent of Senator HEINZ and his sincerity in bringing this issue to the body. It is something that will be dealt with.

I would sincerely hope and would reiterate that it not be dealt with on the Immigration Reform and Control Act of 1985.

I think it is important to pursue that now and go forward with that amendment. We shall see whether it can be

disposed of. I would hope that it would be disposed of on an up-or-down vote. We will know that shortly, apparently.

If it cannot be, then I would have to indicate to the sponsor and to all those involved that I would try to bring the issue to a conclusion at some appropriate moment with regard to this issue. I say that out of at least present recognition that I do not believe there will be any further amendments on the immigration bill. If there were going to be a great string of those in the background, and they could come as we remain ever creative and leave the bill hanging here after 7 days, then, of course, it is a different matter. But there are presently no amendments that I know of other than perhaps one that may be accepted by a voice vote that will be coming up.

That may change; it will change, indeed, I think, if we continue to string this out. I want to avoid that. I do not make any bones about that. I think I have been very patient and quite malleable and courteous; I might say, a genial fellow in all respects. But at some point in time, if we are going to have to get into other parts of that, we do.

That is not a threat, Mr. President, it is the reality of a bill. It is the reality of the legislative process working. it is called legislating. When you do it for 5 or 6 or 7 days and you come to a conclusion and you want to go for an up-or-down vote—win, lose, or draw—you are ringing the gong for the bill. It will be a tough vote. But I think you have to let a legislature legislate.

That is where we are, Mr. President. It does not have anything to do with my fine friend from Pennsylvania, who is a lovely friend, my fishing companion. If you think I am ever coming back—no, no, that was a momentary lapse there.

I say that as a legislator. That is where I must proceed.

So, let us go to the Heinz amendment and see where that debate goes. I am hopeful we can reach an up-or-down vote. If not, then a little later in the afternoon, I shall perhaps do some other procedural thing that will, hopefully, get us to a vote, with the knowledge that we can get to a vote today, I think, on this measure—and the majority leader will make that decision. If we can conclude this this evening, get to a final vote, there may likely not be a session tomorrow. But that is for the majority leader. I cannot even suggest that that is so. We may go back on Superfund, there may be other things.

With that, Mr. President, I am ready to proceed with the Heinz amendment, and we shall proceed to let the body work its will on that.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered.

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

Mr. BINGAMAN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BINGAMAN. Mr. President, reserving the right to object on that, for what purpose——

Mr. HEINZ. Maybe we had better try it again. I think the objection was heard.

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

Mr. BINGAMAN. Reserving the right to object, Mr. President, I just ask what the intention of the sponsor of the amendment is at this point, if he has additional points he wants to make in support of his amendment. There are still people on our side of the aisle who would like to speak about this amendment.

Mr. HEINZ. Mr. President, I appreciate the opportunity to respond to my colleague from New Mexico. I think it is apparent that our colleagues on the other side of the aisle are trying to prevent the Senate from expressing its will on this amendment. I find it ironic, and I do not say this in reference to the Senator from New Mexico. As far as I know, he has not been in any way obstructing consideration of this amendment. But it is clear that all the debate, argument, and slowdown tactics have been on that side of the aisle. Nobody here on the Republican side has in any way attempted to obstruct getting to a vote on this. I think that it should be clear that there are some people in the Democratic Party who, for one reason or another, are just not interested in having the Social Security System maintained in its integrity, separated from the budget process, so that the Federal Government either does not bail it out or it does not bail out the Federal Government.

The PRESIDING OFFICER. If the Senator from Pennsylvania will desist for a moment, the Chair must remark that this is out of order in that we had the request for a quorum call, then the request that the quorum call be rescinded, and there was an objection. That would be in order, but to reserve the right to object is not in order. We either have a quorum call or we do not, and we either have an objection to the rescinding of the quorum call or we do not.

Mr. BINGAMAN. Mr. President, I object to resciding the quorum call.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I want to renew my unanimous-consent request to rescind the call of the quorum.

Mr. BINGAMAN. Mr. President, I renew my objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The bill clerk resumed the call of the roll.

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

Mr. LONG. I object.

The PRESIDING OFFICER (Mr. COHEN). Is there objection?

Mr. CRANSTON. Mr. President, I do not object to its being taken off, but I do not want action for just a few more minutes.

Mr. HEINZ. Fine. No problem.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The bill clerk resumed the call of the roll.

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

Mr. CRANSTON. I object momentarily.

The PRESIDING OFFICER. The momentary objection is heard.

Mr. HEINZ. Has a moment expired?

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk continued to call the roll.

Mr. HEINZ. Mr. President, a moment or more having expired, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. CRANSTON. I still object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The legislative clerk continued to call the roll.

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

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

MOTION TO TABLE AMENDMENT NO. 623

Mr. HEINZ. Mr. President, the Senate has been discussing nothing all day. We have been trying to move the business of the Senate along since, I guess, about 11 or 11:30 this morning.

This afternoon, a quorum call was put in place on the other side of the aisle and, despite repeated attempts to try and get the quorum lifted so we could move ahead, it is clear that there was some kind of confusion, difficulty, obstruction, whatever you

want to call it, on the other side of the aisle.

I think it is important we get the Senate clearly on record, one way or the other, on the amendment before us so we can move on to ALAN SIMPSON'S immigration bill.

Therefore, I am going to move to table my own amendment. I am going to vote against tabling my amendment. I urge all Senators in this body who believe the Social Security Trust Fund should be separated from the unified budget to join me in voting against my motion to table. We will, therefore, since a tabling motion is a privileged motion, get a clear record of the sentiment of this body.

With that, I move to table the Heinz amendment.

Mr. RIEGLE. Mr. President, will the Senator yield before making the motion to table just for a comment?

The PRESIDING OFFICER. The Senator has moved to table. The Chair reminds the Senator that there is a first- and a second-degree amendment of the Senator from Pennsylvania.

Mr. HEINZ. The Senator moves to table the second-degree amendment.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. HEINZ. 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 on agreeing to the motion to table the amendment of the Senator from Pennsylvania [Mr. HEINZ]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 22, nays 77, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—22

Armstrong	Evans	Roth
Boren	Goldwater	Rudman
Boschwitz	Gorton	Stennis
Chafee	Hatfield	Symms
Danforth	Helms	Wallop
Dole	Johnston	Weicker
Domenici	Kassebaum	
Eagleton	McClure	

NAYS—77

Abdnor	D'Amato	Hart
Andrews	DeConcini	Hatch
Baucus	Denton	Hawkins
Bentsen	Dixon	Hecht
Biden	Dodd	Heflin
Bingaman	Durenberger	Heinz
Bradley	Exon	Hollings
Bumpers	Ford	Humphrey
Burdick	Garn	Inouye
Byrd	Glenn	Kasten
Chiles	Gore	Kennedy
Cochran	Gramm	Kerry
Cohen	Grassley	Lautenberg
Cranston	Harkin	Laxalt
Leahy	Murkowski	Sasser
Levin	Nickles	Simon
Long	Nunn	Simpson
Lugar	Packwood	Specter
Mathias	Pell	Stafford
Matsunaga	Pressler	Stevens
Mattingly	Proxmire	Thurmond
McConnell	Pryor	Trible
Melcher	Quayle	Warner
Metzenbaum	Riegle	Wilson
Mitchell	Rockefeller	Zorinsky
Moynihan	Sarbanes	

NOT VOTING—1

East

So the motion to lay on the table amendment No. 623 was rejected.

MOTION TO COMMIT WITH INSTRUCTIONS

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, the Senate has now made clear by that vote something that we all knew, that it is the desire of the Senate to see to it that Social Security is not used to balance the budget and offset spending in other areas. We were voting on a sense-of-the-Senate resolution. There are many on both sides of the aisle who would like to go further and actually take steps that would lead as soon as possible, beyond just expressing our desires, to protecting Social Security from actions to balance the budget that would reduce benefits to recipients. I am now going to offer a motion to recommit the immigration bill in a way that will bring it back immediately without the Social Security issue on it but will assure that real action will take place in regard to protecting the Social Security Program.

The motion would instruct the Budget Committee and the Finance Committee to find ways of dealing with the Social Security problem that, to quote from the motion, would make plain that "alterations would not be made in Social Security benefits for the purpose of reducing the Federal deficit; and the placement and means of considering the Social Security Program in relation to the congressional budget will be such that it will be ineffective to seek to achieve reduction of the overall Federal deficit by means of proposing reductions in Social Security benefits" and to report back to the Senate within a fixed period of time legislation to do just that.

Let me simply add one point before I send this to the desk. That is that negotiations on both sides of the aisle and across the aisle have led to a situation where this is a bipartisan effort. It is not a partisan effort. As proof of that, my cosponsors are Senators RIEGLE, HEINZ, SIMPSON, LONG, MOYNIHAN, BUMPERS, and KERRY. Having said that, to save time, I send this motion to recommit to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The motion will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for himself, Mr. RIEGLE, Mr. HEINZ, Mr. SIMPSON, Mr. LONG, Mr. MOYNIHAN, Mr. BUMPERS, and Mr. KERRY proposes a motion to commit with instructions.

Mr. CRANSTON. I ask unanimous consent that further reading be dispensed with.

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

The motion is as follows:

MOTION TO COMMIT WITH INSTRUCTIONS

I move, on behalf also of Senators RIEGLE, HEINZ, SIMPSON, LONG, BUMPERS, and KERRY, to commit S. 1200 to the Committee on the Budget with instructions to report back on or before October 15, 1985, with legislation for the purpose of assuring in the best and most reliable manner possible that, effective beginning with Federal Fiscal Year 1986:

(a) Alterations will not be made in Social Security benefits for the purpose of reducing the federal deficit; and

(b) The placement and means of considering the Social Security program in relation to the Congressional budget will be such that it will be ineffective to seek to achieve reduction of the overall federal deficit by means of proposing reductions in Social Security benefits; and

S. 1200 shall be reported back to the Senate forthwith with all present amendments agreed to in status quo; and

It is the Sense of the Senate that the legislation so reported from the Budget Committee should be sequentially referred to the Committee on Finance and that it shall report the legislation on or before November 1, 1985.

AMENDMENT NO. 644

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] proposes an amendment numbered 644 to the motion to commit.

Mr. RIEGLE. I ask unanimous consent that further reading be dispensed with.

Mr. KENNEDY. I object, Mr. President.

Mr. CRANSTON. Mr. President, objection.

The PRESIDING OFFICER. Objection is heard. The clerk will state the amendment.

The assistant legislative clerk read as follows:

Strike out all after "alterations" and insert in lieu thereof the following:

(a) Alterations will not be made in Social Security benefits for the purpose of reducing the federal deficit; and

(b) The placement and means of considering the Social Security program in relation to the Congressional budget will be such that it will be ineffective to seek to achieve reduction of the overall federal deficit by means of proposing reductions in Social Security benefits; and

S. 1200 shall be reported back to the Senate with all present amendments agreed to in status quo; and

It is the Sense of the Senate that the legislation so reported from the Budget Committee should be sequentially referred to the Committee on Finance and that it shall report the legislation on or before November 2, 1985.

AMENDMENT NO. 645

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] proposed an amendment numbered 645 to amendment numbered 644.

Mr. CRANSTON. I ask unanimous consent that further reading be dispensed with.

Mr. STEVENS. I object.

Mr. SIMPSON. Objection.

The PRESIDING OFFICER. Objection is heard. The amendment will be stated.

The assistant legislative clerk read as follows:

In the pending amendment strike out all after "alterations" and insert the following:

(a) Alterations will not be made in Social Security benefits for the purpose of reducing the federal deficit; and

(b) The placement and means of considering the Social Security program in relation to the Congressional budget will be such that it will be ineffective to seek to achieve reduction of the overall federal deficit by means of proposing reductions in Social Security benefits; and

S. 1200 shall be reported back to the Senate forthwith will all present amendments agreed to in status quo; and

It is the Sense of the Senate that the legislation so reported from the Budget Committee should be sequentially referred to the Committee on Finance and that it shall report the legislation on or before November 3, 1985.

Mr. CRANSTON. 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.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I have been asked by the distinguished minority leader if I could give him an indication of the schedule for the balance of the day and the balance of the week.

The PRESIDING OFFICER. The Senate will please be in order.

The majority leader.

Mr. DOLE. There will be, of course, as ordered, the yeas and nays on this amendment, followed by an immediate rollcall vote on passage of the immigration bill. Then we shall return to the Superfund legislation, S. 51. I hope we can complete action on that, if not this evening, some time tomorrow.

Then, on Monday, I hope we can take up appropriations bills, either the D.C. bill or State-Justice, maybe Treasury or perhaps HUD. I do not believe that will be ready yet.

If we could work out some agreement on that, I would be prepared—we have had people here working on amendments and not seeking to delay it—not to have any record votes on Monday. There would be votes on Tuesday, but then no votes on Wednesday, because that is another holiday and many of our colleagues will be out of the city and would have to return on Wednesday evening if there should be votes Wednesday evening. On Thursday and Friday of next week, we will be in session.

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

Mr. DOLE. Yes, Mr. President.

Mr. BYRD. In the event the Senate completes action on the immigration bill and the Superfund legislation today, would the Senate be in session tomorrow?

Mr. DOLE. No. If this were to happen, I think we could probably avoid a Friday session, but I understand that it is quite unlikely. There will be a number of major amendments on Superfund and perhaps some dispute on some of them.

Mr. BYRD. In the event, Mr. President, that the Senate does not complete action on both bills today, how late this evening does the distinguished majority leader expect to be in?

Mr. DOLE. As the distinguished minority leader knows, it cannot be too late because we are official hosts for the Chinese delegation—that meeting starts at 7:30 this evening—unless there can be a window provided. I would be perfectly willing to try to work that out. We would be only away from the Senate about an hour and a half, so I can check with the distinguished chairman of the Environment and Public Works Committee, Senator STAFFORD, and the chairman of the Finance Committee, Senator PACKWOOD. Maybe they would like to work on Superfund and finish it up tonight. If they do that, we could probably avoid a session on tomorrow.

Mr. BYRD. Very well. We will know a little later today then.

Mr. DOLE. I would request, if the Senators are on the floor or Members of their staff, they might give us a report immediately following action on the immigration bill. Then I can make a further announcement today.

Mr. BYRD. I thank the distinguished majority leader.

Mr. CRANSTON. Mr. President, let me briefly say that the perfecting amendments that have now been proposed in relationship to the motion to commit with instructions do not change in any way the substance of what I earlier stated. What we have done is offered a bipartisan proposal that would permit the immigration bill to be back on the floor as soon as the motion is adopted without any Social Security language in that measure. The Budget Committee would be instructed to consider this matter and report back language, to be sequentially considered by the Finance Committee, in a bill which would provide that alterations will not be made in Social Security benefits for the purpose of reducing the Federal deficit, and the placement and means of considering the Social Security Program in relation to the congressional budget will be such that it will be ineffective to seek to achieve reduction of the overall Federal deficit by means of proposing reductions in Social Security benefits. This will in effect protect senior citizens against raids on Social Security for purposes of balancing the budget. This bipartisan action in this body, if it is taken, will be consistent with action taken in a relevant subcommittee in the other body. Earlier today, the House Ways and Means Social Security Retirement Subcommittee voted unanimously, with members of both parties represented, to report language that would protect Social Security from being a victim of the budget process.

Under the motion I have offered, the details of how this will be done are to be worked out within the appropriate committees rather than through any precipitate action on the Senate floor. But there is a time period set forth in the instruction that requires final action by the committees on or before November 3, 1985, this will mean we will be in a position to end the annual jeopardy to Social Security when the budget is under consideration. I hope we can move swiftly to a vote on this matter.

Mr. HEINZ. Will the Senator yield?

Mr. CRANSTON. I will be glad to yield the floor to the Senator.

Mr. HEINZ. Just for a comment. I commend him on his motion. We have expressed the sense of the Senate as to separating Social Security from the unified Federal budget. Then in the motion to commit we have established a procedure using the Budget Committee and the Finance Committee for properly sequencing consideration of that measure procedurally. I think it will work very well together, and I thank my colleague from California for coming up with an elegant solution.

Mr. CRANSTON. I agree with the Senator and I thank him for his cooperation.

Mr. SIMPSON. Mr. President, I want to deeply thank the Senator from Pennsylvania and the Senator from California, Senator HEINZ and Senator CRANSTON, for a remarkable piece of work which saved this sponsor a great deal of pain. I must indicate that win, lose, or draw, I think it is time, or should be and perhaps we will

know shortly, if we can get to an up-or-down vote on that issue, and I thank them sincerely. It is a pleasure to work with them. If I got to any degree of light testiness, I certainly apologize. I do recall mumbling a little louder than usual a time or two to both of the participants. I appreciate their courtesy and I appreciate their willingness to work this out so that we can proceed. I thank them. They have been very, very courteous to me in that process.

Mr. KENNEDY. Mr. President, I rise in support of this motion to keep faith with America's senior citizens.

In almost every year since 1981 the Reagan administration and my colleagues on the other side of the aisle have tried to sacrifice aged and disabled Americans on the altar of the horrendous budget deficits their failed fiscal policies have created. As recently as this spring, the majority party in this body passed a budget resolution that would have cut $3 billion next year from the Social Security cost-of-living adjustment owed our senior citizens. By the end of 1987, under this Republican proposal, our senior citizens would have been $10.5 billion poorer. By the end of 5 years, Social Security beneficiaries would have been cheated of a whopping $49 billion. An additional 600,000 senior citizens would have been thrown into poverty, and all of our senior citizens would have seen their standard of living decline.

The fact is that Social Security is a sacred compact between the Federal Government and the citizens of this country. That compact says to all Americans: If you pay a portion of your hard-earned wages into the Social Security System while you are young, we will pay those wages back to you in the form of a stable, predictable, inflation-adjusted pension when you are old.

The Social Security Trust Fund is a self-financed program. It is supported entirely by employer and employee-paid payroll taxes. The fund must, by law, be self-supporting; it has no claim on general tax revenues. Because it is self-supporting, it can never contribute to the overall budget deficit.

The motion we are considering today would recognize the independent nature of the Social Security fund and the fact that there is no legitimate reason to include it in deficit reduction efforts.

But, there is a more important and basic message that we will convey by adoption of this motion: Just as the men and women who are senior citizens today kept faith with America through the Great Depression and Second World War, America intends to keep faith with them.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER (Mr. GARN). The Senator from Oklahoma is recognized.

Mr. BOREN. Mr. President, before we vote on this measure—I intend to vote against it—I want to briefly explain why I am going to vote against it. This Senator feels very strongly that the integrity of the Social Security Trust Fund should be protected, we should not transfer funds from the Social Security Trust Fund to finance spending of any other function of Government. We should not at any time abate any kind of pension program for current spending needs. I do have a concern that it would prevent us from behaving in a responsible fashion down the line in regard to budget deficits. I find it difficult to understand how we are going to enhance our ability to reduce budget deficits if we rule off limits from the budget process potentially about a third of the spending. I have been told by those who have crafted this proposal that it will not do that, that it will not necessarily make it impossible for us through budget reconciliation to consider how we can save money; for example, in the Medicare Program or some other program and credit those savings, so that we will have an incentive to make those savings. That remains to be seen. I hope that when the Budget Committee and the Finance Committee report back, they will do so with a proposal that is responsible.

But I do want to serve notice that if they report back, and if there is a proposal adopted that would make it impossible for the Senate to be able to consider expenditures on entitlement programs when we are trying to figure out how to save money, then I think we ought to just finish the job and take agriculture out—we are very concerned about helping the farmers—and say that any savings in agriculture would not count to reduce the budget deficit so that we will not be tempted to make any cuts in agriculture. I believe in education strongly and education programs, and I am going to move then that we take education off budget so that we will not be tempted at all to ever propose any cuts in education to balance the budget. Then there are many of us who believe in a strong national defense, and I am going to move we take defense off so we will not be tempted to make any cuts in the defense program in order to try to reduce the budget deficits, and that will once and for all mean there will be no temptations on the part of any of us to propose cuts to bring the total budget deficits under control; we can accomplish it all by moving everything off budget. And then what we will have left maybe is 4 or 5 percent of the spending and it will be in balance, we can congratulate ourselves that we balanced the budget; we moved everything off budget, off line. We are not tempted any more by having it out there to make it a part of the reconciliation process; we can congratulate ourselves, and we can go home and tell the people we have done our job to the fullest extent possible.

I think this is a very serious matter. As a member of the Finance Committee, I will be doing everything I can to make sure our deliberations are conducted in a responsible fashion. I hope the Budget Committee will do so also. But I do want to serve notice that I am prepared, if we report something back that in essence keeps us from ever again looking at a balanced approach—many of us have talked about fair sacrifice and shared sacrifice and freezes across the board, that even those who are receiving pension benefits might share in that sacrifice as long as every other American shared in a sacrifice.

Most senior citizens I talk with are strongly in favor of that concept of shared sacrifice. We take the kind of action that prevents us from looking at a shared sacrifice approach and bring all Americans together and help us reduce the deficits. When we consider the taxation that is going into the trust funds and how high the payroll taxes are compared to the income tax, if we want to rule off limits for any consideration of trying to get that one-third of spending under control that is included in entitlement programs, we should finish the job and be open about it and tell the American people that we do not intend to have anything on budget anymore and will balance the budget by moving those items off budget.

I sympathize with my colleagues who said they do not like the surplus in the Social Security Fund to mask the true deficits. I agree with them. The deficit is even larger than it appears to be by reading press accounts, because it is masked by amounts in the Social Security Trust Fund. I agree wholeheartedly on that with the Senator from California and others.

I do not want my "No" vote to indicate that I am not for the integrity of the Social Security Trust Fund. I am. I am simply going to cast it as a warning that I hope the two committees involved will act responsibly and move to ensure the integrity of that fund and that it will still leave us the flexibility to be responsible in trying to get spending under control and to get the budgets eventually brought into balance.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. BOREN. I yield.

Mr. DECONCINI. I am under the impression that in 1993, the Social Security Fund comes out of the unified budget, anyway.

Mr. CHAFEE. Mr. President, will the Senator use his microphone?

Mr. DECONCINI. I am using my microphone.

I am under the impression that under the Social Security amendment we adopted, the Social Security Fund comes out of the unified budget in 1993. If that is correct and we did nothing, would the Senator's position be the same as to take out farming, education, and defense at that time?

Mr. BOREN. I think the important thing is the manner in which it is taken out of the unified budget, and that is the reason why I am raising this point, I say to the Senator from Arizona.

I want us to have a separate accounting. I want us to make sure that there is never a possibility that money is transferred out of the Social Security Trust Fund that belongs to the retirees to fund any other program of Government.

For example, we have saved some $12 billion in the Medicare Program in the last 3 years. Some has been through control of the cost of medical care and has been to the benefit of senior citizens and has helped make Medicare more sound. We have frozen some reimbursements or curtailed some in order to retain that for the senior citizens.

One strong incentive we have to make as to those savings is that when the committees meet and have that chalk board at the front, when they write down the savings they are ordered to make as a committee, under the budget process, they are able to list that.

As we are struggling with the budget, if you say to the committees, "No, you can't write that down any more; anything you do to help the Medicare system or the Social Security system cannot be written down as a positive act," as we look at the budget process, you will take away from the committees an important incentive for doing it. If we write it in a way that does not prevent that, it will be all right.

Mr. DECONCINI. Is the Senator satisfied that the 1993 extraction from the unified budget is written in a proper way?

Mr. BOREN. We would have to amplify how that is done. The committees would have the right to go in and say how that is going to be done.

Mr. DECONCINI. I thank the Senator.

Mr. BOREN. I am not sure that this proposal takes us down this path at this moment. But I just intend to cast a "No" vote, really, as a warning shot to those committees involved, to say that I hope this is done responsibly and is not done in a way that will take away from the Senate the incentive to make further reductions wherever we can, in terms of getting costs under control—to shore up the trust fund and to get deficits under control.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. BOREN. I yield.

Mr. CRANSTON. Mr. President, I share the Senator's concern about the deficit. I voted for a budget that would do more than the budget that was adopted in terms of reducing the deficit.

Let me make one point plain. This instruction does not commit us to the foreboding course that the Senator perceives it might. The Senator will have a full opportunity in the Finance Committee to do his best to see that it does not lead us in that direction, and I will support him in that effort.

The main difference between agriculture and education and defense and so forth is that here, with Social Security, we are dealing with a trust fund that has a surplus. We are dealing with a trust fund which is funded by a special, dedicated payroll tax.

In the other areas the Senator mentioned, you are dealing with general appropriations, where there is no trust fund, and no surplus, and there are deficits. It is a very different matter.

Mr. BOREN. I thank the Senator from California. I understand the distinction.

There are some revolving funds involved—agriculture, CCC funds, which are replenished, and expenditures on loans that are ultimately going to be paid. So there are some other areas of the budget where we do treat it as a current account.

I am saying that there is nobody in this body who does not recognize that when you total Government expenditures—and I am talking about Government checks—approximately 30 percent of all spending is in the so-called primary area. Medicare is important, as are other programs.

I do not think we can look the American people in the eye and say we are being totally responsible if we remove that incentive—if we build a wall around 30 percent of the spending and say there is no incentive in Congress for doing anything about those areas. It is like making them untouchable. Some have said defense should be. This Senator might say that agriculture should be untouchable. I have strong feelings about education.

I do not believe that any area of the budget should be untouchable or unreachable or off limits. The point is that we should always be fair in the way we distribute the sacrifice. I do not think we should foreclose the opportunity of across-the-board actions or shared sacrifice, if we decide to freeze tax indexing, as some have proposed. We all will have to get in the same boat together, without regard to age or economic status and sacrifice, and get this thing under control.

I do not want to see us, politically popular as it might be, take that kind of action.

Also, I feel very strongly about the senior citizens. I think I have an excellent record with regard to their needs. I do not want to do anything that will take away incentives from Congress to take action year in and year out, not waiting for a crisis or waiting for a commission on Social Security. We should take action to make the system secure for the sake of the senior citizens. We had better think not about the next 6 or 12 months.

Those who voted for Social Security COLA's now want to find a way to make amends, to say: "We voted to really protect it and we are not allowing it to be cut any more." That might look good today, but 10 years from now, when we have problems, that will not look good to the very people we are here saying we are trying to help.

I realize that this vote may be misunderstood and that is why I want to explain it. I am in favor of protecting the integrity of the Social Security Fund.

I would be the last person or among the last persons here, because I know there are many others, who would ever vote to raid the Social Security fund to spend that money on something else. On the other hand, I do not want to see us begin the process of dismantling the budget procedures to the point that our committees no longer have incentives to find savings wherever they can. That is in the Medicare area, they are holding down cost. We should find ways to make those savings which should be credited in the reconciliation process.

I do not cast aspersions on anyone else's vote on this matter. I know there are a wide range of views, including those who would strongly agree with me who are going to vote for this motion. I may be the only one to vote against it. I want to do so for no other reason than to fire a warning shot that we must not let this process be accomplished in a way that will begin to remove things off budget. If we do one Senator is going to be out here voting or moving just to show the American people the irresponsibility of what we are doing, but take all the rest of the items off the budget, unless there is some one or two little programs remaining that I think should be abolished, and then we will keep them on the budget because we will have an incentive to make savings in those areas. If I can find any programs I think we should cut back strongly or abolish we will keep them in here because there would be incentives for the committee to cut them. Everything else this Senator likes and I suspect others join with me, pick your favorite item that you do not want to have any incentive to cut and let us all

join together and ban together and move those off budget and then we will all have our pet programs protected.

Mr. DOMENICI. Mr. President, I do not intend to talk very long. I want to get this matter over with. I have the greatest empathy for the distinguished floor managers of this immigration bill and I compliment them profusely for their patience.

I want to say to my friend from Oklahoma, Senator BOREN, that I personally heard many of his remarks yesterday and read them all and I compliment him. He has been talking real straight talk yesterday and today.

Frankly, it is so interesting we are talking about off budget and on budget. I would venture to bet there are not 10 Senators who know that this year formerly off-budget agencies have been moved on budget. They are all on there this year.

Why did we include trust funds in the united budget? We did not put them on because we want the budget process to take advantage of the trust funds. You people have to vote on policy for the trust funds. Congress has to vote in order to change trust funds, whether it is Medicare, Social Security, or highways. I will tell you that one-third of all outlays and nearly one-half of all revenues today are trust funds.

We are talking about Social Security trust funds here. But we also have highways, airports—there is a whole list of them. If anyone is interested I will put them in. They are protected by us and our votes and by the law.

But there is another reason that the Budget and Finance Committees have to be serious and concerned about this issue. We are talking about our need to be able to look at the fiscal policy of the Government.

Can a trust fund that is nearly one-third of the budget of America, therefore one-third of all its revenues—you know they come from the same people that you are taxing for everything else—can you really have a fiscal policy without including that in the budget?

Social Security has a surplus right now. Medicare did not have a surplus 4 years ago and except for some action down here and borrowing from Social Security, Medicare would be insolvent today. Would we run around and say that is all right, it is only a trust fund? But it was an insolvent trust fund, so we looked at it.

Don't you think it is important to the fiscal policy of your country that when Social Security gets to a surplus of $200 billion—and it will be there one of these days—it's important to know how that surplus affects our budget's impact on the economy? What is the reason to look at fiscal policy? You need to know how much you are taxing your people, how much are you spending, and what is the impact of deficits.

So the upshot of it all is that the railroad is coming. Somehow or another everyone is going to prove one time more that they are more for the old folks and the seniors and Social Security if they can do just one more thing and that is take it off budget. We have all had our votes and some are scared that they voted wrong before, some are very proud they voted right before, and now we just want to make sure that we send this message out there that we are really for them.

Well, frankly, we are going to do our very best to comply with this in committee, but we are also going to do our very best to retain the ability to show the Senators and Congressmen and the American people the status of our fiscal policy. We hope we can do that consistent with the spirit of this. We hope we can do it in such a way that you are sure that we are not changing Social Security or Medicare for the sole purpose of balancing budgets.

I am glad no one has at least said the reductions in Medicare the last 4 years has been for purposes of balancing the budget because there are many people on the Finance Committee who think those actions were for the very purpose of making sure Medicare was solvent. In fact, the most astute say if we had not done it we would have waited until it was insolvent and then probably formed a blue ribbon commission with 3 months to work on it.

But I am really proud to tell you it is probably solvent for 10 years, thanks to a budget document that looked at fiscal policy and said to a committee "You better look at that, you better cause some savings." And since it was all part of a budget, when they made savings it affected the deficit of the United States. But it was a real impact because, in fact, that one was going insolvent.

I compliment those who have been prudent to do this in an orderly manner. Legislation will come back for the Senate, the other body, and the President to consider. We will do our very best to make sure that the intention of this is maintained and that this budget process, complies ultimately with your desires here tonight.

I do not think we need to do this, but I think clearly it is better than what many others have thought might happen, and we hope to do a good job both for this country and the senior citizens and preserve fiscal responsibility in our deliberations on it.

Mr. BUMPERS. Mr. President, last Friday afternoon I came over here to the floor because I knew the Senator from Pennsylvania was going to offer his sense-of-the-Senate resolution, and I simply intended to offer a second-degree perfecting amendment to mandate removal of Social Security from the unified budget rather than just a nonbinding, sense-of-the-Senate resolution on this issue. I have offered my share of those resolutions and voted for my share of them. Yet they are rather time consuming and in the end they do not mean anything. The people out in the hinterlands, however, do not always know the difference between when the Senate has done something real and when we have just pretended to do something.

So, I took exception to the sense-of-the-Senate approach. I would vote for it, if nothing else was available. When I got here on Monday I found that a first- and a second-degree amendment had been offered to amendment number 602 and so the amendatory process was filled. That was that and I was effectively blocked from offering my amendment.

Now, I think we have reached what I think is a sensible accommodation for all the parties who feel as strongly about this issue as I do.

I want to make this first point. It is a funny thing how debates like this take on a life of their own and the logic slowly changes.

Now, the argument being raised for leaving the Social Security trust fund in the unified budget is that all Government spending should be subjected to our scrutiny and consideration in the reconciliation process.

But I want to invite your attention to an historical fact. The Social Security trust fund was not put in the unified budget so we could get all spending before us in the reconciliation process. The reconciliation process didn't even exist then. It was put in there for the most devious of reasons. And so far as I am concerned, the logic for taking it out is just as great now as the illogic was for putting it in then.

Lyndon Johnson promised the American people two things: No. 1, that he would balance the budget, and, No. 2, that we could fight the Vietnam War without raising taxes to pay for it. You remember all the "guns and butter" arguments during the entire Vietnam debate. When these debates started Social Security was then running surpluses, as it had always run and it was not included in the unified budget.

So Lyndon Johnson called his folks in and says,

> I have a political commitment to the American people to balance the budget, and I also have a commitment not to raise taxes to pay for this war. Figure out a way to reconcile these positions.

They came back and said,

> Let's take the Social Security Fund, which has a surplus, and dump it into the budget to cut the deficit figure. You then can go to the American people and tell them you balanced the budget and that there is plenty of revenue to fight that war without raising taxes.

The American people at that time really did not understand what had happened. But that was the reason it happened, not because of a unified budget, not because of any reconciliation process, and not so that the Congress could look at all spending.

The Senator from Oklahoma and I do not disagree very often. He is a most able, articulate spokesman for that great State. We just have a simple difference of opinion on whether Congress is more or less likely to face up to our deficits with Social Security in the budget.

I want to say two or three things on this question. First, we all now that right now the Social Security Trust Fund has a slight surplus, not a big one, but that the Chief Actuary for the Social Security Administration says by 1994, Social Security could have a $627.6 billion surplus. Let us assume that that prognostication turns out to be true. I hope it is true.

Mr. DOLE. Will the Senator yield for a moment?

Mr. BUMPERS. I am only going to speak another 40 or 50 minutes.

Mr. DOLE. I had that fear. But I wanted to indicate to other Senators that I have to leave here at 5:15 and will not be back until sometime after 6, and I do not intend to miss any votes while I am gone.

Mr. BUMPERS. I say to the Senator, I am going to speak for about 5 more minutes.

Mr. DOLE. I know there will be a few votes. There will be a vote on the motion to commit and a vote on final passage. I do not want to shut anybody off.

Mr. BUMPERS. With the current trust fund surplus no one in this body can doubt that Congress is underestimating the real deficit problem by subtracting the surplus of the Social Security Fund from the deficit figure.

Now, why not have a little truth in Social Security? Put the trust fund out here in the full view of the American people so the young workers, who are apprehensive about the system and about whether there will be anything for them there when they retire can see it. Trust the American people with the truth. The only time we ever get in trouble here is when we mislead them and deceive them. Thomas Jefferson and Harry Truman both said, "Don't do that. Tell them the truth. They can handle it."

So I say put the trust funds out there, Medicare and OASI both. Let the people see the financial condition of each, with their surpluses or deficits.

I know this. The pressures to cut Social Security in order to balance the budget are a lot greater if you leave these trust funds in the unified budget. You know that.

To suggest that Congress is abdicating all jurisdiction over the Social Security trust fund simply because we take it out of the budget is nonsense. Congress will continue to decide what the payroll tax will be, whether recipients should get a COLA, how big the COLA will be. The only thing we are doing is ensuring that these questions will be decided on the merits, not based on some impact on the accounting of the deficit.

When you talk about taking defense spending off budget or education off budget, I say this. The day there is a tax imposed on the American people specifically to pay for defense spending, I will be the first one to say, "Let us set this budget function off in a separate trust fund off the budget." The minute people pay a separate tax, as they do payroll taxes for Social Security, for education, I will be the first one to say, "Move it off budget. Let the American people see where their education money is going. Let them see whether their taxes are paying for our defense spending."

Social Security, however, is unique. There is no specific tax for any other program of this size and there is no other program where so many Americans depend on the integrity of such a fund.

The argument that somehow or other we can more easily, cut Medicare spending, or whatever trust fund program you name, if we keep it hidden in the budget is not in keeping with the better instincts of this body.

When it comes to the reconciliation process for the Medicare Program, the Finance Committee voted to freeze physicians' fees in order to ensure the integrity of the fund. But the suggestion here is that with reconciliations you can put Medicare on a blackboard in the Finance Committee and proceed to cut it, such as by freezing physicians' fees, and somehow there will be no opposition to it or politically it will be acceptable: whereas, if you take this program off budget and set it over here for all the world to see, you cannot take prudent steps to manage the program because it is not politically acceptable.

Well, we did not fool any doctors by using the reconciliation process. I had 20 of them in my office yesterday, all complaining about the freeze in physicians' fees.

I am just simply saying, we need to face up to our responsibilities on both the deficits and Medicare. In 1994, if the prognostication about Social Security Trust Fund Surpluses comes true, what are we going to do? Are we going to leave the $627.6 billion in the unified budget to give some sense of security to the American people that there is no deficit? Will leaving these surpluses in the budget assure people that Social Security is solvent, which they have a right to know? Or are we going to break faith with the American people by taking some of that $627.6 billion to reduce the national debt and deficits that we are so recklessly and irresponsibly building here? Or are we going to cut payroll taxes? Those are options that we will have, whether Social Security is off or on budget.

Let me close with this observation. I said yesterday that this Social Security Surplus is being used to disguise the deficit. However, people do not pay Social Security taxes to reduce or balance the budget. They pay Social Security taxes so there will be something there for them to draw upon when they are 65 years old.

I promise you the American people do not have the foggiest idea about how the Social Security Fund is been handled in the deficit calculations. They want to know. They strongly suspect their money is being tinkered with. We need to reassure them by taking Social Security out of the budget. In a technical sense, the surplus in the Social Security fund is not being used to fund any other programs, but in a real sense it is reducing the Government's need to pay for these other programs. This is so because the current $50 billion dollar surplus in the fund is being used indirectly to reduce the deficit figure.

In addition this surplus is also being used to finance other programs of Government. How? Because, the Social Security Trust Fund loans its surplus funds to the only person it can loan its surplus to, and that is the U.S. Treasury. It cannot loan the surplus to the American people by making investments. It has to loan it to the U.S. Treasury, and it has been loaning the surplus to them at a bargain basement interest rate.

The U.S. Treasury pays the Social Security Trust Fund billions of dollars in interest, to borrow these funds, borrowing that shows up as a "wash" transaction in the budget. When we figure out the gross interest we are paying to finance the debt the figure really is $180 billion, but we tell the American people it is only $130 billion because we count Treasury Department interest charges as both a cost and—elsewhere in the budget—as income to the Social Security Trust Fund.

When the Treasury pays the Social Security Administration billions of dollars in interest we show that as income to the Government, and we subtract the same amount from the $180 billion that we should report as our true expense to finance the debt. Now, if that isn't a "sweetheart" operation, I never saw one.

So, Mr. President, I will conclude my remarks. I think we are taking a very responsible position here in moving to take Social Security out of the unified budget. I cannot help but feel that some of the people who do not like

this idea do not like it because they do not want to see how Social Security reduces the deficit figure.

I certainly intend to vote for the motion. I applaud the Senator from California for offering it.

Mr. CRANSTON. Mr. President, I thank the Senator from Arkansas. He has stated with his customary eloquence the reason for supporting this motion to recommit. There have been a number of points he has made which concur with. Because of our time constraints, I would like to just very briefly add a footnote to one point raised by the Senator from Oklahoma on the issue of whether or not Social Security should be on or off the budget or related to it in some way in terms of fiscal constraints on Federal spending. Social Security presently has a surplus and it is growing. In 10 years under the intermediate economic assumptions of the Social Security actuaries, the Social Security's trust fund is expected to have a surplus of $500 billion. So if we keep Social Security in the budget, we will have less incentive—not more incentive—to constrain Federal spending on non-Social Security programs. Therefore, you can turn the argument of the Senator from Oklahoma upside down, and say the sooner we get it out of the budget, the more likely we will be to have incentive to hold down spending on non-Social Security programs.

Mr. DOLE. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the amendment of the Senator from California. 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. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 79, nays 20, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—79

Abdnor	Durenberger	Kasten
Andrews	Eagleton	Kennedy
Baucus	Exon	Kerry
Bentsen	Ford	Lautenberg
Biden	Garn	Leahy
Bingaman	Glenn	Long
Bradley	Gore	Lugar
Bumpers	Grassley	Mathias
Burdick	Harkin	Matsunaga
Byrd	Hart	Mattingly
Chafee	Hatch	McConnell
Chiles	Hawkins	Melcher
Cochran	Hecht	Metzenbaum
Cohen	Heflin	Mitchell
Cranston	Heinz	Moynihan
D'Amato	Helms	Murkowski
DeConcini	Hollings	Nickles
Denton	Humphrey	Nunn
Dixon	Inouye	Pell
Dodd	Johnston	Pressler
Proxmire	Sasser	Trible
Pryor	Simon	Warner
Quayle	Simpson	Weicker
Riegle	Specter	Wilson
Rockefeller	Stafford	Zorinsky
Roth	Stennis	
Sarbanes	Thurmond	

NAYS—20

Armstrong	Goldwater	McClure
Boren	Gorton	Packwood
Boschwitz	Gramm	Rudman
Danforth	Hatfield	Stevens
Dole	Kassebaum	Symms
Domenici	Laxalt	Wallop
Evans	Levin	

NOT VOTING—1

East

So the amendment (No. 645) was agreed to.

Mr. DOLE. Mr. President, if we may have order, I will indicate to the distinguished minority leader that, as I understand, we will go to final passage almost immediately. That will be the last rollcall vote this evening. Following final passage, we will go back to Superfund. I understand both Senators STAFFORD and BENTSEN have agreed to take up noncontroversial amendments until about 6:30. Following that, we will go out this evening and come back tomorrow about 10. We will either go to the Compact of Free Association, if we get permission to set aside Superfund, or, if not, stay on the Superfund bill.

I am also advised by a couple of my colleagues that they have minor resolutions which they would like to bring up tonight. I have no objection to the matter that the distinguished Senator from Massachusetts called to my attention, and I think the Senator from Illinois is trying to clear another resolution on National Dental Hygiene Week, so we will try to complete that this evening also.

We would also like to get permission for the Agriculture Committee, if there is no objection, to meet beyond 6 p.m.

The PRESIDING OFFICER (Mr. RUDMAN). The Senator from Wyoming is recognized.

order to conclude past proceedings, I would ask that we have a voice vote on the motion.

The PRESIDING OFFICER. The question before the Senate is agreeing to the Riegle amendment, as amended.

The amendment (No. 644) was agreed to.

The PRESIDING OFFICER. The question before the Senate is on agreeing to the Cranston motion, as amended.

The motion, as amended was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, as chairman of the Budget Committee, I report back Senate bill 1200 as required.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1200) to amend the Immigration and Nationality Act to effectively control the unauthorized immigration to the United States, and for other purposes, reported with amendments.

Mr. SIMPSON. Third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question before the Senate is, Shall the bill pass?

Mr. KENNEDY. Yeas and nays, Mr. President.

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

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent the Secretary of the Senate be authorized to make clerical and technical corrections in the engrossment of S. 1200.

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

AMENDMENT NO. 646

Mr. SIMPSON. Mr. President, I ask unanimous consent that technical amendments to the bill be adopted.

The PRESIDING OFFICER. Is there objection to adopting the technical amendments after third reading has been ordered?

Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 646.

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

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

The amendment is as follows:

Page 80, line 10, insert before the period the following: "by an alien other than an alien who is eligible for benefits under title XVI of the Social Security Act or section 212 of Public Law 93-66 for the month in which such alien is granted lawful temporary residence status under subsection (a)".

Page 85, lines 9 through 10, strike out "(other than a special Cuban and Haitian entrant, as defined in subsection (a)(2)(D))".

Page 85, line 24, strike out "and".

Page 85, after line 24, insert the following: except that the foregoing disqualification shall not apply in the case of—

(D) any assistance described in subparagraph (A), (B), or (C) if the alien is a special Cuban or Haitian entrant, as defined in subsection (a)(2)(D), or

(E) the program of supplemental security income benefits authorized by title XVI of the Social Security Act or medical assistance under a State plan approved under title XIX of the Social Security Act, if the alien is determined by the Secretary of Health and Human Services, based on an application for benefits under title XVI of the Social Security Act or section 212 of Public Law 93-66 filed prior to the date designated by the Attorney General in accordance with subsection (a)(1)(A), to be permanently residing in the United States under color of law as provided in section 1614(a)(1)(B)(ii) of the Social Security Act and to be eligible to receive such benefits for the month prior to the month in which such data occurs, for such time as such alien continues without interruption to be eligible to receive such benefits in accordance with the provisions of title XVI of the Social Security Act or section 212 of Public Law 93-66, as appropriate; and

EXPLANATION OF AMENDMENT

The amendment is a "grandfather" provision intended to permit the continuation of supplemental security income (SSI) and medicaid benefits to those aliens who are eligible for SSI benefits under current law prior to being granted lawful temporary resident status under S. 1200. The possible loss of these benefits could act as a deterrent to affected aliens applying for legalization.

On page 2, in the table of contents of the bill, insert after the item relating to section 124 the following new item:

Sec. 125. Seasonal agricultural worker program.

On page 37, line 12, insert ", 101(a)(15)(O)," after "101(a)(15)(N)".

On page 60, line 1, insert "or 217" after "section 216".

On page 60, line 3, strike out "such section" and insert in lieu thereof "section 216 or subsection (b)(4) of section 217, as the case may be,".

On page 63, line 6, insert "and section 217" after "section 216".

On page 64, between lines 14 and 15, insert the following:

"(3) The Commission shall specifically review the following with respect to the seasonal agricultural worker program under section 217 of the Immigration and Nationality Act:

"(A) The standards described in subsections (b)(2), (3), and (4) of that section for the certification respecting seasonal agricultural workers.

"(B) What is the proper length of time and proper mechanism for the recruitment of domestic workers before importation of such foreign workers.

"(C) Whether current labor standards offer adequate protection for domestic and foreign agricultural workers.

"(D) The availability of sufficient able, willing, and qualified domestic workers to meet the needs of agricultural employers.

"(E) The appropriate limit on the number of seasonal agricultural workers who may be imported into all agricultural regions in the United States at any given time, taking into consideration all relevant data, including that resulting from the experience of the Agricultural Labor Transition Program.".

On page 64, line 16, strike out "two years" and insert in lieu thereof "three years".

On page 64, line 19, insert "and seasonal" after "temporary".

On page 64, line 20, strike out "program under section 216" and insert in lieu thereof "programs under sections 216 and 217".

On page 64, line 24, strike out "subsection (b)(2)" and insert in lieu thereof "subsections (b)(2) and (3)".

On page 65, line 2, insert "and seasonal" after "temporary".

On page 65, between lines 12 and 13, insert the following:

"(5) on the appropriate limit on the number of seasonal workers who may be imported into all agricultural regions in the United States at any given time under section 217.

"(6) on the need to continue, improve, or eliminate the seasonal agricultural worker program established under section 217.

On page 66, lines 11 and 12, strike out "in consultation with the Vice Chairman" and inserting in lieu thereof "in accordance with rules agreed upon by the Commission".

On page 68, line 4, strike out "27 months" and insert in lieu thereof "39 months".

On page 104, lines 20 and 21, strike out "216 (added by section 122(c)" and insert in lieu thereof "217 (added by section 125(b)".

On page 104, line 24, strike out "SEC. 217." and insert in lieu thereof "SEC. 218.".

On page 112, line 22, strike out "section 217" and insert in lieu thereof "section 218".

On page 113, line 7, strike out "section 217" and insert in lieu thereof "section 218".

On page 113, line 15, strike out "section 217" and insert in lieu thereof "section 218".

On page 113, line 18, strike out "section 216 (added by section 122(f)" and insert in lieu thereof "section 217 (added by section 125(i)".

On page 113, between lines 19 and 20, strike out "SEC. 217." and insert in lieu thereof "SEC. 218.".

On page 114, line 9, strike out "paragraph (15)(O)" and insert in lieu thereof "paragraph (15)(P)".

On page 114, lines 22 and 23, strike out "paragraph (15)(O)" and insert in lieu thereof "paragraph (15)(P)".

On page 116, line 6, strike out "section 122(a)" and insert in lieu thereof "sections 122(a) and 125(b)".

On page 116, line 7, strike out "subparagraph (M)" and insert in lieu thereof "subparagraph (N)".

On page 116, line 8, strike out "subparagraph (N)" and insert in lieu thereof "subparagraph (O)".

On page 116, line 11, strike out "(O)(i)" and insert in lieu thereof "(P)(i)".

On page 121, line 10, strike out "section 217" and insert in lieu thereof "section 218".

Section 501(a), on line 9, strike "10" and insert in lieu thereof "12".

Section 501(b), on line 24, insert "and Mexico" after "United States".

Section 501(e), on line 9, strike "(e)" and insert in lieu thereof "(d)" and redesignate subsequent subsections.

Section 501(d), (as amended above), on line 11, strike "(f)(2), (f)(3), (g), and (h)" and insert in lieu thereof "(d), (f)(2), (f)(3), (g), (h), and (i)".

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

The amendment (No. 646) was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that all Senators may have the privilege of inserting statements in the RECORD as though read.

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

Mr. MATTINGLY. Mr. President, the issue before us today is a familiar one. As my colleagues are well aware, this is the third time in as many Congresses that we have considered immigration reform legislation. On each of the previous occasions, I have cast my vote in favor of the legislation, and I will do so again today.

Without question, we must take steps to stop the flow of illegal aliens across our border. The well-being of our citizens requires that. I believe the bill before us represents a serious effort to gain control of our borders. The increased funding for the Immigration and Naturalization Service for enforcement activities and the employer sanctions will both contribute to this control.

There are those who argue against the need to impose sanctions against knowingly hiring illegal aliens. I believe, however, that the employer sanctions are the centerpiece of the bill. Without doubt, the promise or even the hope of employment and the economic gain that employment will bring is the strongest lure drawing illegals across the border. While the bill provides for stiff penalties against employers who knowingly hire illegals, it also furnishes needed protection aganist wrongful prosecution. In this area, I believe Senate bill 1200 is stronger than the two previous versions of Simpson-Mazzoli.

Mr. President, I will not take anymore of my colleagues' time at this point, because these issues are familiar to us. But let me simply say that the American people favor immigration reform. The majority believe it is long overdue. I agree, and I urge my colleagues to join me today in voting for S. 1200.

Mr. BUMPERS. Mr. President, I rise today to voice my support for the Immigration Reform and Control Act of 1985, which is presently pending before the Senate. The enactment of this very important legislation has been long overdue. I have supported similar measures in the 97th and 98th Congresses and I continue to believe that this legislation is in the national interest of the United States.

No other country in the world accepts or resettles the numbers of immigrants that the United States accepts. We can be proud of this heritage and of our commitment to the principles that are so eloquently enunciated in the words etched in stone on one of this country's most beautiful monuments—the Statue of Liberty. Those words describe the open arms of this country that still extend to the "huddled masses" yearning to breathe the free air of democracy. Reform of our immigration laws does not mean that the United States will isolate itself from the world. It simply means that this Government has a responsibility to allow immigration to occur in

an orderly and lawful fashion with a sense of fairness and reasonableness.

For years, we have known that immigration into this country has been out of control and no action has been taken to reform our badly outdated immigration laws. I am hopeful that the House will now proceed with, and pass, a comprehensive immigration measure during this 99th Congress. We all recognize that the first duty of a sovereign nation is to control and protect its borders, and it is time that we met that responsibility.

Immigration into this country—legal and illegal—now exceeds over 750,000 per year and accounts for 30 to 50 percent of our annual population growth. No one disputes that immigrants have been the building blocks of this country. The problem arises when immigration is in violation of the law and that we have no programs to assimilate new immigrants. Net illegal immigration is estimated at 500,000 per year, or over two-thirds of all immigration. Should illegal immigration continue unabated, by the year 2025, some 100 million of the estimated 300 million people in the United States will be post-1980 immigrants.

We need to get contol of this influx for many reasons. Most importantly, we need to know how our country is changing. The Select Commission of Immigration has estimated the number of illegal immigrants in this country to be between 3.5 to 6 million. This figure represents data that was compiled 7 years ago. Surely, there are many more illegal immigrants in this country today than in 1978. In a recent exposé on immigration in the United States, Time magazine reported that there may be as many as 12 million illegal immigrants in the United States.

The point, Mr. President, is that we don't know. Not only are we not aware of the number of illegal immigrants, we do not know how many of these immigrants have displaced American workers. Nor do we know how much the U.S. Government spends in health care, education, and other social services for illegal immigrants. While many have argued that lack of data is a reason to postpone immigration reform, I contend it is the very reason why we must proceed with this legislation. It is essential in the responsible management of our economy and of fiscal policy that we know the full extent of illegal immigration.

There have been many concerns that we not enact a bill designed to control the influx of illegal immigrants that may be discriminatory or a bill that is inconsistent with our longstanding tradition of providing refuge for the downtrodden. I share these concerns, yet I am pleased that over the many years that immigration reform has been considered and the many hours of hearings and testimony on these questions, a bill has been put together that addresses these concerns. I congratulate my colleagues who have worked so many hours on a bill that will be fair, yet effective.

Again, I urge the Senate to adopt this legislation so that we may deal effectively with a problem that grows increasingly harder to solve every year. The United States accepts and is honored by the fact that freedom and democracy are attractive to people throughout the world. Yet, with that, we must also accept our last responsibility to the citizens of this country, to the thousands of legal immigrants, and to the untold millions of illegal immigrants, to forge a fair and effective policy to stem the rising tide of illegal immigration and equalize the opportunity this bountiful land provides for all.

Mr. GRASSLEY. Mr. President, I rise today to congratulate my most distinguished colleague from Wyoming [Senator SIMPSON] for the outstanding job of once again accomplishing passage of immigration reform in the Senate.

As is apparent over debate in the last Congress, this issue is a very difficult one and though people tend to agree in general that control of our borders must be improved, the specifics of how to implement that improvement stir violent disagreement.

The gentleman from Wyoming has proved a master at bringing these different forces together—working out compromises to complete a piece of legislation that the Senate can support and that will have a major positive impact on this Nation.

So I extend to him my heartiest congratulations. It has been a great pleasure and a real learning experience working with him during the period in which I have been in the Senate. I hope that I can continue that experience over the years to come and this is the first of several immigration reform proposals we consider in this body. Fine tuning will be needed on this bill and other immigration and refugee issues which will come before us.

I look forward to working with Senator SIMPSON and his very competent staff, Dick Day, Carl Hempe, Chip Wood, and Jodi Brayton as we struggle with those issues.

At this time I would also like to commend the chairman of the Judiciary Committee for his diligence in seeing that this issue stayed before the Senate until it was resolved. As always his support has been unflagging and without that, the immigration reform bill would never have seen the light of day.

I now urge the House to act quickly on its measure so that we may proceed to conference and finally give the American people a response they have long awaited.

Mr. GLENN. Mr. President, on both previous occasions when the Senate considered immigration reform legislation I voted for it. I believe it is shameful that Congress has delayed so long in meeting our responsibility to address the serious problem of illegal immigration into this country. Again today, I will vote for the immigration reform bill, but I must admit Mr. President, I do so reluctantly.

My primary reservation stems from the addition to the bill of authorization for a large new guestworker program. In so doing, I fear we have created a bureaucratic nightmare and posed a serious threat to the underlying purpose of this bill—to control illegal immigration. Now, Mr. President, I am not insensitive to the special needs of the growers of perishable agricultural commodities. However, I believe the bill as reported went a long way toward addressing those needs. It created a special procedure for seasonal workers in agriculture, phased it in over 3 years to give growers to adjust, and required an expedited response by the Secretary of Labor in recognition of time-sensitive needs of growers.

I wonder how any one is going to keep track of up to 350,000 guestworkers as they move from farm to farm over a 9-month period. And if we cannot keep track of them, then we risk undermining the very purpose of this bill.

Further, the availability of 350,000 foreign workers will, I believe, inevitably impact adversely on the job opportunities for our domestic labor force in this area.

I am pleased that, at a minimum, we will have an opportunity to reconsider this ill-advised program in 3 years. Despite my serious reservations about this one provision of the bill before us, I will vote for the overall package because I believe that the bill's main provisions—increased enforcement, employer sanctions, and legalization—represent the best method any number of experts have ever devised to deal with this pressing problem. These changes are needed, and they are long overdue.

Mr. HATFIELD. Mr. President, the Senate once again is faced with final passage of legislation to restructure our Nation's laws with respect to illegal immigration. I support S. 1200, and commend Senators SIMPSON and KENNEDY for their perserverence on this highly complex and controversial issue. Crafting immigration reform legislation which responds to the unique conditions of our day takes tremendous wisdom and requires a great deal of time.

As we are all aware, our Nation's present immigration laws have proven woefully inadequate in controlling the flow of persons entering the country illegally. For years it has been clear

that immigration reform is necessary. Unfortunately, because of highly emotional and diverse views on the myriad of issues relating to immigration reform, Congress has been unable to reach agreement.

This paralysis is regrettable. Our Nation admits more legal immigrants and refugees than any other nation. However, unless Congress takes swift action to control the flow of illegal immigrants, the increased competition for jobs and the growing number of illegal workers, will likely spawn an outcry for the complete closure of our borders from the American people.

Mr. President there are four basic components which form the foundation of this legislation's efforts to halt the flow of illegal immigrants. In my judgment, each play an essential part in responding to the difficult challenge of immigration reform.

First, S. 1200 states that it is the sense of the Congress that the Immigration and Naturalization Service [INS] should increase its border patrol and other inspection and enforcement activities. Accordingly, the bill establishes the authority to increase funding for the INS by approximately $300 million in 1987 and 1988. The bill also increases penalties for bringing an alien into the United States, for the use and manufacture of counterfeit or altered entry documents and for the use and manufacture of false identification.

Second, the bill institutes employer sanctions for those employers who knowingly hire unauthorized aliens. Under current law it is not unlawful for an employer to hire an illegal alien. This fact, coupled with the fact that our Nation is the most prosperous and promising country in the world, creates a powerful magnet which draws poor, and often desperate individuals to cross our borders illegally in search of a means to support themselves and their families. These aliens are often subject to inhumane and oppressive treatment by unscrupulous employers who know full well that the worker will not report to law enforcement authorities any violations for fear of being deported.

Employer sanctions would place a civil fine of up to $2,000 per alien on an employer, of four or more persons, who knowingly hires an illegal alien. A second offense would bring a fine of up to $5,000 per illegal alien, and upon conviction of a third violation the fine could be as high as $10,000 per illegal alien. Additionally, the third offense would establish a pattern or practice of violations. Once a pattern or practice of violations has been established, any additional offense would bring a criminal penalty of up to $3,000 per alien, and imprisonment of up to 6 months.

The employer sanctions, however, would not go into full effect until 1 year after enactment of the bill. The first 6 months would be an "education period." Should an employer be found in violation during the second 6 months, he or she only would receive a warning, unless a warning had already been given earlier in the period.

With the imposition of penalties on employers, the availability of American jobs to illegal workers will drop significantly. Additionally, without the employment incentive, the numbers of persons seeking to immigrate illegally also will be reduced.

The third foundational component is closely related to employer sanctions. It provides a voluntary employer verification system. This system will establish an affirmative defense for an employer found to have employed an illegal worker after enactment of S. 1200. This is intended to protect employers who, after making a good faith effort to abide by the law, are found to have inadvertently hired illegal workers.

Under the system an employer must keep records on all newly hired employees which verifies that he or she had checked specified documents, such as a U.S. passport, certificate of U.S. citizenship, driver's license, or Social Security card, to determine the prospective employee's identity and work authorization status. If an employer chooses not to keep the verification records and is found to have employed an illegal alien, he or she is presumed to have knowingly hired the alien and must rebut the presumption with "clear and convincing evidence."

Finally, S. 1200 institutes a legalization program for certain illegal aliens already in the country. It does not grant legal status to all illegal aliens. Such an act would be far too burdensome to State and local governments and would send a dangerous signal to those considering entering this country illegally. Also, the legalization program does not make all forms of public assistance available to these newly legalized persons. S. 1200 does grant temporary legal status, not citizenship, to aliens who can prove they have resided continuously in the country since January 1, 1980.

There is an estimated 6 million undocumented aliens in our country. It is both impractical and unwise to attempt to round up these aliens and throw them out of the country. In parts of the United States such an attempt by the Federal Government would precipitate a near civil war, and would subject legal residents of foreign appearance to gross invasions of privacy.

Studies have shown that between 64 to 75 percent of all undocumented aliens pay Federal income taxes, and as many as 88 percent pay Social Security taxes. Eight years ago, a report by the Federal Government stated that undocumented aliens pay almost $6 billion a year in Federal, State, and local taxes. By setting the cutoff date at January 1, 1980, those aliens legalized will have been the ones who are holding jobs and producing identifiable benefits for their communities.

Mr. President, as I stated before, S. 1200 is not a perfect piece of legislation. There are aspects of the bill with which I am not completely comfortable. One specific concern, which I raised earlier in the debate, relates to our almost unconscious drift toward the establishment of a national ID card. I strenuously oppose creation of such a card and I believe that the vast majority of the American people do also. Such an ID card would be a gross invasion of privacy and a violation of the liberties secured to all citizens by the Constitution. Regardless of how legitimate the immediate need may be, such as immigration law enforcement, a national ID card, in the long run, could be used for appalling purposes.

During consideration of a similar immigration reform measure 2 years ago, I offered an amendment which granted Congress a legislative veto power over any Presidential proposal to implement a national ID card. This year, S. 1200 includes provisions which insures that Congress will have a role in any Presidential efforts to establish a national ID card. It also will enable the Congress to express disapproval for any minor change in an existing identification document.

Even though S. 1200 contained the above provisions, I still sought, and received, assurances from Senator SIMPSON, the chairman of the Subcommittee on Immigration and Refugee Policy, that it was neither the intention of Congress to establish a new national ID card nor to expand the use of the Social Security card for such purposes.

Let me address one final concern Mr. President, I realize many Senators expressed reservations about the adoption of an amendment, offered by Senator WILSON, establishing a more realistic foreign worker program for perishable agriculture. Because of the highly vulnerable nature of perishable crops, growers needed an alternative to the present H-2 Program. Unfortunately, the expanded H-2 Program in S. 1200 does not provide the flexibility necessary to respond to the rapidly changing labor needs of perishable growers.

Consequently, I supported Senator WILSON's amendment. The amendment was not what its opponents claimed. It would not have taken jobs away from American workers. Foreign workers would be given visas only if it was determined by the Attorney General, after consultation with the Secretaries of Labor and Agriculture, that there was not a sufficient number of qualified domestic workers available.

Further, the amendment required that the foreign workers be paid sufficient wages so as to not depress domestic rates. It obligated employers to provide housing, workman's compensation and afforded certain labor law protections to guest workers. Finally, Senator WILSON's amendment included certain provisions to insure that the foreign workers involved in the Guest Worker Program return to their countries when their visas expire.

Mr. President, again let me make it clear, I support S. 1200. I believe it represents a reasonable and effective response to bringing about the necessary reform of our Nation's outdated illegal immigration policy. Through increased enforcement activities, the removal of employment incentives, and a limited legalization program, our Nation will be better equipped to stem the flow of illegal immigrants across our borders and to respond to the problems and abuses which accompany the presence of a significant illegal population.

Thank you, Mr. President.

Mr. PELL. Mr. President, I am voting in favor of S. 1200, the Immigration Reform and Control Act of 1985, because I believe it represents a well reasoned approach to a national problem of growing proportions, a national problem which touches delicate nerve-endings of many aspects of our American life and beliefs.

This bill provides an approach to sanctions on those who knowingly hire illegal aliens that I believe is fair to business. By exempting small businesses with less than four or more employees and making the paperwork requirments on covered employers optional, S. 1200 is responsive to the legitimate hiring concerns of employers.

While I believe these provisions are fair to businesses, I am not so certain about the fairness of these provisions to foreign sounding and looking people. The potential for discrimination resulting from passage of S. 1200 poses a challenge to all proponents of immigration reform. As I vote in favor of final passage of this bill, I look forward to the hearings and continuing oversight on the issues of discrimination and proposed remedies that Senator SIMPSON has promised.

The legalization programs envisioned by this bill, while modest, should prevent stimulated immigration by making effective controls on immigration a prerequisite for a legalization program. As we deal with this pressing national problem, I believe a cautious approach to sensitive issues such as legalization is the wise course.

This legislation, as I have noted above, is not perfect, but given the nature and scope of the problem, perfect legislation is highly elusive if not altogether impossible. I do believe that this bill and the adopted amendments provide many protections to resident and prospective aliens, without sacrificing any protection for American jobs and laborers.

It is imperative that the Senate recognize that final passage of this bill does not end the immigration problem; rather, it merely begins a new process for dealing with this problem. We must continue to be vigilant in our monitoring of immigration to ensure control of our borders which is conceptually faithful to our democratic heritage. Fairness to the American people, employers, and the alien population must be the foundation upon which we proceed with these reforms.

Mr. BYRD. Mr. President, I wish to express my support of S. 1200, the Immigration Reform and Control Act of 1985. One particular provision in this bill involving the H-2, Temporary Foreign Worker Program, has a direct effect on the economy of the eastern panhandle of West Virginia. The $25 million fruit crop in the panhandle is harvested in large part by H-2 workers.

The H-2 Program is complex and cumbersome. It is designed to be difficult to work with, so that domestic workers are protected from the unlimited importation of cheap foreign labor. However, the history of the West Virginia fruit growers in the past years suggests to me that the H-2 Program is not being used by growers to displace domestic workers. For each of the past few years, there has been a shortage of domestic workers available to growers in the eastern panhandle of West Virginia at the beginning of the harvest.

In order to provide some relief to the growers without reducing the valid protection of domestic workers, I offered and had accepted an amendment to the immigration bills of the 97th and 98th Congresses that would modify the findings that the Secretary of Labor must make in order to issue a certification for growers to have access to temporary foreign workers.

The amendment language required a finding that a worker must be able, willing, qualified, and who will be available at the time and at the place needed to perform the labor for which H-2 workers are being requested.

I am pleased that the language of that amendment is contained in section 122 of S. 1200. This language removes an unfair burden from growers in West Virginia and other States who may use relatively small numbers of H-2 workers in agriculture, as it will streamline this program for temporary foreign workers and reduce a perennial barrier to the smooth operation of the harvest.

I want to commend the distinguished chairman of the Immigration Subcommittee, Senator SIMPSON, for his diligent, tireless, and painstaking efforts with respect to this legislation and his help and consideration of the special problems connected with the West Virginia fruit growers.

I also wish to commend Senator KENNEDY, manager of the bill on the Democratic side, for his hard work on this legislation.

Mr. LEVIN. Mr. President, I believe the Congress must do something to stop the flow of illegal immigration and I generally support the approach taken in this bill. During the 98th Congress I voted in favor of the immigration reform bill even though it did not include essential protections for those who may be discriminated against on the basis of national origin or alienage as a result of employer sanctions. However, I reserved judgment on how I would vote on the conference report in part because of the fact that it did not address the discrimination issue.

Today the Senate is again voting on a bill which does not provide any mechanism that will allow persons discriminated against as a result of employer sanctions to seek redress. However, the chairman of the Subcommittee on Immigration and the majority leader have assured me that the Senate will have a window to debate the issue of discrimination after a joint hearing on this subject is held and before any conference with the House on immigration reform.

Mr. President, I voted for the bill reluctantly in the absence of a discrimination provision during the 98th Congress and would have again, with the assurances I received that the Senate will separately consider the issue.

However, I cannot vote for S. 1200 because it has other serious flaws.

Under S. 1200, the Legalization Program will not go into effect until up to 3 years after employer sanctions begin. During this period those persons who will be eligible for legalization cannot be hired by employers and may be deported by the Immigration and Naturalization Service. Yesterday I offered an amendment to S. 1200 with Senator DECONCINI and others which would have allowed the narrow class of illegal aliens who will be eligible for legalization to work and to remain in the United States until the Legalization Program begins. That amendment was defeated. Unless we close the gap between employer sanctions and legalization by providing some interim, stopgap protection to persons who are eligible to become temporary residents under the bill, we are creating an inconsistency and a terrible anomaly.

I will vote against S. 1200 now with the hope that the conference report will adequately address the discrimination issue, will properly address the guest worker issue, and will close the gap in the bill which prohibits employers from hiring the same persons the Congress has decided should be legalized.

Mr. BINGAMAN. Mr. President, I commend the Senator from Wyoming for his diligence and leadership in attempting to craft a workable solution to the serious immigration problem that exists in this country. But I feel, after careful consideration, that the bill still does not meet the fundamental tests of fairness and effectiveness and I must reluctantly oppose it in its current form.

The seriousness of the immigration problem is not disputed. The committee report accompanying S. 1200 states that:

No other country in the world attracts potential migrants as strongly as the United States of America. No other country approaches the United States in the number of legal immigrants accepted or refugees permanently resettled. The committee believes that most Americans are proud of both the reputation and the history of this country as a land of opportunity and refuge. We believe that this reputation and this history have generally had a positive effect on America.

However, current U.S. immigration policy is no longer adequate to deal with modern conditions, including the growing immigration pressure on the United States. Immigration to the United States is "out of control" and it is perceived that way at all levels of Government and by the American people—indeed by people all over the world.

I agree with the statement of the committee—that immigration is out of control—and I, too, believe reform is imperative. However, I am very concerned with the approach taken in S. 1200 for several different reasons.

Therefore, I have cosponsored and supported those amendments that I feel would make the immigration bill a more equitable measure. Minority Americans, farmers, business owners and employers all have a stake in this legislation and I have tried to balance their concerns. Some important additions have been made to S. 1200. In particular, an amendment I cosponsored, would require the General Accounting Office to study the implementation of the employer sanctions to determine if a pattern of discrimination has resulted against prospective employees. Additionally, I am pleased the Senate passed an amendment I cosponsored to protect farmers against unreasonable and warrantless searches.

However, even in light of these improvements I am dismayed that the Senate failed to approve an amendment which would have provided an administrative procedure for redress of employment discrimination as a result of employer sanctions.

Of great concern to me, in particular, are the revisions in S. 1200 that rely on employer sanctions as a means of enforcing the law. This is of critical concern to New Mexico, where 36.6 percent of the residents are of Hispanic origin. They are loyal U.S. citizens who share the ethnicity of many present undocumented workers. In July several of my colleagues and I wrote to Senator SIMPSON requesting a hearing to explore the possible effect employer sanctions could have on those who "look foreign." I am pleased to say that he agreed to a joint Senate-House hearing on employer sanctions and discrimination for September 18. Such notables as former Civil Rights Commission Chairman Arthur Flemming, Chicago Mayor Harold Washington, Representative ROBERT GARCIA, and Richard Keatings, of the American Bar Association, among others, are scheduled to testify at this hearing. However, I regret we are voting on this bill without the benefit of that hearing record.

While there is serious concern about the impact of increased illegal immigration into this country, I believe it would be tragic to create a system which aggravates discrimination problems, and which submits American citizens and legal immigrants to indignities and suspicion because of their surnames or the color of their skin.

The reason for employer sanctions is to remove the economic incentive for illegal aliens to come to the United States for jobs. Sanctions exist today in Canada and a number of European countries. However, a General Accounting Office study of these programs reveals that they have not achieved their goal of reducing knowing employment of illegal aliens and I believe we must proceed carefully on this issue.

Also, of concern to me is the new triggering mechanism in S. 1200 to start legalization. This is certainly a step backward, for legalization will not occur immediately but must be delayed for as long as 3 years. My concern is that this will lead to "witch hunts" for illegal aliens that may occur during the interim—after enactment and before legalization period.

As a Senator from a State that shares a long border with Mexico, I feel that I have a good understanding of the problems that have resulted and will result if we continue to ignore the immigration problem.

The present bill does not adequately take into account some of the unique conditions that exist along the United States-Mexican border, the effect of our long-term relations with Mexico, or the impact on the eocnomy of the Southwest.

The border region between the United States and Mexico is unlike any other international boundary. There is a unique cultural and economic interdependence between the communities on both sides of the border. This interdependence, which benefits both Mexicans and Americans, requires the smooth flow of goods and people between the border cities. Of course this flow must be regulated according to the laws of both countries, but I am concerned that no serious analysis has been undertaken to assess the effect of this legislation on these border communities.

Another concern is how the economy of Mexico is likely to respond if this bill becomes law. We cannot ignore what happens in Mexico, as economic and political turbulence there will directly affect the United States. Thus, if an unintended result of this legislation was to push Mexico even further into economic crisis, the pressure on our southern border will become even greater than it is now.

We have also not adequately examined how this bill will effect our own economy, particularly in the Southwest. In some cities, like Los Angeles, there would be no apparel industry if it were not for workers from Mexico. In Houston almost one-third of all construction workers are undocumented—doing jobs that many Americans refuse to do. I am not suggesting that we rely on illegal workers to underpin our economy, but rather that we need to examine the true role these workers play in our economy, and to make sure that this legislation does not harm us in the long run. That is why I opposed establishing a new temporary worker program as proposed by Senator WILSON. I believe S. 1200 does provide some flexibility to address the needs of the perishable crop industry and that while further attention is needed to better assist this unique industry, the Wilson amendment is not the solution.

This legislation, without the Wilson amendment, recognized the needs of the perishable crop industry, making changes in the existing H-2 Program and creating a 3-year Agricultural Labor Transition Program. The Wilson amendment, however, creates a new, separate, and much larger Guest Worker Program for as many as 350,000 temporary, alien workers. I am extremely dubious of this new program because of its size and the uncertainty of its impact on the economy of the Southwest. As a result of its addition to the bill at this time, I have even greater concern over the fairness and impact of the immigration reform legislation. As a final compromise the Senate agreed, and I supported, a 3-year sunset of the Wilson Guest Workers Program, at which time the Congress will be forced to consider its impact. But I think it is still unacceptable.

In the long term we must also maintian better control of the border. I am seriously considering a plan to develop a border management agency that will help combat illegal activities along the border. Presently, law enforcement along the border is handled by at least three different Federal agencies: the Customs Bureau, the Immigration and Naturalization Service, and the Drug Enforcement Administration. The

border agency would combine many of these functions now performed by these separate agencies, thereby strengthening law enforcement along the border. The border management agency would also address the many other problems, such as water and boundary disputes, air and water quality, and health and sanitation.

I know the solution to our immediate immigration problem is a complex one, and although I cannot support the bill before us today I believe that we must not turn our backs on the problem. We must all search for the correct combination that balances the civil liberties of individuals and the interests of all Americans, while still taking into consideration the very real problems of the neighbor on our southern border.

Thank you, Mr. President.

Mr. SPECTER. Mr. President, I have a question with respect to the employer sanction provisions of this legislation. I understand the purpose of these provisions but I am concerned that they are very strict and do not differentiate between employers. I am concerned that there are a few employers, who because of unique and special circumstances that are characteristic of their activities and operations, may be subject to technical violations. I am thinking specifically of athletic teams.

I understand that some sports, such as hockey, must rely on aliens as well as Americans to be competitive. I know the leagues and clubs spend a substantial amount of time and effort each year in ensuring that their players receive proper work authorizations to play here. Nonetheless, I understand that they may be caught in technical violations because of procedures and requirements limited to them or because of administrative processes within the Department of Labor or INS in approving work visas.

I understand that teams hold training camps immediately prior to their regular season and, as with all sports, wait until the very last moment to cut or sign players in order to be sure that they have the best available. Since they cannot file for employee work visas until they have signed the players, this means that they must file for work visas with Labor or INS at the last moment in many cases. Unfortunately, since the regular season begins immediately after training camps and there may be a time lag in INS's actually issuing the visas, some clubs could be caught in technical violations. This "catch-22" type of situation may therefore subject them to employer sanctions.

I also understand that when a player is traded from one club to another, new work visas must be sought by the new club even though the player had been approved to play with the prior club. Inasmuch as these players are highly skilled and make substantial amounts of money, the new club may not be able to afford, and the fans may not appreciate, that player's sitting on the bench until his paperwork is routinely processed.

For these reasons, I understand that there may be technical violations on occasion with respect to professional sports even though they make a bona fide effort to comply.

I realize that there are very, very few industries that have such unique problems and my question only arises with respect to this one. How will this legislation impact on this situation?

Mr. SIMPSON. It is certainly not our intention to modify the discretion the Attorney General has exercised in the past to address such technical violations.

I understand that the Immigration Service traditionally handles H visas for athletes on a special case basis, and unless the athlete is otherwise inadmissible they are generally admitted despite the occasional delay in issuing the H visa.

I do not expect this to change with the enactment of the employer sanctions legislation.

Mr. DOMENICI. Mr. President, illegal immigration has attracted much attention in the past few years. It is estimated that there were between 3.5 and 6 million illegal aliens in the United States in 1978, and that figure allegedly grows at the rate of 250,000 a year, despite the fact that the United States takes in more legal immigrants and more refugees than the rest of the world combined. Approximately 60 percent of the illegal aliens in this country are from Mexico, and significant numbers of illegal aliens are from other Latin American and Caribbean nations. Yet, the Western Hemisphere is not the sole source of all our illegal aliens. In fact, individuals from 92 different nations were among the 1.2 million illegal aliens apprehended in the United States last year. The Border Patrol estimates that it captures half of the persons attempting to enter this country illegally, but many believe that figure to be too high.

While the precise scope of the problem may be unclear, it is clear that immigration reform is long overdue in this country. The security and stability of our country demands it, and the people demand it. According to a recent Time magazine poll, 75 percent of Americans want greater enforcement to stem illegal immigration and two-thirds want legal immigration reduced. We all agree that something needs to be done. T.H. White aptly described America's immigration situation:

> One starts with the obvious: That the United States has lost one of the cardinal attributes of sovereignty—it no longer controls its own borders. Its immigration laws are flouted by aliens and citizens alike, as no system of laws has been flouted since prohibition.

While there is a consensus that our immigration laws need reform, history and emotion add a complicating dimension. We are all descendants of immigrants. Americans have always been of two minds about immigration: the desire to close the golden door or at least hire a doorkeeper contradicts the Statue of Liberty's proud exhortation, "Give me your tired, your poor."

The immigration problem is a dilemma because it involves a number of very complex cultural, economic, social, and practical issues. There are competing interests, all of them worthy of consideration. In order to sort out all these interests and develop a comprehensive approach to immigration reform, President Carter established the President's Select Commission on Immigration and Refugee Policy. The Immigration Reform and Control Act of 1985, the bill now before us, is the product of extensive study and debate by the select commission, the Immigration Subcommittee, the Judiciary Committee, and prior Congresses. I want to compliment the Senator from Wyoming. His assignment was tough, and he has been laboring on this bill for years, literally. He deserves our thanks and respect for his tireless efforts on behalf of immigration reform.

The bill before us is the product of substantial compromise. It attempts to deal with the illegal immigration problem by imposing employer sanctions, by expanding the foreign agricultural worker programs, and by legalizing a significant number of the illegal aliens already in this country. I recognize that the legislative process is an exercise in compromise. The more competing interests involved regarding a piece of legislation, the more compromises result. Language is changed, provisions are deleted. In the case of the Immigration Reform and Control Act, the compromises have left us with a bill that I don't think can work.

As far as employer sanctions are concerned, I don't think that employers should be put in the position of protecting our borders from illegal entry. The provisions of the bill, while not mandatory, will in practice be unnecessarily burdensome on employers. More importantly, however, I don't think that employers should be subject to criminal penalties for hiring illegal aliens except in those instances where they have abused the workers. I also don't honestly see how the already understaffed and beleaguered Immigration and Naturalization Service can enforce employer sanctions in addition to its other duties.

The bill will also give the phony documents industry a boost. The stories about immigration kits consisting of forged identifcation documents are

true. Fake driver's licenses sell for $60 to $65 in Los Angeles. Doctored green cards go for $25 apiece. You can buy a Social Security card for as little as $5 dollars. You can be sure that the the market for these documents will be increased due to this bill, because new hires will be required by many employers to show them. The end result won't be a reduction in the employment of illegal aliens, but rather will be an increase in the number of illegal aliens working under phony documents.

I am also concerned about the discrimination that may result from the employer sanctions portion of this bill. Many employers may be hesitant to hire persons of various races, ethnic groups, or nationalities for fear of violating the law. The bill has no provision to protect against such discrimination, and I am not sure that any provision could be drafted that would protect the rights of minorities and at the same time protect the employment opportunities of American citizens.

As far as the amnesty provisions are concerned, I think they set a dangerous precedent. Every nation that has ever had an immigration amnesty has had great pressure to repeat the amnesty, and most have. Canada, has had several. The amnesty provision, therefore, will act as an inducement for persons to enter this country illegally so that they can take advantage of a future amnesty. I also have objections to persons being rewarded on a wholesale basis for violating the law. In addition, I think the amnesty provisions of this bill are unworkable from a practical administrative standpoint. I don't believe that the Immigration and Naturalization Service can properly screen millions of applicants for amnesty. The costs of legalization, amounting to at least $600 million a year for the first 3 years, cannot be justified in this period of fiscal restraint.

Although I cannot support the bill as presented to us today, there are many portions of this bill which I favor. The Seasonal Agricultural Worker Program established by Senator WILSON's amendment is one of those. I am not sure that the H-2 Program, even as streamlined in this bill, will work for the short harvest seasons in my State and throughout the West. Our employment patterns and farming practices are different from the East. Perhaps the streamlined H-2 Program is an adequate temporary labor program on the east coast, but it won't work for New Mexico farmers. We need a temporary worker program that acknowledges and meets the farmers' needs.

The Seasonal Worker Program meets the needs of perishable agriculture. It will operate as a safety valve to provide workers to the perishable crop industry in the country when there is an insufficient number of domestic workers available. By removing restraints on the free flow of workers from employer to employer and by allowing the market to determine the allocation of labor, we will better serve the needs of the growers of perishable crops and the consumers of those crops. This program protects domestic workers and provides decent wages and working conditions for foreign workers brought into this country. In addition, it provides guarantees that the workers admitted will return to their countries of origin when the work for which they were brought to this country is completed. Without such a program, the needs of the farmers in New Mexico and throughout the West would not be met.

I also support the prohibition of an adjustment to status for an individual who overstays his or her visa. There currently is a loophole in the law which allows a person to enter the country under a student or tourist visa and overstay the visa and then apply for permanent resident alien status. This backdoor method toward immigration flies in the face of the orderly process which the law imposes and is unfair to all those persons who comply with the law yet who are unable to immigrate because their nation's immigration quota is being eaten up by adjustments to status.

In addition, I am pleased that this bill was amended to prohibit officers of the Immigration and Naturalization Service from entering a ranch or farm to search for illegal aliens unless he has a properly executed search warrant. Current law requires the INS to obtain a warrant before entering any place of business, except where that place of business is a farm or ranch. It thus singles out ranches and farms as areas which the INS can search without a warrant. This amendment, which I cosponsored along with Senator MCCLURE, remedies an injustice in the current law and assures that farms and ranches will be treated the same as any other place of business by the INS. In doing so, it protects the rights of ranchers and farmers and their employees.

Finally, the provisions increasing funds for immigration enforcement and increasing penalties for immigration-related offenses are long overdue. Another provision on which I believe we all can agree is the requirement that the Immigration and Naturalization Service produce an internal efficiency report to highlight areas for improvement in agency functioning.

Yet, regardless of a number of beneficial provisions in the measure before us, I cannot support this bill. We must realistically face the fact we are not going to keep illegal aliens from entering our country by passing this bill. The issue is economic. As long as we have poverty in high proportions in the world, the illegal aliens are going to come. They will come in spite of employer sanctions or any other obstacle that we can put in their path. A job in the United States means surviving or not surviving economically to these people.

To put the problem in perspective, consider these facts. The population of the world will pass the 6 billion mark by the year 2000. Ninety percent of the babies in the coming years will be born in poor, underdeveloped countries. Our neighbor, Mexico, has one of the highest birth rates in the world. In 1982, Mexico had a population of 70 million. Its population is expected to grow to 116 million by the year 2000 and 174 million by 2025. Mexico currently has a per capita income of $2,000, as compared with a per capita income of $8,000 in the United States. Its unemployment rate fluctuates around 50 percent.

The incentive to come to the United States is obvious. The tide of job-seeking illegal aliens shows no sign of ebbing. Illegal immigration isn't going to disappear because of this bill. The problem will only get worse in the future.

Of course, we shouldn't throw up our arms in despair when faced with these facts. The solution to our illegal immigration problem must start with gaining control over our border with Mexico. Any control of the Mexican border will depend on some kind of cooperation with Mexico. This is a bilateral problem which demands a bilateral solution. Although this bill includes a provision which establishes a joint United States-Mexico commission to look at long-term solutions to the immigration problem, this provision is only a first step. In order to come to grips with this problem fully, we must work out solutions with Mexico. Immigration is an international issue. This should be an essential element in our immigration policy, yet is the missing element of the bill before us. As it has been presented to us, the Immigration Reform and Control Act fails to address the real problems of illegal immigration.

Hardly anything tugs at the conscience more severely than the relentless problem of illegal immigrants. The dilemma is whether this country can protect the resources of its own citizens while exercising humanity to our less fortunate neighbors. It is a very serious and complex problem. I am highly skeptical that this bill offers an acceptable answer. For the above reasons, I am voting against the bill.

Mr. HATCH. Mr. President, I commend Senator SIMPSON for his long and arduous work in a difficult and almost impossible task. He has given a great deal of time and energy to S. 1200 and has done a prodigious job

in attempting to pull together the various issues relating to immigration. No one can have been more dedicated and more sincere in seeking to create a bill which would be acceptable to the multiplicity of views on immigration issues.

Unfortunately, although I believe that the immigration bill has made a valiant attempt to resolve the basic issues of immigration control, I cannot support S. 1200 in its present form.

The immigration bill rests upon the twin pillars of employer sanctions and legalization. I share the view of the American Bar Association that the proponents of the bill have failed to demonstrate that employer sanctions will provide an effective mechanism to curb illegal immigration into the United States. I particularly feel that the threat of criminal sanctions, even though to be applied to a second offense, will have a detrimental effect on employment of agricultural workers. I have been told by a number of perishable crop growers and those involved in agricultural production that employer sanctions will have a discriminatory effect upon their hiring of farm workers. The presumption contained in S. 1200, that employers knowingly hired undocumented aliens found in their employment unless they keep records of the immigration status of their employees will have a discriminatory effect upon the very group that this bill is seeking to protect. Even those agricultural employers with less than four employees, knowing about civil and criminal sanctions in the immigration bill, will shy away from hiring foreign workers.

The burden placed upon prospective employers and the cost of administration to those same employers outweighs whatever positive effects might be obtained from the punitive aspects of the bill with respect to the reduction of illegal immigration.

Criminal sanctions are all the more unacceptable. There is a question of their enforceability. If they are not enforceable they will breed a disrespect and disdain for the law and the legal process. If they are vigorously and effectively enforced, the type of sanction is far too excessive for the violation that it is designed to prexent.

Finally, Mr. President, I believe that the presumption against employers who do not keep full and complete records, places a difficult and perhaps impossible burden upon the employers, who are certainly placed in a difficult legal position. And it is not altogether clear, that the civil presumption against noncomplying employers is legally valid.

The second pillar of the immigration bill, that of legalization, is another serious impediment to an effective approach to immigration. According to polls of recent years, the majority of Americans opposed a blanket legalization or amnesty program. More important, a large number of Hispanic citizens in the Southwest and West oppose a broad-based legalization, fearing strong competition in the marketplace, a potential loss of jobs, and a blot upon their status as valid and long-time U.S. citizens. How does one tell potential future illegals that this one-time only approach will be in fact one time only?

I am also concerned with the limitations and restrictions placed upon the Wilson amendment by the Simon amendment and its 3 year cap. There is no doubt in my mind that the growers of perishable crops are going to be much more cautious and prudent in their planting and production, and that the lack of flexibility for the long term in the production of perishable commodities will be injurious to that industry. It will hurt producers and, ultimately, will hurt consumers. The new version of the Wilson amendment will prevent the effective operation of a well-balanced immigration reform package.

Finally, I feel that the trigger mechanism for the legalization process has been greatly watered down and no longer provides an effective trigger by requiring an absolute diminution of illegal immigration into the United States. The working of the present trigger has been softened and its potential has been blurred. I am not sure that our borders will be secure at the time that anmesty comes into effect.

For all of these reasons, Mr. President, I regret that I must oppose final passage. I know how hard Senator SIMPSON has worked and I commend him and his excellent staff for it. But an unworkable bill is a bad bill, and in that case, I prefer no bill at all. I would hope that we could still begin again, perhaps in narrower scope and concentrating on more limited objectives, like beefing up the INS and our border security first, and then taking up these controversial measures at a later date in more piecemeal fashion.

I, therefore, am going to vote against S. 1200.

Mr. LEVIN. Mr. President, I voted against the Cranston motion because I believe that the only way out of the deficit dilemma is through a policy of shared sacrifice. If the committee adhere to the instructions contained in this motion, then it would be impossible to fashion that policy. The Chiles-Hollings budget plan which I supported earlier this year included a 6-month delay in Social Security COLA's. I was able to swallow that in the name of developing a policy of shared sacrifice. It would be inconsistent to now turn around and effectively rule out such votes in the future.

I agree with the goal of moving Social Security off budget. I believe that we should do it as soon as possible. However, if we are to leave ourselves room to pursue a deficit reduction strategy through shared sacrifice, then it might be difficult to, in effect, move up that date to this year.

Mr. LAUTENBERG. Mr. President, I am voting against passage of the immigration reform bill. I support immigration reform, but I am unable to support the provisions of the bill before us today. The issue of immigration reform has been before the Congress for a number of years. The public is concerned about the number of illegal immigrants entering this country. I think it is important to move forward in finding a solution to this problem. The House of Representatives will be considering its own version of immigration reform, based on the bill introduced by my colleague from New Jersey, the chairman of the Judiciary Committee, PETER RODINO. The Rodino bill is preferable to the Senate bill in several important respects. After the House acts on the Rodino bill, the two versions will have to be reconciled by a House-Senate conference committee. I look forward to examining the product of the conference when the time comes. I sincerely hope that the conference agreement will be an improvement over today's bill and a piece of legislation that I can support.

My concerns with S. 1200 include the delay in the implementation of the legalization process, the lack of adequate protection against employment discrimination, and the new Guestworker Program. A number of amendments were offered during the debate on this bill which would have dealt with some of these concerns and would have improved the bill, in my view. Unfortunately, these amendments were not approved. Without these improvements, I believe that the bill is unsatisfactory.

Mr. President, immigration reform requires the balancing of some very important considerations. Immigrants must not be allowed to enter this country illegally. Steps must be taken to reduce their incentive to come here. But in the process of controlling illegal immigration, new legislation must not create a new form of discrimination against people with a legitimate right to be in this country. Furthermore, if immigration reform is to include the benefit of legalization for people with a long and stable residency in this country, such a program should begin at the same time as penalties against employers who hire illegal aliens. The two parts of the program should begin operating simultaneously or the fairness of the entire plan is undermined.

I am voting against today's bill, but I hope that I will be able to support a more equitable compromise bill in the near future.

Mr. KERRY. Mr. President, I applaud the efforts of the Senator from Wyoming to achieve a comprehensive bill for reform of our immigration laws. I realize how difficult it is to put together a package which attempts to satisfy many different interest groups, and at the same time addresses the very real problems posed by a massive influx of immigrants into our society. I admire the dedication and persistence of my colleague from Wyoming, and I appreciate his efforts in this task.

However, having said that, I must add that I have serious reservations about this legislation in its current form. I am very mindful of the need for reform of our immigration laws, and I had very much hoped that a bill would emerge from our deliberations here which I could support without reservation. Regrettably, because of certain amendments which have been added to this legislation, particularly with regard to allowing a massive influx of "guest workers" which would create a reprise of the failed Bracero Program of an earlier era, I can no longer support this legislation in its current form.

I am also concerned that this bill, in its current form, perpetuates an injustice to aliens currently residing in this country who are eligible for legalization by saying to them, in effect, that you can live here and become eligible for legal status in 3 years, but you can't be legally hired in the meantime. This is an unfair result which we cannot in good conscience permit. For this reason, I supported the amendment of Senators LEVIN and DECONCINI, which would have corrected this unfair result, by allowing these people to continue to reside in the United States and continue to work until such time as they apply for legalization. I will continue to work for adoption of this provision.

Many undocumented aliens have been in this country for a number of years, and have families and children here. Many of them have come from countries where they suffered from political persecution, death squads, repression, and guerrilla warfare. In many cases, it would be impossible for these people to return to their homes. In addition, these are people who have come to this country seeking a better life, and have settled here and developed roots here. They have become productive members of our economy and our society, even without the benefit of U.S. citizenship. Surely we have not forgotten that we are, in the words of John F. Kennedy, "a nation of immigrants." It is therefore appropriate that we recognize the suffering that these people have endured, and the contributions that they have made, by legalizing their status in this country, and allowing them to enjoy the full benefits of U.S. citizenship. For this reason, I have supported the amendment of my distinguished colleague from Massachusetts, Senator KENNEDY, which would advance the cutoff date for legalization to January 1, 1981, and would eliminate the requirement for a legalization commission to study this problem. I congratulate Senator KENNEDY for the work that he has done on this issue. I agree with him that the time for studies of this issue has passed. The time for action is long overdue.

I am deeply concerned that this legislation may become a vehicle for discriminatory actions against Hispanic-Americans and other minority groups. For this reason, I have strongly supported Senator KENNEDY's efforts to strengthen the bill in this regard. The provisions which he has offered would ensure that this legislation would not promote discrimination, and that, if it does, the sanctions would be terminated after 3 years.

In addition, I have been pleased to cosponsor, with Senator SIMON and others, an amendment which would ensure that visitors to this country are not denied nonimmigrant visas because of their political beliefs. Under current law, a visitor to this country may be denied a temporary visa for any 1 of 33 reasons contained in the McCarran-Walters Act. This act is an outgrowth of the McCarthy era in our country. It is a national embarrassment, which has resulted in the exclusion of such distinguished literary figures as Graham Greene, Carlos Fuentes, and Gabriel Garcia Marquez. Mr. President, the fundamental difference between our system and that of other repressive regimes is that we enjoy freedom of thought and freedom of speech. Our society has benefited immeasurably from the free flow of ideas and information. We should be setting an example to the rest of the world of what a free society is. By removing the present ideological restrictions on visitors to this country, we send a message to the world about the kind of society we are. I might add that this amendment would continue to exclude those who would engage in terrorism, espionage, sabotage, criminal activity, or would be a threat to our national security. But at the same time it would say that no one will be excluded on the basis of his or her lawful political beliefs, activities, or associations. An open society makes us stronger, not weaker. For this reason, I strongly supported the amendment of my distinguished colleague from Illinois, and I regret that the Senate has not seen fit to act upon it.

I also supported the efforts of Senators HART and LEVIN to prevent discrimination on the basis of alienage. I commend Senators MCCLURE and DECONCINI for their efforts to protect the fourth amendment rights of those who work in the fields, by requiring that INS agents and others obtain a search warrant before entering the fields. All of these amendments strengthen this legislation, and make it more fair and equitable. I deeply regret that the Senate has chosen to pass an amendment expanding the "guest worker" provisions of this legislation.

This amendment allows expansion of the Foreign Guest Worker Program to unpredictable levels. Many Americans recall the Bracero Program which existed in this country from 1946 to 1964. It permitted nearly 500,000 Mexican nationals into this country to work in agriculture, and led to widespread abuse by employers. The current amendment would expand the current Guest Worker Program to nearly the scope of the Bracero Program, and would repeat the mistakes of that program.

With the changes I have outlined, I would feel free to give my wholehearted support to this legislation. Without them, I fear that we would do more harm than good. I support the effort to reform our immigration laws. But let us be sure that we do so in a manner that does justice to our Constitution, our American values, and our tradition as a nation of immigrants.

History has shown that, once an immigration law is enacted, Congress does not act again for many years. It is therefore imperative, when we are considering the subject of reform of our immigration laws, that we be sure to pass the very best bill we can, in order to correct the injustices that have been done in the past, and to ensure that they are not perpetuated into the future. I am very hopeful that many of the problems with this bill can be resolved in conference, and that a bill will then emerge which I can support wholeheartedly. But for now, I must reluctantly cast my vote against this legislation.

Mr. CRANSTON. Mr. President, it will come as no suprise to anyone in this body that I cannot and will not support this bill.

Like virtually every Member of this body, I am genuinely concerned about illegal immigration.

I do not approve of it.

I do not condone it.

I am very much against it.

If I thought for a minute that this bill would stop, or even significantly slow up, illegal immigration, I might swallow some of the deep concerns I have about the harmful side effects of this legislation. But this bill will not close our borders, nor will it bring from the limbo in which they live the millions of undocumented foreign nationals who are already here, either for legalization or for deportation.

What it will do is cost money, cause discrimination against foreign-born

and foreign-looking American citizens and legal resident aliens—especially Hispanics and Asians—impose new burdens on American businesses, take the very dangerous first step toward national identification cards and internal passports which is a very basic threat to the freedom of all American citizens, and, as amended, bring in waves of new, cheap foreign workers without adequate safeguards to protet American labor standards and those Amerians who are available to work these jobs.

I have great admiration for the sincerity and effort of my very good friends from Wyoming [Mr. SIMPSON] who has been laboring so long with this bill.

I know that he recognizes the very real problems that this legislation has and would correct them if he could. But he cannot.

The real problem is that this bill is full of internal inconsistencies.

There is no way to make the employer sanctions provisions more effective without increasing the burdens on employers and making the spectre of a national identification card and internal passport more ominous.

There is no way to make employer sanctions less burdensome and more discretionary with employers, without inviting more employment discrimination against Hispanics and Asians.

There is no way to close our borders even if we build a Berlin wall, or providing for its human equivalent in border guards. And if we attempted them, those alternatives would involve intolerable costs in both money and human freedom of movement, and would make a statement about America that the American people will not stand still for.

There is no way to make the legalization provisions of this bill just and attractive enough to cause long-time undocumented workers to risk their security by coming forward to apply, and still satisfy the xenophobic passions of those who have provided the demand for this legislation.

There is no way to acknowledge and provide Federal support for the real costs of this bill and still avoid a Presidential veto from a President who consistently believes that the Federal Government can incur costs and obligations without having to pay for them.

The dilemma of this bill is illustrated by the need the Senator from Wyoming felt the other day to resist my very minor amendment designed to make the legalization provisions of this bill work more fairly.

Having established a series of factual tests for an undocumented worker to qualify for legalization, the bill can be interpreted to restrict the kind of proof which may be offered to sustain the burden of proof which is imposed on an alien seeking legalization.

What would happen if we imposed similar restrictions on those charged with the burden of proof in our courts?

Don't just come in with credible proof, Mr. President, such as rent receipts, affidavits of witnesses, or other documentation. Only employment records will do, regardless of the facts.

What would happen is what will happen here. Some people who are entitled to carry their judicial burden would be denied justice, because they lacked the right kind of proof.

And why, Mr. President?

Because of fear: Fear of falsified documents. Fear that the system is unable to detect cheating. Fear of legalizing someone who meets all the usual tests for legal immigration, but does not have employment records demonstrating his continuous residence in the United States. Fear of antagonizing those who want to deport all the undocumented, and perhaps all the legal resident aliens as well.

I know that my good friend from Wyoming genuinely believes that passing this unworkable bill is necessary to give the Congress something symbolic with which to stifle those passions, because if they are not stifled, they will intensify, and what we are asked to do next time to rid ourselves of foreigners—aliens—will be even worse than what this bill will do.

I do not believe that waving this unworkable symbol of immigration reform will stifle those passions or persuade anyone that we have achieved genuine reform.

This bill may or may not stifle those passions for a time, if it ever works its way through both Houses in the same form. But it will not deter illegal immigration, it will not reform our immigration laws, and it will cause a great deal of injustice and discrimination along the way.

I will vote no on final passage.

Mr. DIXON. Mr. President, I rise in reluctant opposition to final passage of S. 1200. I say "reluctant" opposition because I think there are many worthwhile sections of the bill—for example, the authorizations for INS border patrol and enforcement, the creation of a new criminal offense for bringing an alien to the United States; penalties against individuals who knowingly hire an alien who is not authorized for such employment.

These and other provisions are workable and fair mechanisms for the United States to regain control of our borders and to overhaul our immigration laws. Many of these provisions were also contained in S. 2222 and S. 529, from the 97th and 98th Congresses, and accordingly, I voted for final passage of both prior bills. Unfortunately, I fear S. 1200 goes too far, and actually contains provisions which may adversely affect Hispanic-Americans and other minority groups.

The major difference between S. 2222 and S. 529, on the one hand, and S. 1200, on the other hand, is that the former legislation authorized legalization of undocumented workers shortly after enactment, but S. 1200 postpones legalization as much as 3 years following the President's signature.

A 3 year difference is a long, long time, Mr. President. In light of the fact that the past proposals adopted concurrent programs for employer sanctions and legalization, this year's legislation represents a distinct departure from past efforts. S. 1200 puts in place enforcement mechanisms, but delays substantially the amnesty program which has been so central to past legislative remedies.

Let me just say in conclusion, Mr. President, I have voted for immigration reform twice. I believe there is a serious immigration problem in this Nation that needs to be addressed, but this time the proposed remedy is fatally flawed. If the Senate bill passes, as I fully expect that it will, and the House completes action on its version, I hope the conference committee will send back a better bill. If the conferees send back a bill with a provision like the one offered by Senator Kennedy to move forward the legalization program and provide for contemporaneous progress on sanctions and amnesty, then I will have no qualms about voting for it. Until then, I must vote reluctantly against S. 1200.

Mr. DOLE. Mr. President, this marks the third time we have voted on major immigration reform over the past 5 years. In 1982, we passed the bill, S. 2222, by a vote of 80 to 19. In the first session of the last Congress, we passed the bill, S. 529, by a vote of 76 to 18. I anticipate today's vote will be similarly lopsided.

Despite the broad, longstanding consensus that exists in the Senate for revamping our immigration laws, we have as yet been unable to reach agreement with the other body and send a bill to the President for his signature. I am optimistic that in this Congress, we will succeed. I trust that the Senate's articulate, effective, and hardworking chief advocate for immigration reform, the distinguished assistant majority leader, knows he will have my full support in that endeavor.

Immigration reform does not represent a turning away from our country's long tradition as a land of immigrants. This Nation will always welcome the tired, hungry, and poor of other nations. We deeply value our ethnic diversity, believing the rich blend of cultural values strengthens and unifies us as a nation.

At the same time, we must be realistic. If we lose control over our borders, the national attitude of welcome for those of other countries could turn to fear and resentment. And we are be-

ginning to lose control over our borders. Though it is difficult to obtain an accurate count of illegal immigation, most studies and indicators demonstrate that it is dramatically on the rise. For instance, one measure—the number of illegal residents apprehended—has grown from 100,000 in 1965 to its current level of over 1 million per year. In 1978, the Select Commission on Immigration estimated there were 3.5 to 6 million illegal aliens in this country. And whatever the number currently is, it surely has gone much higher. Immigration control laws—written decades ago—are proving inadequate to deal with the influx. To avert a potential crisis for our children and grandchildren, we must deal effectively with the problem now.

Moreover, this is not just a problem reflected in cold statistical analyses of population trends, employment rates, and wage disparities between various nations. It is also a human problem—a tragedy of men, women, and children coming to this country in illegal secrecy—people who search for a new and better way of life, only to find themselves destitute, working in low-paying jobs and living under poor housing conditions. They also live in fear—fear of being caught and sent back to their homelands—and their fear deters them from complaining to authorities about exploitation and abuse. It also keeps them from seeking redress in the criminal justice system when they are victimized by crime, or seeking public services they need, such as health care.

S. 1200 takes a humane approach toward solving our immigration problems by placing the emphasis on penalizing those employers who would knowingly hire illegal aliens, while offering to illegal aliens who have been living in this country for many years, and contributing to our society, the chance to become legal residents, with the opportunity of fully experiencing the benefits and opportunities offered by this great Nation. It is well-constructed and carefully balanced legislation—the product of years of discussion and debate over a highly complex, emotional issue. Though not everyone may agree with each of the bills provisions, taken as a whole, it is good, sound legislation, which deserves broad-based support.

Mr. President, in conclusion, I would like to pay tribute to Senator SIMPSON for all the work he has put into this bill—for his patience and tenacity in guiding it through the Senate, and, in general, for keeping this important issue on the front burner of the Nation's agenda. I don't know if we will have a new immigration law in the 99th Congress, but I do know that if we fail, it won't be for lack of effort on the part of the distinguished Senator from Wyoming.

I would also like to thank Senator KENNEDY, the manager for the minority. I know he does not agree with many of the bill's provisions, but he has been most cooperative and helpful in facilitating its orderly consideration.

Finally, I would like to thank all the other Senators who have devoted substantial amounts of time to this measure including the chairman of the committee, Senator THURMOND, and Senators GRASSLEY, HATCH, HEFLIN, and SIMON.

Mr. KENNEDY. Mr. President, I will just take one moment of the Senate's time.

I again commend the distinguished Senator from Wyoming for an extraordinary effort over the period of the last 5 years on this issue. The Senate has visited this issue on three occasions. I feel that in the course of the hearings and the conduct of the Judiciary Committee and again in his actions in considering various amendments before this body, he has demonstrated a deep awareness of the issues, a deep dedication to the purposes for which this legislation was fashioned.

Equally important, he has shown extraordinary patience and perseverance.

It has been a pleasure for me to work with him. Regrettably, I cannot support the legislation for the reasons I have outlined during the course of our debate.

The inclusion of the massive guest worker program and the failure of implementing legalization together with sanctions makes it an unfair approach.

Mr. President, I favor and support genuine immigration reform, and I will continue to work closely with Senator SIMPSON to achieve the reforms we all seek. But this bill is fundamentally flawed. We have thrown out the window genuine immigration control when we open the door to a massive, 350,000 foreign worker program—even for 3 years—which is on top of the already expanded temporary worker provisions contained in the bill.

This bill is becoming a growers bill, not an immigration reform bill. It is a welfare program, a Federal subsidy, for the growers.

We have also retreated on the legalization program that the Senate has supported twice in the past—and voted by the House last year—and agreed to in conference last October by the sponsor of this bill. We are retreating from the one, small benefit this bill holds out to the Hispanic community—to deal humanely with the problem of those undocumented aliens already living and contributing to our society, especially as we launch new enforcement programs and employer sanctions. They were supposed to go hand-in-hand; now they are separated.

Mr. President, a large number of organizations have now expressed their strong opposition to this bill in its current form—organizations that have a long history of supporting immigration reform and working with immigrants. I would like to share some of their statements with my colleagues, and ask unanimous consent that they be printed at this point in the RECORD.

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

UNITED STATES CATHOLIC CONFERENCE,
Washington, DC, September 17, 1985.

DEAR SENATOR: The Immigration Reform and Control Act of 1985, S. 1200, currently before you for consideration and final vote is incomplete and therefore not yet acceptable to the United States Catholic Conference (USCC).

USCC's concern centers on the failure of S. 1200 to provide adequate and sufficient relief for the undocumented workers in our country. It no longer presents a balanced solution which would allow the Church to "tolerate" the establishment of employer sanctions, with strong controls against increased discrimination and potential abuse of identification systems. I say tolerate because the sanctions solution is unsure, indeed as even admitted in the present legislation. The limited legalization program proposal depends on verification of "the substantial elimination of employment of unauthorized aliens" by a Legalization Commission. There is no specification of a start date, which in fact may never be a reality. This is a faulty proposal. The conditions under which we previously were willing to accept sanctions (a generous amnesty program and strong controls to prevent discrimination in employment) are not present in this bill.

Another weakness in S. 1200 is its treatment of the issue of temporary workers. Our position on the use of temporary workers is based on the Church's concern for the basic human and workers' rights which are so easily abused in temporary workers' programs. The current proposals do not sufficently address these issues and if these basic concerns cannot be addressed by enforceable laws for the protection of these migrant workers, a temporary worker program according to the present proposals or a transitional program (unless it means to bring a real end to the temporary worker program) could not be acceptable to the United States Catholic Conference.

Therefore, we urge you to vote against the passage of S. 1200.

Sincerely yours.

DANIEL F. HOYE,
Rev. Msgr. Daniel F. Hoye,
Secretary General.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, September 19, 1985.

Hon. EDWARD KENNEDY,
Russell Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The National Council of La Raza has long followed debate over how best to reform our nation's immigration policy. It now appears likely that the Senate will soon vote on the Immigration Control and Reform Act of 1985 (S.1200). Based on our experience with this highly complex issue, and out of concern for Hispanics in this country, we consider S. 1200 a fundamentally flawed proposal. We urge you to vote "no" on final passage, and ask that you consider the following:

(1) S. 1200 regresses from last fall's House-Senate compromise on legalization, by delaying implementation for up to three years. As you and several other Senators have noted, it is likely that many persons who in fact would be eligible for legalization will be deported before the program begins.

(2) S. 1200 regresses from the House-Senate compromise on employer sanctions, by eliminating uniform verification requirements, and by omitting a system of protections against discrimination. Further, although you and 10 other Senators formally requested that a hearing on the discrimination issue take place before consideration of S. 1200, no such hearing took place. We have enclosed materials documenting sanctions-related employment discrimination for your review.

(3) S. 1200 regresses from Conference on guestworker programs, by providing the expansion of current H-2 programs, and a transitional labor program, and a separate, extremely large program for growers of perishable crops. This "Immigration control" bill could import one-half million guestworkers in a single year. We have attached a flyer on guestworkers for your review.

S. 1200 represents a completely different proposal than others considered by the Senate in past years. Because of its serious flaws, S. 1200's passage would mark a low point in recent Senate immigration policy history, and would greatly reduce the chances that the House-Senate compromise required to achieve long-needed reform in this area will be reached.

Sincerely,

RAUL YZAGUIRRE,
President.

Mr. KENNEDY. Mr. President, I also ask unanimous consent that an excellent analysis of the potential impact of the Wilson amendment, now unfortunately included in this bill, prepared today by Dolores Huerta of the United Farm Workers be printed at this point in the RECORD.

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

SIMPSON BILL WITH WILSON AMENDMENT

FORCE LOCAL DOMESTIC FARM WORKERS TO THE WELFARE ROLLS

This measure will cause the massive displacement of local farmworkers especially those in Texas and Florida which have been hit with massive unemployment because of the recent freezes. These workers will be forced to go on the welfare rolls for food and medical services, thereby placing a burden on the taxpayers, as was the experience during the last bracero period. Farmworkers who usually migrate—will find their jobs taken by the time they get there.

IMPACT ON LOCAL SMALL BUSINESSMEN

Further suffer loss of revenues—lose business because workers receive lower wages—less money to spend—foreign workers send money abroad—do not spend it in U.S.

PROPORTIONAL INCREASE OF UNDOCUMENTED WORKERS TO "GUESTWORKERS"

Studies taken during the previous bracero program showed the numerical proportional increase in the numbers and deportations of undocumented workers increased proportionately with the number of "bracero" workers brought into the United States under Public Law 78. In other words, the "bracero" program did not stop the numbers of undocumented workers into the United States, it actually increased it. Workers from other countries are much sophisticated now and will continue to come in, especially since the currency devaluation in Mexico is now 375 pesos to one dollar as against 12 to one as as it was in the 50's.

UNIONIZATION OF FARM WORKERS

Unionization of farm workers was not possible until Bracero program ended. At present, farm workers covered by United Farm Workers AFL-CIO collective bargaining agreements including toilets, decent housing, full medical coverage, and adequate wages—they do not live in holes—in the ground.

The Simpson Bill will make the unionization of farm workers impossible.

Under Public Law 78—the bracero program—an agreement between Mexico and the United States, to import temporary agricultural workers, in addition to having his living conditions written into the agreement, the Mexican agricultural worker or "bracero" was given the right of representation by the Mexican government in cases of abuse by the employer and in addition have the right of choosing any other representative.

In spite of these protections, there were massive, wide scale abuses.

1. Workers were housed in miserable conditions.

2. Workers were not fed adequately.

3. Injured workers were shipped to Mexico without medical care.

4. They were overcharged for basic necessities so at the end of their pay period, they owed the company store all of their wages.

5. They were not given toilets, cold drinking water, handwashing facilities, or rest periods.

6. Many were killed because they were transported in unsafe vehicles, buses, etc., or put to do work on machinery that they did not know how to operate, or given unsafe equipment to operate.

In addition to the inhuman exploitation of the foreign workers, local domestic farmworkers suffered proportionately.

1. They were discriminated and refused employment. (The state director of the farm placement agency in California was fired after it was proven that the State agency was in conspiracy with the local farmers to refuse employment to domestic workers.)

This occurred even though Public Law 78 had a strong provision for domestic recruitment of local farm workers, which the Simpson Bill does not have. Also the Department of Labor had to certify that there was a domestic labor shortage.

The wages between agricultural workers and industrial workers widened enormously after the bracero program went into effect.

Imperial Valley—Construction workers went to $1.94 in 1952; Farm workers, $.70 cents.

San Joaquin Valley—Electricians, $3.75; Farmworkers, $.90 cents.

Farmworkers are now generally underpaid. The movement upwards of wages that has come thru the unionization of farmworkers will be reversed. Agricultural employers are now refusing to sign labor agreements because they are anticipating the availability of cheap "captive" labor.

DEPORTATION AND BLACKLISTING

Foreign workers who complained about their situation to the employers were immediately sent to the association and deported. The same and worse will happen under the Simpson bill. Undocumented workers who do not like their conditions now are free to move. Under this new system, as all workers have to be identified, they would be blacklisted.

LABOR CONTRACTORS BECAME WEALTHY

The associations that were certified to use "bracero" rented the workers to other associations that had not been certified so the "rent a slave" system was prevalent. In addition the workers were so underpaid, that many became wealthy because the workers were not paid.

SLAVERY

Many instances of slavery were reported where workers were not paid anything except their food, and oftentimes that was inadequate to keep them nourished so they could work. Cases of slavery in agriculture are still being reported so it seems that employers will find it easier to try this if they can get away with it.

Farmworkers work in rural areas. They are miles from the nearest town. In many areas of rural America, there unfortunately still exists vestiges of racism. Workers will be without any type of protections from abuse. The agricultural community has demonstrated that it is not really socially mature enough to be given captive workers. Their recent opposition to having agricultural workers given toilets, the most basic human need, gives a strong representation that they still do not consider their farm workers as human.

Mr. KENNEDY. Finally, Mr. President, I want to draw to the attention of the Senate an extraordinary disaster which occurred to our good neighbor to the south, Mexico. One of the severest earthquakes recorded in the history of the world has just occurred. Communications with Mexico City have been interrupted since noon today. There have been reports that up to 35 percent of all the buildings in Mexico City have been destroyed or damaged, with the attendant loss of thousands of lives.

At the conclusion of this legislation, we will introduce a resolution on behalf of the chairman of the Foreign Relations Committee, the majority leader, the chairman of the Immigration Subcommittee, Senator SIMPSON, myself, hopefully the Senator from Rhode Island, the ranking member of the Foreign Relations Committee, and the distinguished leader of the Democrats, Mr. BYRD, which will express our sense about this disaster and urge our Government to work in every way possible to help relieve the pain and suffering of our good friend and neighbor.

I thank the Chair.

Mr. WILSON. Mr. President, I will take but a few minutes of the Senate's time. Through the long course of the debate on this measure, the Senator from Wyoming and I have had I think a spirited exchange of views. We have covered a great deal of ground.

Earlier he had expressed the expectation that I would vote, as I have voted before, against final passage of this measure. I have come to a differ-

ent conclusion, Mr. President. It is not simply because the bill as it leaves the Senate at this time will contain several amendments which I think improve it, not only my own but the requirement that there be more than a review with respect to the possible prejudicial aspect of our employer sanctions.

But, Mr. President, the basic fact is it has been almost 2 years since the Senate last voted on this measure. During that period of time illegal immigration has increased. It has grown worse. I do not know that what we pass today will in fact be able to stem more than 10 or 25 percent of the massive illegal immigration which besets this Nation. But I do know that there is virtually no alternative being offered by anyone else other than the Senator from Wyoming.

Yes; I have spoken in the past of the need for an economy in Mexico that could employ its people. Well, Mr. President, that could perhaps require half a century and a cooperation of the kind that has not yet been forthcoming. So I hope this measure will exceed my expectations. At the very least, the American people are clamoring for a response. If this response proves not to be the right one or an inadequate one, then we will come to grips, I hope, with a very bitter reality that more desperate measures are required.

Let up hope that we will not. Let us hope that this measure will pass not just the Senate but the House of Representatives and go to the President's desk for signature. Let us hope that all of the expectations of the Senator from Wyoming will be met. It addresses a very real problem. For that reason, I think it deserves our support.

I thank the Senator from Wyoming for extraordinary leadership and fairness in his conduct of this measure.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank the Senator from California for his moving remarks and for his support of the bill. He has been an extraordinary participant.

I thank Senator KENNEDY, the ranking member of the committee, Senator SIMON, Senator HEINZ, and Senator CRANSTON for their willingness to take the Social Security issue to a new place.

Mr. President, before the final vote on S. 1200, I would like to make a few concluding remarks.

First, I want to say to my colleagues that this bill shows that a subject which is so difficult in its moral implications and so complex in the interaction of its numerous aspects can still be dealt with fairly and openly—allowing all points of view full access to the public forum of the hearing process as well as private contact with principals and staff. It shows that such a subject can be dealt with in a way which balances the very real needs of many interest groups in this country—business, labor, heavily impacted State and local governments, and many others—keeping paramount the fundamental obligation of all Members of Congress, to serve the interests of the American people as a whole and their descendants.

Mr. President, S. 1200 contains, most importantly, provisions intended to reduce the problem of illegal immigration. I say "most importantly" since the potential benefits and protections of even the most carefully designed statutory standards for determining who may enter the United States, as well as for how long and under what conditions they may remain, will not be available in practice if those statutory standards cannot be enforced.

Mr. President, the American people want reform. Poll after poll discloses that the American people overwhelmingly wish to see illegal immigration brought under control. Why is that? In these past several years, I have been involved in the discovery of the significance of this fact, and I have learned that the concern of the American people is well founded.

In my supplemental statement to the final report of the Select Commission on Immigration and Refugee Policy, in my statements to this body over the past 3 years, and elsewhere, I have attempted to discuss the problems which must be solved. S. 1200 is the proposed solution. It is the product of so many, many persons over the past 6 years—of all the faiths and philosophies.

Mr. President, there can be no perfect immigration reform bill. We saw that. We know that. There are so many conflicting interests—special interests conflicting with the national interest and with each other as well—that it would truly take a miracle of a kind we mortals are unwise to hope for to accomplish and achieve a perfect balance.

I do earnestly hope that my colleagues will believe, however, that I have done my very damndest to follow a procedure which provided the best possible chance to produce a bill that will serve the interests of our beloved land and hear every view—that will serve not only the interest of some or even all of the generation now making decisions for America, but the interests of their children and their children's children—and that will serve not only their economic interests but all of the many and varied interests which are part of what determines the well-being of real live human beings—citizens and those not so blessed.

So let me admit, Mr. President, that we have not achieved perfection here and that neither will we achieve perfection in the conference. But I think we have done well. I remain proud of the effort and I believe that all those who have participated in drafting and amending and improving it should feel proud.

Mr. President, I will conclude by saying to my colleagues that I truly believe that S. 1200 deserves their support—and not because of the work or effort, or time expended to reach this point. I ask them to support this bill if they agree with me that it is a balanced, well-intended and painstakingly crafted proposal which, if enacted into law, will promote the best interests of the United States of America. I hope that none of my colleagues will withhold his or her support—unless he or she believes that S. 1200 does not promote the national interest, that it is reasonable to expect that a different and better bill could be passed in the foreseeable future.

That is where we are.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] is necessarily absent.

The PRESDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—69

Abdnor	Gorton	Nickles
Andrews	Grassley	Nunn
Baucus	Harkin	Packwood
Bentsen	Hatfield	Pell
Boren	Hawkins	Pressler
Boschwitz	Hecht	Proxmire
Bumpers	Heinz	Quayle
Byrd	Hollings	Rockefeller
Chafee	Johnston	Roth
Chiles	Kassebaum	Rudman
Cochran	Kasten	Sarbanes
D'Amato	Laxalt	Sasser
Danforth	Leahy	Simpson
Denton	Long	Specter
Dodd	Lugar	Stafford
Dole	Mathias	Stennis
Durenberger	Matsunaga	Stevens
Eagleton	Mattingly	Thurmond
Evans	McConnell	Trible
Exon	Melcher	Wallop
Ford	Metzenbaum	Warner
Glenn	Moynihan	Weicker
Gore	Murkowski	Wilson

NAYS—30

Armstrong	Garn	Kerry
Biden	Goldwater	Lautenberg
Bingaman	Gramm	Levin
Bradley	Hart	McClure
Burdick	Hatch	Mitchell
Cohen	Heflin	Pryor
Cranston	Helms	Riegle
DeConcini	Humphrey	Simon
Dixon	Inouye	Symms
Domenici	Kennedy	Zorinsky

NOT VOTING—1

East

So the bill, as amended, was passed, as follows:

S. 1200

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

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Reform and Control Act of 1985".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

TABLE OF CONTENTS

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—FUNDING FOR IMPROVED ENFORCEMENT

SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR ENFORCEMENT AND SERVICE ACTIVITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE AND WAGE AND HOUR ENFORCEMENT.

(a) TWO ESSENTIAL ELEMENTS.—It is the sense of Congress that two essential elements of the program of immigration control established by this Act are—

(1) an increase in the border patrol and other inspection and enforcement activities of the Immigration and Naturalization Service and of other appropriate Federal agencies in order to prevent and deter the illegal entry of aliens into the United States and the violation of the terms of their entry, and

(2) an increase in examinations and other service activities of the Immigration and Naturalization Service and other appropriate Federal agencies in order to ensure prompt and efficient adjudication of petitions and applications provided for under the Immigration and Nationality Act.

(b) INCREASED AUTHORIZATION OF APPROPRIATIONS FOR INS.—Section 404 (8 U.S.C. 1101 note) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 404. (a) There are authorized to be appropriated to the Department of Justice for the Immigration and Naturalization Service—

"(1) for fiscal year 1987, $840,000,000, and

"(2) for fiscal year 1988, $830,000,000.".

(c) SENSE OF CONGRESS REGARDING ENFORCEMENT OF THE IMMIGRATION LAWS.—It is the sense of the Congress that—

(1) the immigration laws of the United States should be enforced vigorously and uniformly, and

(2) in the enforcement of such laws, the Attorney General should take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens.

(d) SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR WAGE AND HOUR ENFORCEMENT.—There are authorized to be appropriated, in addition to such sums as may be available for such purposes, such sums as may be necessary to the Department of Labor for enforcement activities of the Wage and Hour Division and the Office of Federal Contract Compliance Programs within the Employment Standards Administration of the Department in order to deter the employment of unauthorized aliens and remove the economic incentive for employers to exploit and use such aliens.

PART B—INCREASED PENALTIES FOR IMMIGRATION-RELATED VIOLATIONS

SEC. 111. UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES.

(a) CRIMINAL PENALTIES.—Subsection (a) of section 274 (8 U.S.C. 1324) is amended to read as follows:

"(a) CRIMINAL PENALTIES.—

"(1) Any person who—

"(A) knowing or in reckless disregard of the fact that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;

"(B) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law; or

"(C) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation; or

"(D) encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law,

shall be fined, imprisoned not more than five years, or both, for each alien in respect to whom any violation of this subsection occurs. For the purposes of subparagraph (C) of this paragraph, employment (including the usual and normal practices incident to employment) by itself does not constitute harboring.

"(2) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each transaction constituting a violation of this subsection, regardless of the number of aliens involved—

"(A) be fined, or imprisoned not more than one year, or both; or

"(B) in the case of—

"(i) a second or subsequent offense,

"(ii) an offense done for the purpose of commercial advantage or private financial gain,

"(iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

"(iv) an offense during which either the offender or the alien with the knowledge of the offender makes any false or misleading statement or engages in any act or conduct intended to mislead any officer, agent or employer of the United States,

be fined, or imprisoned not more than five years, or both.".

(b) MISCELLANEOUS AMENDMENTS TO SEIZURE AND FORFEITURE PROCEDURES.—Subsection (b) of such section is amended—

(1) in paragraph (1) before subparagraph (A) by striking out "is used" and inserting in lieu thereof "has been or is being used",

(2) by striking out "subject to seizure and" in paragraph (1) and inserting in lieu thereof "seized and subject to",

(3) by inserting "or is being" after "has been" in paragraph (2),

(4) by striking out "conveyances" in paragraph (3) and inserting in lieu thereof "property",

(5) by inserting ", or the Federal Maritime Commission if appropriate under section 203(i) of the Federal Property and Administrative Services Act of 1949," in paragraph (4)(C) after "General Services Administration",

(6) in paragraph (4)—

(A) by striking out "or" at the end of subparagraph (B),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or", and

(C) by inserting after such subparagraph the following new subparagraph:

"(D) dispose of the conveyance in accordance with the terms and conditions of any petition of remission or mitigation of forfeiture granted by the Attorney General.";

(7) by striking out ": *Provided*, That" in paragraph (5) and inserting in lieu thereof ", except that",

(8) by striking out "was not lawfully entitled to enter, or reside within, the United States" in paragraph (5) and inserting in lieu thereof "had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law" each place it appears, and

(9) by inserting "or of the Department of State" in paragraph (5)(B) after "Service".

SEC. 112. FRAUD AND MISUSE OF CERTAIN IMMIGRATION-RELATED DOCUMENTS.

(a) APPLICATION TO ADDITIONAL DOCUMENTS.—Section 1546 of title 18, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 1546. Fraud and misuse of visas, permits, and other documents";

(2) by striking out "or other document required for entry into the United States" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or authorized employment in the United States";

(3) by striking out "or document" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or authorized employment in the United States";

(4) by inserting "(a)" before "Whoever" the first place it appears; and

(5) by adding at the end the following new subsections:

"(b) Whoever uses—

"(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor,

"(2) a identification document knowing (or having reason to know) that the document is false, or

"(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined, or imprisoned not more than two years, or both.

"(c) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).".

(b) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:

"1546. Fraud and misuse of visas, permits, and other documents.".

SEC. 113. RESTRICTIONS ON ADJUSTMENT OF STATUS.

(a) REQUIRING LEGAL STATUS AT TIME OF APPLICATION.—Subsection (c) of section 245 (8 U.S.C. 1255), relating to nonimmigrants who may not adjust to immigrant status while in the United States, is amended to read as follows:

"(c) ALIENS FOR WHOM THIS SECTION DOES NOT APPLY.—Subsection (a) shall not apply to the following aliens:

"(1) An alien crewman.

"(2)(A) Except as provided in subparagraph (B), an alien who—

"(i) continues in or accepts unauthorized employment before the date of filing an application for adjustment of status,

"(ii) is not in legal immigration status on the date of filing the application for adjustment of status, or

"(iii) has failed to maintain continuously a legal status since the date of entry into the United States.

"(B) Subparagraph (A) shall not apply to an alien who is—

"(i) an immediate relative, described in section 201(b), or

"(ii) a special immigrant described in section 101(a)(27)(H).

"(3) An alien admitted in transit without a visa under section 212(d)(4)(C).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for adjustment of status filed before, on, or after the date of the enactment of this Act.

PART C—CONTROL OF UNAUTHORIZED EMPLOYMENT OF ALIENS

SEC. 121. MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.

(a) IN GENERAL.—(1) Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:

"UNLAWFUL EMPLOYMENT OF ALIENS

"SEC. 274A. (a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

"(1) HIRING, RECRUITING, OR REFERRING.—It is unlawful for a person or other entity to hire, or to recruit or refer for a fee or other consideration, for employment in the United States an alien knowing the alien is an unauthorized alien (as defined in subsection (h)(2)) with respect to such employment.

"(2) CONTINUING EMPLOYMENT.—It is unlawful for a person or other entity, after hiring an alien for employment, to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) DEFENSES.—

"(A) COMPLIANCE WITH EMPLOYMENT VERIFICATION SYSTEM.—A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1) with respect to such hiring, recruiting, or referral.

"(B) PRESUMPTION FOR EMPLOYERS OF 4 OR MORE EMPLOYEES.—Except for purposes of subparagraph (2)(E) of subsection (d), if a person or entity is employing four or more employees and hires (or recruits or refers for a fee or other consideration) for employment in the United States an unauthorized alien, for purposes of paragraph (1) the person or entity shall be presumed to have known that the alien was an unauthorized alien unless the person or entity has complied with the requirements of subsection (b).

"(C) PRESUMPTION FOR LARGE RECRUITERS OR REFERRERS.—If a person or entity recruits or refers for a fee or other consideration more than four individuals in any 12-month period and recruits or refers for a fee or other consideration for employment in the United States an unauthorized alien, for purposes of paragraph (1) the person or entity shall be considered to have known that the alien was an unauthorized alien unless the person or entity has complied with the requirements of subsection (b).

"(D) REBUTTAL OF PRESUMPTION.—The presumption established by subparagraph (B) or (C) may be rebutted through the presentation of clear and convincing evidence which contradicts the presumption.

"(4) VIOLATORS SUBJECT TO ORDER.—A person or entity that violates paragraph (1) or (2) is subject to an order under subsection (d).

"(b) EMPLOYMENT VERIFICATION SYSTEM.—Except as provided in subsection (c), the requirements referred to in subsections (a)(3) and (d)(2)(C)(i) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the requirements specified in the following four paragraphs:

"(1) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

"(A) IN GENERAL.—The person or entity must attest, under penalty of perjury and on a form designated or established by the Attorney General by regulation, that it has verified that the individual is not an unauthorized alien by examining—

"(i) a document described in subparagraph (B), or

"(ii) a document described in subparagraph (C) and a document described in subparagraph (D).

A person or entity has complied with the requirement of this paragraph with respect to examination of a document if the document reasonably appears on its face to be genuine.

"(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT AUTHORIZATION AND IDENTITY.—A document described in this subparagraph is an individual's—

"(i) United States passport;

"(ii) certificate of United States citizenship;

"(iii) certificate of naturalization;

"(iv) unexpired foreign passport, if the passport has an appropriate, unexpired endorsement of the Attorney General authorizing the individual's employment in the United States; or

"(v) resident alien card or other alien registration card, if the card—

"(I) contains a photograph of the individual or such other personal identifying information relating to the individual as the At-

torney General finds, by regulation, sufficient for purposes of this subsection, and

"(II) is evidence of authorization of employment in the United States.

"(C) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual's—

"(i) social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States);

"(ii) certificate of birth in the United States or establishing United States nationality at birth, which certificate the Attorney General finds, by regulation, to be acceptable for purposes of this section; or

"(iii) other documentation evidencing authorization of employment in the United States which the Attorney General finds, by regulation, to be acceptable for purposes of this section.

"(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

"(i) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section; or

"(ii) in the case of individuals under 16 years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in clause (ii), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification.

"(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—The individual must attest, under penalty of perjury on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment.

"(3) RETENTION OF VERIFICATION FORM.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

"(A) in the case of the recruiting or referral for a fee or other consideration (without hiring) of an individual, three years after the date of the recruiting or referral, and

"(B) in the case of the hiring of an individual—

"(i) three years after the date of such hiring, or

"(ii) one year after the date the individual's employment is terminated,

whichever is later.

"(4) UNIFORM VERIFICATION POLICY.—The person or entity must apply the requirements of the previous three paragraphs uniformly to all individuals hired (or recruited or referred for a fee or other consideration).

"(5) COPYING OF DOCUMENTATION PERMITTED.—Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

"(6) LIMITATION ON USE OF ATTESTATION FORM.—A form designated or established by the Attorney General under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act and sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

"(c) EVALUATION AND CHANGES IN EMPLOYMENT VERIFICATION SYSTEM.—

"(1) PRESIDENTIAL MONITORING AND IMPROVEMENTS IN SYSTEM.—

"(A) MONITORING.—The President shall provide for the monitoring and evaluation of the degree to which the employment verification system established under subsection (b) provides a secure system to determine employment eligibility in the United States and shall examine the suitability of existing Federal and State identification systems for use for this purpose.

"(B) IMPROVEMENTS TO ESTABLISH SECURE SYSTEM.—To the extent that the system established under subsection (b) is found not to be a secure system to determine employment eligibility in the United States, the President shall, subject to paragraph (3) and taking into account the results of any demonstration projects conducted under paragraph (4), implement such changes in (including additions to) the requirements of subsection (b) as may be necessary to establish a secure system to determine employment eligibility in the United States. Except as provided in subparagraph (C), such changes in the system may be implemented only if the changes conform to the requirements of paragraph (2).

"(C) REQUIRING USE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARDS.—The President may require, without regard to paragraph (2), that the only social security account number cards which may be presented in order to comply with subsection (b)(1)(C)(i) are such cards as are in a counterfeit-resistant form consistent with the second sentence of section 205(c)(2)(D) of the Social Security Act.

"(2) RESTRICTIONS ON CHANGES IN SYSTEM.—Except as provided in paragraph (1)(C), any change the President proposes to implement under paragraph (1) in the verification system must be designed in a manner so the verification system, as so changed, meets the following requirements:

"(A) RELIABLE DETERMINATION OF IDENTITY.—The system must be capable of reliably determining whether—

"(i) a person with the identity claimed by an employee or prospective employee is eligible to work, and

"(ii) the employee or prospective employee is claiming the identity of another individual.

"(B) USING OF COUNTERFEIT-RESISTANT DOCUMENTS.—If the system requires that a document be presented to or examined by an employer, the document must be in a form which is resistant to counterfeiting and tampering.

"(C) LIMITED USE OF SYSTEM.—Any personal information utilized by the system may not be made available to Government agencies, employers, and other persons except to the extent necessary to verify that an individual is not an unauthorized alien.

"(D) PRIVACY OF INFORMATION.—The system must protect the privacy and security of personal information and identifiers utilized in the system.

"(E) LIMITED DENIAL OF VERIFICATION.—A verification that an employee or prospective employee is eligible to be employed in the United States may not be withheld or revoked under the system for any reason other than that the employee or prospective employee is an unauthorized alien.

"(F) LIMITED USE FOR LAW ENFORCEMENT PURPOSES.—The system may not be used for law enforcement purposes, other than for enforcement of this Act or sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

"(G) RESTRICTION ON USE OF NEW DOCUMENTS.—If the system requires individuals to present a new card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral, then such document may not be required to be presented for any purpose other than under this Act (or enforcement of sections 1001, 1028, 1546, and 1621 of title 18, United States Code) nor to be carried on one's person.

"(3) NOTICE TO CONGRESS BEFORE IMPLEMENTING CHANGES.—

"(A) IN GENERAL.—The President may not implement any change under paragraph (1) unless at least—

"(i) 60 days, or

"(ii) in the case of a major change described in subparagraph (D), two years,

before the date of implementation of the change, the President has prepared and transmitted to the Committee on the Judiciary of the House of Representatives and to the Committee on the Judiciary of the Senate a written report setting forth the proposed change. The President promptly shall cause to have printed in the Federal Register the substance of any major change (described in subparagraph (D)) proposed and reported to Congress.

"(B) CONTENTS OF REPORT.—In any report under subparagraph (A) the President shall include recommendations for the establishment of civil and criminal sanctions for unauthorized use or disclosure of the information or identifiers contained in such system.

"(C) CONGRESSIONAL REVIEW OF MAJOR CHANGES.—

"(i) HEARINGS AND REVIEW.—The Committees on the Judiciary of the House of Representatives and of the Senate shall cause to have printed in the Congressional Record the substance of any major change described in subparagraph (D), shall hold hearings respecting the feasibility and desirability of implementing such a change, and, within the two year period before implementation, shall report to their respective Houses findings on whether or not such a change should be implemented.

"(ii) CONGRESSIONAL ACTION.—No major change may be implemented unless the Congress specifically provides, in an appropriations or other Act, for funds for implementation of the change.

"(D) MAJOR CHANGES REQUIRING TWO YEARS NOTICE AND CONGRESSIONAL REVIEW.—As used in this paragraph, the term 'major change' means a change which would—

"(i) require an individual to present a new card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral, or

"(ii) provide for a telephone verification system under which an employer, recruiter, or referrer must transmit to a Federal official information concerning the immigration status of prospective employees and the official transmits to the person, and the person must record, a verification code;

but does not include a change in any card used for accounting purposes under the Social Security Act.

"(4) DEMONSTRATION PROJECTS.—

"(A) AUTHORITY.—The President may undertake demonstration projects (consistent with paragraph (2)) of different changes in the requirements of subsection (b). No such project may extend over a period of longer than three years.

"(B) REPORTS ON PROJECTS.—The President shall report to the Congress on the results of demonstration projects conducted under this paragraph.

"(d) COMPLIANCE.—

"(1) COMPLAINTS AND INVESTIGATIONS.—The Attorney General shall establish procedures—

"(A) for individuals and entities to file written, signed complaints respecting potential violations of subsection (a),

"(B) for the investigation of those complaints which, on their face, have a substantial probability of validity,

"(C) for the investigation of such other violations of subsection (a) as the Attorney General determines to be appropriate, and

"(D) for the designation in the Service of a unit which has, as its primary duty, the prosecution of cases of violations of subsection (a) under this subsection.

"(2) ORDER FOR VIOLATIONS.—

"(A) IN GENERAL.—If, after notice and opportunity to request a hearing respecting a violation of subsection (a), the immigration judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated subsection (a), the judge shall state his findings of fact and issue and cause to be served on such person or entity an order.

"(B) CIVIL PENALTY AS PART OF ORDER.—An order under subparagraph (A) shall require the person or entity to cease and desist from such violations and to pay a civil penalty in an amount of—

"(i) not less than $100 and not more than $2,000 for each unauthorized alien with respect to whom a violation of subsection (a) occurred,

"(ii) not less than $2,000 and not more than $5,000 for each such alien in the case of a person or entity previously subject to an order under this subsection, or

"(iii) not less than $3,000 and not more than $10,000 for each such alien in the case of a person or entity which has engaged or is engaging in a pattern or practice of such violations.

"(C) ADDITIONAL REMEDIES AS PART OF ORDER.—An order under subparagraph (A) may require the person or entity—

"(i) to comply with the requirements of subsection (b) (or subsection (c) if applicable) with respect to individuals hired (or recruited or referred for employment for a fee or other consideration) during a period of up to three years, and

"(ii) to take such other remedial action as is appropriate.

"(D) DISMISSAL OF COMPLAINTS.—If upon the preponderance of the evidence taken, the judge is of the opinion that the person or entity named in the complaint has not violated subsection (a), the judge shall state his findings of fact and shall issue an order dismissing the complaint.

"(E) CRIMINAL PENALTY.—Any person or entity which, after having been previously required to pay a civil penalty under subparagraph (B)(iii) for a pattern or practice of violations of subsection (a), again engages in such a pattern or practice shall be fined not more than $3,000 for each unauthorized alien with respect to whom a violation of subsection (a) occurred, imprisoned for not more than six months for the entire pattern or practice, or both, notwithstanding the provisions of any other Federal law relating to fine levels.

"(3) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and hearings under this subsection—

"(A) immigration officers and immigration judges shall have reasonable access to examine evidence of any person or entity being investigated, and

"(B) immigration judges, by subpoena, may compel the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(4) TREATMENT OF CERTAIN SUBDIVISIONS.—In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(5) ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General may provide for the administrative appellate review of the determination of an immigration judge under this subsection by an appropriate administrative appellate body.

"(e) JUDICIAL REVIEW OF ORDERS.—Judicial review of orders under this subsection shall be exclusively under the procedures provided in chapter 158 of title 28, United States Code, except as follows:

"(1) FILING DEADLINE.—Petitions for review may be filed not later than 45 days after the date of the final order.

"(2) VENUE.—The venue of any petition for review under this subsection shall be in the judicial circuit in which the administrative proceedings before an immigration judge were conducted in whole or in part, or in the judicial circuit wherein is the residence of the petitioner, but not in more than one circuit.

"(3) SERVICE.—In the case of review sought by an entity other than the Service, the action shall be brought against the Immigration and Naturalization Service as respondent and service of the petition to review shall be made upon the Attorney General and upon the official of the Service in charge of the Service district in which the office of the clerk of the court is located.

"(4) SUBSTANTIAL EVIDENCE.—The petition shall be determined solely upon the administrative record upon which the order is based and the immigration judge's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(5) TYPEWRITTEN BRIEFS.—It shall not be necessary to print the record or any part thereof, or the brief, and the court shall review the proceedings on a typewritten record and on typewritten briefs.

In any judicial review of an immigration judge's order under this subsection, the court may provide for such order of enforcement as may be appropriate. Section 279 shall not apply to causes arising under this section.

"(f) ENFORCEMENT OF ORDERS.—If a person or entity fails to comply with a final order issued under subsection (d) against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order imposing the assessment shall not be subject to review.

"(g) MISCELLANEOUS PROVISIONS.—

"(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) authorized to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(2) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee or other consideration for employment, unauthorized aliens.

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

"(1) IMMIGRATION JUDGE.—The term 'immigration judge' means an immigration officer specially designated to hear cases under this section.

"(2) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.".

(b) EFFECTIVE DATES.—(1) Except as otherwise provided in this subsection or subsection (c), the amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) Paragraph (1) of section 274A(a) of the Immigration and Nationality Act, making unlawful the hiring, recruiting, or referral of unauthorized aliens for employment, shall only apply to the hiring, recruiting, or referral of individuals occurring after the date of the enactment of this Act.

(3) Paragraph (2) of section 274A(a) of the Immigration and Nationality Act, relating to making unlawful the continuing employment of unauthorized aliens, shall only apply to aliens who are hired after the date of the enactment of this Act.

(4) Section 274A(g)(2) of the Immigration and Nationality Act takes effect on the first day of the seventh month beginning after the date of the enactment of this Act.

(c) PROMULGATION OF REGULATIONS AND EDUCATION AND WARNING PERIOD.—(1) The Attorney General shall, not later than the first day of the seventh month beginning after the date of the enactment of this Act, first issue, on an interim or other basis, such regulations as may be necessary in order to implement section 274A of the Immigration and Nationality Act.

(2) The Attorney General, in cooperation with the Secretaries of Agriculture, Commerce, Health and Human Services, Labor, and the Treasury and the Administrator of the Small Business Administration and with organizations representing or assisting employers, employees, and employment agencies, shall take steps to broadly disseminate forms and information and provide for public education respecting the provisions of section 274A of the Immigration and Nationality Act.

(3) Where the Attorney General has reason to believe that a person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the six-month period beginning on the first day of the first month beginning after the date of the enactment of this Act, the Attorney General shall notify such person or entity of such belief and shall not conduct any proceeding, nor impose any order, under such section on the basis of such alleged violation or violations.

(4) Where the Attorney General has reason to believe that a person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the subsequent six-month period, the Attorney General shall, in the first instance of such an alleged violation (or violations) occurring during such period, provide a warning to the person or entity that such a violation or violations may have occurred and shall not conduct any proceeding, nor impose any penalty, under such section on the basis of such alleged violation or violations.

(d) CONFORMING AMENDMENTS TO MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.—(1) The Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470) is amended—

(A) by striking out "101(a)(15)(H)(ii)" in paragraphs (8)(B) and (10)(B) of section 3 (29 U.S.C. 1802) and inserting in lieu thereof "101(a)(15)(N), 101(a)(15)(O),";

(B) in section 103(a) (29 U.S.C. 1813(a))—

(i) by striking out "or" at the end of paragraph (4),

(ii) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and

(iii) by adding at the end the following new paragraph:

"(6) has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act.";

(C) by striking out section 106 (29 U.S.C. 1816) and the corresponding item in the table of contents; and

(D) by striking out "section 106" in section 501(b) (29 U.S.C. 1851(b)) and by inserting in lieu thereof "paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act".

(2) The amendments made by paragraph (1) shall apply to the employment, recruitment, referral, or utilization of the services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act.

(e) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by inserting after the item relating to section 274 the following new item:

"Sec. 274A. Unlawful employment of aliens.".

(f) REPORTS ON IMPLEMENTATION OF SECTION.—For monitoring and study respecting the enactment of this section (including actions taken on any discrimination in employment which might result from enactment of this section), see section 402 of this Act.

(g) STUDY ON THE USE OF A TELEPHONE VERIFICATION SYSTEM.—(1) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a study for use by the Department of Justice in determining employment eligibility in the United States. Such study shall concentrate on those data bases that are currently available to the Federal Government which through the use of a telephone and computation capability could be used to verify instantly the employment eligibility status of job applicants.

(2) Such study shall be conducted in conjunction with any existing Federal program which is designed for the purpose of providing information on the resident or employment status of workers for employers. The study shall include an analysis of costs and benefits which shows the differences in costs and efficiency of having the Federal Government or a contractor perform this service. Such comparisons should include reference to such technical capabilities as processing techniques and time, verification techniques and time, back up safeguards, and audit trail performance.

(3) Such study shall also concentrate on methods of phone verification which demonstrate the best safety and service standards, the least burden for the employer, the best capability for effective enforcement, and procedures which are within the boundaries of the Privacy Act of 1974.

(4) Such study shall be conducted within twelve months of the date of enactment of this Act.

(5) The Attorney General shall prepare and transmit to the Congress a report—

(A) not later than six months after the date of enactment of this Act, describing the status of such study; and

(B) not later than twelve months after such date, setting forth the findings of such study.

(h) COUNTERFEITING OF SOCIAL SECURITY ACCOUNT NUMBER CARDS.—(1) The Comptroller General of the United States, upon consultation with the Commissioner of Immigration as well as private sector representatives (including representatives of the financial, banking, and manufacturing industries), shall inquire into technological alternatives for producing and issuing social security account number cards that are more resistant to counterfeiting than social security account number cards being issued on the date of enactment of this Act by the Social Security Administration, including the use of encoded magnetic, optical, or active electronic media such as magnetic stripes, holograms, and integrated circuit chips. Such inquiry should focus on technologies that will help ensure the authenticity of the card, rather than the identity of the bearer.

(2) The Comptroller General of the United States shall explore additional actions that could be taken to reduce the potential for fraudulently obtaining and using social security account number cards.

(3) Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and the Committee on the Judiciary and the Committee on Finance of the Senate a report setting forth his findings and recommendations under this subsection.

SEC. 122. TEMPORARY AGRICULTURAL WORKER PROGRAM.

(a) PROVIDING NEW "N" NONIMMIGRANT CLASSIFICATION FOR TEMPORARY AGRICULTURAL WORKERS.—Section 101(a)(15) (8 U.S.C. 1101(a)) is amended—

(1) by inserting "other than agricultural services described in section 216(h)(1)" in subparagraph (H)(ii) after "temporary services or labor",

(2) by striking out "or" at the end of subparagraph (L),

(3) by striking out the period at the end of subparagraph (M) and inserting in lieu thereof "; or", and

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

"(N) an alien, having a residence in a foreign country which he has no intention of abandoning, who is coming temporarily to the United States under section 216 to perform agricultural services (as defined in section 216(h)(1)) of a temporary or seasonal nature.".

(b) INVOLVEMENT OF DEPARTMENTS OF LABOR AND AGRICULTURE IN TEMPORARY AGRICULTURAL WORKER PROGRAM.—Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) by striking out "or (L)" in the first sentence and inserting in lieu thereof ", (L), or (N)", and

(2) by adding at the end the following: "For purposes of this subsection the term 'appropriate agencies of Government' means the Department of Labor and includes, with respect to nonimmigrants under section 101(a)(15)(N), the Department of Agriculture. The provisions of section 216 shall apply to the question of importing any alien as a nonimmigrant under section 101(a)(15)(N).".

(c) ADMISSION OF TEMPORARY AGRICULTURAL WORKERS.—Chapter 2 of title II is amended by adding after section 215 the following new section:

"ADMISSION OF TEMPORARY AGRICULTURAL WORKERS

"SEC. 216. (a) APPLICATION FOR LABOR CERTIFICATION.—

"(1) REQUIREMENT.—A petition to import an alien as a temporary agricultural worker (as defined in subsection (h)(3)) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(A) there are not sufficient eligible individuals who are able, willing, and qualified and who will be available at the time and place needed to perform the services involved in the petition, and

"(B) the employment of the alien in such services will not adversely affect the wages and working conditions of eligible individuals in the United States similarly employed.

"(2) PAYMENT OF REQUIRED FEES.—The Secretary of Labor may require by regulation, as a condition of applying for the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(b) CONDITIONS FOR DENIAL OF LABOR CERTIFICATION.—The Secretary of Labor may not issue a certification under subsection (a) with respect to an employer if the conditions described in that subsection are not met or if any of the following conditions exist:

"(1) LABOR DISPUTE.—There is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification.

"(2) VIOLATION OF TERM OF PREVIOUS CERTIFICATION.—

"(A) IN GENERAL.—The employer at any time during the previous two-year period employed temporary agricultural workers and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer at any time during that period—

"(i) substantially violated an essential term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers, or

"(ii) has not paid every penalty which has been assessed by the Secretary of Labor for a violation of a term or condition of such labor certification.

"(B) DISQUALIFICATION LIMITED TO ONE YEAR.—No employer may be denied certification under subparagraph (A) for more than one year for any violation described in that subparagraph.

"(3) NOT PROVIDING FOR WORKERS' COMPENSATION.—The employer has not provided the Secretary with satisfactory assurances that if the employment for which the certification is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(c) RULES CONCERNING APPLICATIONS FOR LABOR CERTIFICATION.—The following rules shall apply in the case of the filing and consideration of an application for a labor certification for a temporary agricultural worker:

"(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary of Labor may not require that the application be filed more than 65 days before the first date the employer requires the services of the worker.

"(2) NOTICE WITHIN 14 DAYS OF DEFICIENCIES.—

"(A) NOTICE OF DEFICIENCIES.—The application shall be considered to have met the requirements of subsection (a)(1) (other than subparagraph (A) thereof) unless the Secretary of Labor, within 14 days of the date of filing the application, notifies the employer filing the application that the application does not meet the requirements.

"(B) SUBMITTAL OF MODIFIED APPLICATION.—If the application does not meet the requirements, the notice shall include the reasons therefor and the Secretary shall permit the employer an opportunity for the prompt resubmission of a modified application.

"(3) ISSUANCE OF CERTIFICATION.—

"(A) IF CONDITIONS MET.—The Secretary of Labor shall make, not later than 20 days before the date such services are first required to be performed, the certification described in subsection (a)(1) if—

"(i) the employer has complied with the requirements for certification (including the recruitment of eligible individuals as prescribed by regulation), and

"(ii) the employer does not actually have, or has not been provided with referrals of, eligible individuals who have agreed to perform such services on the terms and conditions of a job offer which meet requirements of regulations.

"(B) CONTINUED ACCEPTANCE OF APPLICANTS.—A labor certification under this section remains effective only if the employer continues to accept for employment, until the date the temporary agricultural workers depart for work with the employer, eligible individuals who apply or are referred to the employer.

"(4) PROVIDING HOUSING ALLOWANCE.—In the employer's complying with terms and conditions of employment respecting the furnishing of housing, the employer shall be permitted for a period of not to exceed three and one-half years from the date of enactment of this Act, at the employer's option and instead of providing for suitable housing accommodations, to substitute payment of a reasonable housing allowance, but only if suitable housing is otherwise available in the proximate area of employment: *Provided, however,* That the period specified in this paragraph may be extended for a particular employer by not more than one year by the Attorney General if the employer demonstrates that, despite all reasonable good faith efforts, initiated as soon as practicable after the enactment of this Act, furnishing of housing has been delayed due to failure to receive regulatory approval from State or local governmental entities.

"(d) ROLES OF AGRICULTURAL ASSOCIATIONS.—

"(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to import an alien as a temporary agricultural worker, and an application for a labor certification with respect to such a worker, may be filed by an association representing agricultural producers which use agricultural services.

"(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If such an association is a joint or sole employer of temporary agricultural workers, the certifications granted under this section to the association may be used for the certified job opportunities of any of its producer members and such workers may be transferred among its member producers to perform agricultural services of a temporary or seasonal nature for which the certifications were granted.

"(3) TREATMENT OF VIOLATIONS.—

"(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of such an association is determined to have committed an act that under subsection (b)(2) results in the denial of certifications with respect to the member, the denial shall apply only to that member and does not apply to the association or another producer member of the association unless the Secretary determines that the association or other member participated in, or had knowledge of and derived benefit from, the violation.

"(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—If an association representing agricultural producers as a joint employer, or employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, the denial shall apply only to the association and does not apply to any individual producer member of the association unless the Secretary determines that the member participated in, or had knowledge of and derived benefit from, the violation.

"(e) EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.—

"(1) DENIAL OF LABOR CERTIFICATION.—The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under subsection (a)(1) or, at the applicant's request, for a de novo administrative hearing respecting the denial. In the case of a request for such a review or hearing with respect to denial of certification for temporary agricultural workers to perform agricultural services in the production of perishable commodities (as defined by the Secretary of Agriculture for purposes of this section), the Secretary of Labor shall provide that the review or hearing take place not later than 72 hours after the time the request is submitted.

"(2) REDETERMINATION WHERE UNQUALIFIED WORKERS REFERRED FOR EMPLOYMENT.—The Secretary of Labor shall expeditiously, but in no case later than 72 hours after the time a new determination is requested, make a new determination on the request for certification in the case of a temporary agricultural worker if the employer asserts that eligible individuals who have been referred are not able, willing, or qualified because of lawful employment-related reasons. If the employer asserts that an eligible individual who has been referred is not able, willing, or qualified, the burden of proof is on the employer to establish that the individual referred is not able, willing, or qualified because of employment-related reasons.

"(3) ATTORNEY GENERAL EXPEDITED REVIEW WHERE WORKERS NOT ACTUALLY AVAILABLE.—To the extent that—

"(A) a certification under subsection (a)(1) was denied solely because of the availability of eligible individuals to perform the agricultural services specified in the petition, and

"(B) eligible individuals who agree to perform the services for which the temporary agricultural workers are sought are not actually available at the time and place such services are required,

the Attorney General shall provide by regulation for an expedited review of the petition respecting the workers not later than 72 hours after the time the employer requests expedited review under this paragraph. To the extent that the Attorney General determines that the facts described in the previous sentence exist, the Attorney General may provide for approval of the petition (subject to the other conditions required for the approval of certification under subsection (a)(1)), notwithstanding the denial of the certification by the Secretary of Labor.

"(4) EXPEDITED APPLICATION WHERE UNFORESEEN NEED FOR WORKERS.—

"(A) PERMITTING AMENDED APPLICATION OR ABBREVIATED RECRUITMENT PERIOD.—If the Secretary of Labor makes the determination described in subparagraph (C), the Secretary—

"(i) shall permit the employer to amend or to make an application for certification under subsection (a)(1), and

"(ii) may waive some or all of the 65-day recruitment period described in subsection (c)(1) as necessary to meet the critical need described in subparagraph (C)(i).

"(B) PROMPT REDETERMINATION.—In the case of an amended or new application under subparagraph (A)—

"(i) USING BEST DATA.—The Secretary shall make the determination on the amendment or application based upon the best available labor market information.

"(ii) DEADLINE FOR DETERMINATION.—Except as provided in clause (iii), the Secretary shall make the determination on the amendment or application not later than 20 days before the date on which the workers are needed.

"(iii) DEADLINE FOR LATE AMENDMENTS AND APPLICATIONS—If an amendment or application is made at any time later than 3 days before such date of need described in clause (ii), the Secretary shall make the determination on the amendment or application within 72 hours after the date the amendment or application is submitted.

"(C) DETERMINATION OF UNFORESEEN CIRCUMSTANCES.—The determination under subparagraph (A) is that—

"(i) in the case of an employer that has filed an application for a certification under subsection (a)(1), the employer—

"(I) has a critical need for workers before the expiration of the 65-day period described in subsection (c)(1), or

"(II) has a critical need for additional workers who had not been requested in the previous application;

"(ii) in the case of an employer that had not previously filed such an application, the employer has a critical need for workers before the expiration of the 65-day period described in subsection (c)(1) and the employer made prompt application for certification under subsection (a)(1) when the employer's need for workers became known; and

"(iii) based on the employer's past experience and on reasonable expectations, the need for such workers at the time required could not have been foreseen.

"(5) PERMITTING PRESENTATION OF COUNTERVAILING EVIDENCE.—If the Secretary of Labor denies a certification under subsection (a)(1) or fails to act on the application, the Attorney General may permit the applicant to present countervailing evidence to the Attorney General that—

"(A) there are not sufficient workers who are able, willing, and qualified and who will be available at the time and place needed to perform the services involved in the petition for which the certification is sought, and

"(B) the employment policies of the Department of Labor have been observed.

"(f) ENTRY AND TRANSFER OF TEMPORARY AGRICULTURAL WORKERS.—

"(1) TIME LIMITATION.—An alien may not be admitted to the United States as a temporary agricultural worker for an aggregate period longer than the period (or periods) determined by regulations of the Attorney General. The regulations may provide for a period of admission of longer than one year in the case of agricultural services which the Secretary of Labor has recognized, for purposes of the admission of certain nonimmigrants under section 101(a)(15)(H)(ii), before the date of the enactment of this section.

"(2) VIOLATORS DISQUALIFIED FOR 5 YEARS.—An alien may not be admitted to the United States as a temporary agricultural worker if the alien was admitted to the United States as such a worker within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

"(3) TRANSFER OF WORKERS AMONG EMPLOYERS PERMITTED.—Nothing in this section shall prohibit an employer which has a petition approved with respect to the importation of temporary agricultural workers from hiring such a worker who has completed a work contract entered into with another employer. The Attorney General shall provide for a procedure to allow temporary agricultural workers, who have completed a work contract under this section and who are not otherwise deportable, to remain in the United States for brief periods in which to seek and accept employment with employers who are authorized to employ the workers.

"(g) MISCELLANEOUS PROVISIONS.—

"(1) AUTHORITY OF SECRETARY OF LABOR.—The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this section.

"(2) APPROPRIATE DOCUMENTATION.—The Attorney General shall provide for such endorsement of entry and exit documents of temporary agricultural workers as may be necessary to carry out this section and to provide notice for purposes of section 274A.

"(3) PREEMPTION.—The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

"(4) TREATMENT FOR FICA, FUTA, AND SOCIAL SECURITY.—For the administration of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and the Social Security Act, a temporary agricultural worker shall be considered to be an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H)(ii) of this Act.

"(h) DEFINITIONS.—For purposes of this section:

"(1) AGRICULTURAL SERVICES.—The term 'agricultural services' has the meaning given such term by the Secretary of Labor in regulations and includes—

"(A) agricultural labor, defined in section 3121(g) of the Internal Revenue Code of 1954, and

"(B) agriculture, as defined in section 3(f) of the Fair Labor Standards Act of 1938.

"(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(h)(2)) with respect to that employment.

"(3) TEMPORARY AGRICULTURAL WORKER.—The term 'temporary agricultural worker' means a nonimmigrant described in section 101(a)(15)(N).".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 404 (8 U.S.C. 1101 note), as amended by section 101(b) is further amended by adding at the end the following new subsections:

"(b) AUTHORIZATIONS OF APPROPRIATIONS FOR SECRETARY OF LABOR.—(1) There are authorized to be appropriated to the Secretary of Labor for each fiscal year, beginning with fiscal year 1987, $10,000,000 for the purposes—

"(A) of recruiting domestic workers for temporary services which might otherwise be performed by temporary agricultural workers described in section 216, and

"(B) of monitoring terms and conditions under which such temporary agricultural workers (and domestic workers employed by the same employers) are employed in the United States.

"(2) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under section 216 and under section 212(a)(14).

"(c) AUTHORIZATION OF APPROPRIATIONS FOR SECRETARY OF AGRICULTURE.—There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purposes of enabling the Secretary of Agriculture to carry out the Secretary's duties and responsibilities under section 216.

"(d) Nothing in this Act is intended to authorize funding for fiscal year 1986.".

(e) PROHIBITING ADJUSTMENT OF STATUS OF TEMPORARY AGRICULTURAL WORKERS.—(1) Section 245(c) (8 U.S.C. 1255(c)), as amended by section 113(a) of this Act, is further amended by adding at the end the following new paragraph:

"(4) An alien (other than an immediate relative specified in section 201(b)) who entered the United States classified as a nonimmigrant under section 101(a)(15)(N).".

(2) Section 248(1) (8 U.S.C. 1258(1)) is amended by striking out "or (K)" and inserting in lieu thereof "(K), or (N)".

(f) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) of this section apply to petitions and applications filed under sections 214(c) and 216 of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").

(g) REGULATIONS.—The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall approve all regulations to be issued implementing sections 101(a)(15)(N) and 216 of the Immigration and Nationality Act. Notwithstanding any other provision of law, final regulations to implement such sections shall first be issued, on an interim or other basis, not later than the effective date.

(h) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Admission of temporary agricultural workers.".

SEC. 123. AGRICULTURAL LABOR TRANSITION PROGRAM.

(a) ESTABLISHMENT OF TRANSITION PROGRAM.—The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall promulgate rules and regulations for the implementation of an agricultural labor transition program. The program shall be effective for a three-year period beginning on the first day of the seventh month beginning after the date of enactment of this Act.

(b) LIMITATION ON NUMBER OF WORKERS UNDER PROGRAM.—During the first year of the transition program, an agricultural employer, except as provided in (c), (d), and (e), may, as provided by regulation, employ up to 100 percent of his nondomestic seasonal agricultural worker need with transitional workers. During the second and third years of the program, the employer may employ up to 67 percent and 33 percent, respectively, of his nondomestic seasonal agricultural worker needs with transitional workers.

(c) CANNOT REPLACE LEGAL WORKERS.—Nothing in this section shall permit transitional workers to replace available United States workers or legal foreign workers admitted under the Immigration and Nationality Act.

(d) COVERAGE UNDER OTHER EMPLOYMENT LAWS.—All workers employed under the provisions of this section shall be fully protected by all Federal and State laws and regulations governing the employment of United States migrant and seasonal agricultural workers.

(e) ELIGIBILITY OF ALIENS.—(1) An undocumented alien in the United States shall be eligible to be a transitional worker under the provisions of this section if the person was employed on the date of enactment as a seasonal agricultural worker in the United States, or has been employed as such a worker for at least 90 days during a period of time after January 1, 1980, and before the date of enactment.

(2) An undocumented worker shall not be eligible to be a transitional worker and may not be registered under this section if the person is deportable for any reason other than those described in paragraphs (2) and (9) of section 241(a) of the Immigration and Nationality Act, or on the basis, under paragraph (1) of that section, of being excludable at the time of entry under paragraph (19), (20), or (26) of section 212(a) of such Act. Only persons employed as transitional workers and registered as such by the Attor-

ney General during the first year of the program shall be eligible during the second and third years.

(3) A transitional worker under this section is not eligible to apply for adjustment of status under section 245(a) of the Immigration and Nationality Act, unless the alien is an immediate relative described in section 201(b) of such Act.

(f) REQUIREMENTS FOR EMPLOYERS TO PARTICIPATE.—To employ transitional workers under the provisions of this section, an agricultural employer must—

(1) notify the Attorney General of the employer's intention to participate in the transition program within twelve months of the beginning of the program, and

(2) provide such information relating to the employer's requirements for seasonal agricultural workers in months or other periods in previous and future years as the Attorney General may specify.

(g) REPORTS ON USE OF WORKERS.—After an employer begins participation in the agricultural labor transition program the employer shall provide, upon request, to the Attorney General a numerical count of the number of transitional workers employed and the total number of domestic and foreign seasonal agricultural workers employed by the employer.

(h) APPLICATION OF STANDARDS FOR TEMPORARY AGRICULTURAL WORKERS IN CERTAIN CASES.—Any eligible employer under the transition program who employs nonimmigrant alien agricultural workers under the provisions of section 216 or 217 of the Immigration and Nationality Act shall provide wages and working conditions as required by subsection (a)(1)(B) of section 216 or subsection (b)(4) of section 217, as the case may be, to all similarly employed workers of that employer.

(i) EMPLOYMENT DOES NOT PRECLUDE LEGALIZATION OF A WORKER.—Agreement by an alien to be a transitional worker would not preclude that alien from eligibility under the legalization provisions of title II of this Act.

(j) PAYMENT OF FEES.—The Attorney General may require by regulation, as a condition of participation by an employer in the transition program, the payment of a fee to recover the reasonable costs of processing registrations under the transition program.

(k) TREATMENT OF CERTAIN DOCUMENTATION.—In accordance with regulations of the Attorney General, a work permit or other documentation issued under this section to a transitional worker shall be considered to be documentation evidencing authorization of employment for purposes of section 274A(b)(1)(C)(iii) of the Immigration and Nationality Act and an alien employed by an employer and in possession of a properly endorsed work permit or other such documentation for a period of time shall be considered (for purposes of section 274A(h)(2) of such Act) to be authorized by the Attorney General to be so employed during that period of time. For purposes of section 3121(a)(1) of the Internal Revenue Code of 1954 and section 210(a) of the Social Security Act, a transitional worker performing seasonal agricultural services for an employer participating under the program shall be considered to be lawfully admitted to the United States on a temporary basis to perform agricultural labor.

(l) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—(1) Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend from the appropriation provided for the administration and enforcement of the Immigration and Nationality Act, such amounts as may be necessary for the leasing or acquisition of property in the fulfillment of this section during the period of the transition program.

(2) USE OF RETIRED FEDERAL EMPLOYEES.—Notwithstanding any other provision of law, the retired or retainer pay of a member or former member of the Armed Forces of the United States or the annuity of a retired employee of the Federal Government shall not be reduced while such individual is temporarily employed by the Service for the period of the transition program to perform duties in connection with the program.

SEC. 124. COMMISSION ON TEMPORARY AGRICULTURAL WORKER PROGRAMS.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established a commission (hereinafter in this section referred to as the "Commission") to be composed of 12 members—

(A) two to be appointed by the Attorney General,

(B) two to be appointed by the Secretary of Labor,

(C) two to be appointed by the Secretary of Agriculture,

(D) three to be appointed by the Speaker of the House of Representatives, and

(E) three members to be appointed by the President pro tempore of the Senate.

(2) In appointing individuals as members, the Attorney General, the Secretaries of Labor and Agriculture, the Speaker, and the President pro tempore shall assure that members include some individuals who represent labor organizations for agricultural workers and some individuals who represent agricultural employers of nondomestic workers. Appointments to the Commission shall be made in a manner that provides for balanced representation of the various interests in the matters considered by the Commission.

(3) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(4) Appointments to the Commission shall first be made within 30 days after the date of the enactment of this Act.

(5) Members shall be appointed to serve for the life of the Commission.

(b) REVIEW OF AGRICULTURAL LABOR PROGRAMS.—(1) The Commission shall study and review—

(A) the temporary agricultural worker program described in section 216 and section 217 of the Immigration and Nationality Act, and

(B) the agricultural labor transition program under section 123 of this Act,

particularly as such programs impact on the labor needs of agricultural employers in the United States and on the wages, working conditions, and job opportunities of United States agricultural workers.

(2) The Commission shall specifically review the following with respect to the temporary agricultural worker program under section 216 of the Immigration and Nationality Act:

(A) The standards described in subsection (a)(1) of that section for the certification respecting temporary agricultural workers.

(B) Whether or not there should be a statutory or other specific limit on the number of such workers who may be imported in any period.

(C) Whether or not payments equivalent to the taxes otherwise imposed under the Federal Insurance Contributions Act and the Federal Unemployment Tax Act should be made by the employers of such workers and what use should be made of these payments.

(D) What is a proper length of time and proper mechanism for the recruitment of domestic workers before importation of such foreign workers.

(E) Whether foreign agricultural workers should be contractually restricted to employment with specific employers.

(F) Whether current labor standards offer adequate protection for domestic and foreign agricultural workers.

(G) Whether certain geographic regions need special programs or provisions to meet their unique needs.

(3) The Commission shall specifically review the following with respect to the seasonal agricultural worker program under section 217 of the Immigration and Nationality Act:

(A) The standards described in subsections (b)(2), (3), and (4) of that section for the certification respecting seasonal agricultural workers.

(B) What is the proper length of time and proper mechanism for the recruitment of domestic workers before importation of such foreign workers.

(C) Whether current labor standards offer adequate protection for domestic and foreign agricultural workers.

(D) The availability of sufficient able, willing, and qualified domestic workers to meet the needs of agricultural employers.

(E) The appropriate limit on the number of seasonal agricultural workers who may be imported into all agricultural regions in the United States at any given time, taking into consideration all relevant data, including that resulting from the experience of the Agricultural Labor Transition Program.

(c) REPORT TO CONGRESS.—(1) The Commission shall report to the Congress not later than three years after the effective date (described in section 122(f)) on its reviews under subsection (b). The Commission shall include in its report recommendations for improvements in the temporary and seasonal agricultural worker programs under sections 216 and 217 of the Immigration and Nationality Act, including specific legislative recommendations—

(1) on the matters specifically reviewed under subsections (b) (2), and (3),

(2) improving the timeliness of decisions regarding the admission of temporary and seasonal agricultural workers under the program,

(3) removing any current economic disincentives to hiring United States citizens or permanent resident aliens where temporary agricultural workers have been requested,

(4) improving the cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign agricultural workers.

(5) on the appropriate limit on the number of seasonal workers who may be imported into all agricultural regions in the United States at any given time under section 217, and

(6) on the need to continue, improve, or eliminate the seasonal agricultural worker program established under section 217.

(d) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, the daily equivalent of the minimum annual rate of basic pay in

effect for grade GS-18 of the General Schedule for each day (including travel-time) during which the member is engaged in the actual performance of duties of the Commission. Each member of the Commission who is such an officer or employee shall serve without additional pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(f) MEETINGS OF COMMISSION.—(1) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The Chairman and the Vice Chairman of the Commission shall be elected by the members of the Commission for the life of the Commission.

(3) The Commission shall meet at the call of the Chairman or a majority of its members.

(g) STAFF.—(1) The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions, without regard to the laws, rules, and regulations governing appointment in the competitive service. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(2) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-18 of the General Schedule.

(g) AUTHORITY OF COMMISSION.—(1) The Commission may for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate.

(2) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of such department or agency shall furnish such information to the Commission.

(3) The Commission may accept, use, and dispose of gifts or donations of services or property.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) Notwithstanding any other provision of this section, no payment, or authorization to make payments or to enter into contracts under this section, shall be effective to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(i) TERMINATION DATE.—The Commission shall cease to exist 39 months after the effective date (described in section 122(f)).

SEC. 125. SEASONAL AGRICULTURAL WORKER PROGRAM.

(a) PROVIDING NEW "O" NONIMMIGRANT CLASSIFICATION FOR SEASONAL AGRICULTURAL WORKERS.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by this Act, is further amended—

(1) by inserting "and other than seasonal agricultural services in perishable commodities described in section 217(h)(1)" in subparagraph (H)(11) after "section 216(h)(1)";

(2) by striking out "or" at the end of subparagraph (M);

(3) by striking out the period at the end of subparagraph (N) and inserting in lieu thereof "; or"; and

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

"(O) an alien having a residence in a foreign country which he has no intention of abandoning who is coming to the United States to perform seasonal agricultural services in perishable commodities (as defined in section 217(h)(1)).".

(b) ADMISSION OF SEASONAL AGRICULTURAL WORKERS.—Chapter 2 of title II is amended by adding after section 216 the following new section:

"SEC. 217. ADMISSION OF SEASONAL AGRICULTURAL WORKERS.

"(a) ESTABLISHMENT OF SEASONAL AGRICULTURAL WORKER PROGRAM.—The Attorney General, in consultation with the Secretary of Agriculture and the Secretary of Labor, shall by regulation establish a program (hereafter in this section referred to as 'the program') for the admission into the United States of seasonal agricultural workers (as defined in section 217(h)(2)).

"(b) ADMISSION OF SEASONAL AGRICULTURAL WORKERS.—A petition to import an alien as a seasonal agricultural worker (as defined in section 217(h)(2)) may not be approved by the Attorney General unless the petitioner certifies to the Attorney General the following:

"(1) SEASONAL AGRICULTURAL EMPLOYER IN PERISHABLE COMMODITIES.—

"(A) NATURE OF PETITIONER.—The petitioner employs (or contracts for the employment of) individuals in seasonal agricultural services in perishable commodities, or is an association representing such employers or contractors.

"(B) REQUIREMENTS OF PETITIONS.—For each month concerned and for each agricultural employment region (designated under section 217(i)(1)) in which the petitioner is operating, the petition must specify—

"(i) the total number and qualifications of individuals in seasonal agricultural services in perishable commodities required in each month, and

"(ii) the type of agricultural work required to be performed by these workers.

"(2) WILL MAKE RECRUITING EFFORT.—The petitioner will make a good faith effort to recruit (as required by the Attorney General in regulations) in the area of intended employment, including the listing of employment opportunities with the appropriate office of a governmental employment service, and will accept for employment able, willing, and qualified workers referred by such office to perform seasonal agricultural services in perishable commodities until the commencement of the seasonal agricultural services for which the petitioner has recruited.

"(3) REPORT ON RECRUITMENT.—In the case of a petitioner that has employed seasonal agricultural workers during the previous 12 months, the petitioner will provide a summary of his efforts to recruit domestic workers to perform seasonal agricultural services in perishable commodities during that period.

"(4) ADEQUATE WORKING CONDITIONS.—The petitioner will provide such wages and working conditions as will not adversely affect the wages and working conditions of United States workers similarly employed.

"(5) HOUSING.—The petitioner will furnish housing for nonimmigrants described in section 101(a)(15)(O) or, at the petitioner's option and instead of arranging for suitable housing accommodations, will substitute payment of a reasonable housing allowance to the provider of the housing, but only if the housing is otherwise available within the approximate area of employment.

"(6) NOTICE TO ATTORNEY GENERAL OF EMPLOYMENT.—The petitioner will notify the Attorney General of the entering into, or termination, of an employment relationship with a seasonal agricultural worker not later than 72 hours of the time the relationship is entered into or terminated.

"(7) EMPLOYMENT ONLY IN SEASONAL AGRICULTURAL EMPLOYMENT IN PERISHABLE COMMODITIES.—The petitioner will not employ a seasonal agricultural worker for services other than seasonal agricultural employment in perishable commodities.

"(8) LIMITATION ON THE USE OF "O" WORKERS IN PERISHABLE COMMODITIES.—The petitioner will not employ (or petition for the employment) of a nonimmigrant in any job opportunity under section 101(a)(15)(O) for seasonal agricultural services in perishable commodities when an application for employment in that job opportunity under section 101(a)(15)(N) is pending or approved.

"(9) JOB INFORMATION DISCLOSURE TO "O" WORKERS.—The petitioner shall, upon request, disclose in writing to seasonal agricultural workers when an offer of employment is made, the place of employment, the wage rates, the employee benefits to be provided, and any costs to be charged for each of them, the crops and kinds of activities for which the worker may be employed, and the anticipated period of employment.

"(c) SUSPENSION OF CERTIFICATION.—The Attorney General shall suspend a petitioner's certification under subsection (b) if any of the following conditions exist:

"(1) LABOR DISPUTE.—There is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification.

"(2) VIOLATION OF TERM OF PREVIOUS CERTIFICATION.—

"(A) IN GENERAL.—The employer at any time during the previous two-year period employed seasonal agricultural workers and the Attorney General has determined, after notice and opportunity for a hearing, that the employer at any time during that period—

"(i) substantially violated an essential term or condition of the labor certification under subsection (b) with respect to the employment of domestic or nonimmigrant workers, or

"(ii) has not paid any penalty for such violations which have been assessed by the Attorney General.

"(B) DISQUALIFICATION LIMITED TO ONE YEAR.—No employer may have its certification suspended under clause (A) for more than one year for any violation described in that clause.

"(3) NOT PROVIDING FOR WORKERS' COMPENSATION.—The employer has not provided the Attorney General with satisfactory assurances that if the employment for which the certification is sought is not covered by

State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(d) ROLES OF AGRICULTURAL ASSOCIATIONS.—

"(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to import an alien as a seasonal agricultural worker, and a labor certification with respect to such a worker, may be filed by an association representing seasonal agricultural employers which use agricultural services.

"(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If such an association is a joint or sole employer of seasonal agricultural workers, the certifications obtained under this section by the association may be used for the job opportunities of any of its members requiring such workers to perform agricultural services of a seasonal nature for which the certifications were obtained.

"(3) TREATMENT OF VIOLATIONS.—

"(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual member of such an association is determined to have committed an act that under subsection (c)(2) results in the suspension of certification with respect to the member, the suspension shall apply only to that member and does not apply to the association unless the Attorney General determines that the association or other member participated in, or had knowledge of and derived benefit from, the violation.

"(4) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—If an association representing agricultural employers as an agent, joint employer, or employer is determined to have committed an act that under subsection (c)(2) results in the suspension of certification with respect to the association, the suspension shall apply only to the association and does not apply to any individual member of the association unless the Attorney General determines that the member participated in, or had knowledge of and derived benefit from, the violation.

"(e) EXPEDITED ADMINISTRATIVE APPEAL OF SUSPENSION OF CERTIFICATION UNDER SUBSECTION (C)(2)—

"(1) EXPEDITED PROCEDURES.—The Attorney General shall provide for an expedited procedure for the review of a suspension of certification under subsection (c)(2) or, at the applicant's request, for a de novo administrative hearing respecting the suspension. In the case of a request for such a review or hearing, the Attorney General shall provide that the review or hearing take place not later than 72 hours after the time the request is submitted.

"(f) HEARING DE NOVO BEFORE THE U.S. DISTRICT COURT.—

"(1) JURISDICTION.—On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in the District of Columbia, has jurisdiction to enjoin the Attorney General from suspending the complainant's certification under the program and to order the reinstatement of complainant's certification if it is improperly suspended. In such a case, the court shall determine the matter de novo and the burden is on the Attorney General to sustain his suspension.

"(2) PRECEDENCE OF CASES.—Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this 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.

"(g) MISCELLANEOUS PROVISIONS.—

"(1) AUTHORITY.—The Attorney General is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this section.

"(2) APPROPRIATE DOCUMENTATION.—The Attorney General shall provide for such endorsement of entry and exit documents of seasonal agricultural workers as may be necessary to carry out this section and to provide notice for purposes of section 274A.

"(3) PREEMPTION.—The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

"(h) DEFINITIONS.—For purposes of this section:

"(1) SEASONAL AGRICULTURAL SERVICES IN PERISHABLE COMMODITIES.—The term 'seasonal agricultural services in pgrishable commodities' means services in agricultural employment including planting, cultural practices, production, cultivation, growing, and harvesting involving perishable commodities (as defined by regulations of the Secretary of Agriculture).

"(2) SEASONAL AGRICULTURAL WORKER.—The term 'seasonal agricultural worker' means a nonimmigrant described in section 101(a)(15)(O).

"(3) CARIBBEAN BASIN.—The terms 'Caribbean Basin' and 'Caribbean Basin Countries' include those countries eligible to be designated by the President as 'beneficiary countries' under section 212(b) of the Caribbean Basin Recovery Act (19 U.S.C. 2702(b)).

"(i) ESTABLISHMENT OF NUMERICAL LIMITATIONS BY AGRICULTURAL EMPLOYMENT REGION.—

"(1) ESTABLISHMENT OF AGRICULTURAL EMPLOYMENT REGION.—For purposes of the administration of the program the Attorney General shall designate not more than 10 agricultural employment regions within the United States. The entire United States shall be encompassed by the area of all such regions.

"(2) NUMERICAL LIMITATIONS.—After considering the factors described in paragraph (3), if the Attorney General determines that seasonal agricultural workers are required for a month for an agricultural employment region, the Attorney General shall establish a numerical limitation on the number of nonimmigrant visas that may be issued for such workers for that month for that region, except until the end of the third year after the effective date of this Act, the Attorney General may not establish a numerical limitation on the number of such visas that may be issued at any given time in excess of 350,000.

"(3) FACTORS IN DETERMINATION.—In making the determination and establishing numerical limitations under paragraph (2), the Attorney General shall—

"(A) base the determinations and limitations on petitions filed under section 217(b)(1),

"(B) take into consideration the historical employment needs of agricultural employers and the availability of able, willing, and qualified domestic labor,

"(C) take into consideration the recruitment efforts undertaken by the Secretary of Labor under section 404(d)(1)(A), and

"(D) consult with the Secretary of Agriculture.

"(4) NUMERICAL LIMITATIONS AFTER THREE YEARS.—The Attorney General shall establish at the end of the third year after the effective date of this Act, a numerical limit on the total number of seasonal agricultural workers to be admitted into all employment regions in the United States under the program at any given time. In establishing a numerical limit under this paragraph, the Attorney General shall—

"(A) consider petitions filed under section 217(b)(1) during the preceding years of the program,

"(B) take into consideration the historical employment needs of agricultural employers and the availability of able, willing, and qualified domestic labor,

"(C) take into consideration the recruitment efforts undertaken by the Secretary of Labor under section 404(d)(1)(A),

"(D) consult with the Secretary of Agriculture, and

"(E) consider the recommendation of the Commission on Agricultural Worker Programs on a numerical limit as provided under section 124(c)(5).

"(5) CHANGES IN NUMERICAL LIMITATIONS IN EXTRAORDINARY CIRCUMSTANCES.—

"(A) INADEQUATE MONTHLY AND REGIONAL LIMITATIONS.—If—

"(i) a numerical limitation has been established under paragraphs (2) or (4) for a region for a month, and

"(ii) a petitioner described in section 217(b)(1) establishes that extraordinary and unusual circumstances have resulted in a significant change in the petitioner's need for seasonal agricultural workers specified in the petition or in the availability of domestic workers who are able, willing, and qualified to perform seasonal agricultural employment, the petitioner may apply to the Attorney General (in such form and manner as the Attorney General shall provide) for an increase in the numerical limitations otherwise established under paragraphs (2) and (4) to accommodate the circumstances.

"(B) DETERMINATION.—The Attorney General shall make a determination on such an application within 72 hours of the date the application is completed. To the extent the application is approved, the Attorney General shall provide for an appropriate increase in the appropriate monthly and regional numerical limitation. The Attorney General may expand the number of workers admitted into the region for which the application is approved by transferring seasonal agricultural workers from another region with a lesser need or by admitting additional workers from foreign countries. In the event the limit on the admission of seasonal agricultural workers for all regions in the United States established under paragraph (4) has been reached at the time the application alleging extraordinary and unusual circumstances is filed, the Attorney General shall follow the procedures in subparagraph (C).

"(C) INCREASE IN THE NUMERICAL LIMITATION ESTABLISHED BY THE ATTORNEY GENERAL. If—

"(i) a numerical limitation on the admission of seasonal agricultural workers into all employment regions has been established by the Attorney General under paragraph (4) and

"(ii) a petitioner described in section 217(b)(1) establishes under the provisions of subparagraphs (A) and (B) that extraordinary and unusual circumstances require an increase in the numerical limitation, the Attorney General may provide for an increase in the appropriate numerical limitation in an amount not to exceed 20 percent of the total number authorized for admission into all regions. Any such increase authorized by the Attorney General shall terminate upon the end of circumstances requiring it and shall not result in a permanent expansion of the numerical limit established the Attorney General under paragraph (4).

"(j) ENTRY OF SEASONAL AGRICULTURAL WORKERS.—

"(1) ANNUAL TIME LIMITATION.—An alien may not be admitted to the United States as a seasonal agricultural worker under section 101(a)(15)(O) for a period of more than nine months in any calendar year. An alien admitted under section 101(a)(15)(O) during any calendar year will not be eligible for readmission into the United States until he has returned to his country of origin for a period of 3 months.

"(2) VIOLATORS DISQUALIFIED FOR 5 YEARS.—An alien may not be admitted to the United States as a seasonal agricultural worker if the alien was admitted to the United States as such a worker within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

"(k) WAGES AND WORKING CONDITIONS.—The Attorney General, in consultation with the Secretaries of Agriculture and Labor, shall establish through regulation appropriate wages and working conditions as will not adversely affect the wages and working conditions of United States workers similarly employed in the area of intended employment.

"(l) ALLOCATION AND USE OF VISAS UNDER THE PROGRAM.—

"(1) IN GENERAL.—Nonimmigrant visas for seasonal agricultural workers, within the numerical limitations established under subsection (i)(2), shall be made available as follows:

"(A) PREVIOUS WORKERS.—Visas shall first be made available to qualified nonimmigrants who have previously been admitted as seasonal agricultural workers and who have fully complied with the terms and conditions of any such previous admission, providing priority in consideration among such aliens in the order of the length of time in which they were so employed.

"(B) OTHERS.—Any remaining visas shall be made available to other qualified nonimmigrants.

"(C) TREATMENT OF SPOUSES AND CHILDREN.—A spouse or child of a seasonal agricultural worker is not entitled to a nonimmigrant visa as such a worker by virture of such relationship, whether or not accompanying or following to join the nonimmigrant, but may be provided a nonimmigrant visa as such a worker if the spouse or child also is a qualified as such a worker.

"(D) NO INDIVIDUAL EMPLOYER VISA PETITION REQUIRED.—An alien admitted pursuant to section 101(a)(15)(O) shall not be required to obtain any petition from any prospective employer within the United States in order to obtain a nonimmigrant visa under the program.

"(E) NO LIMITATION TO PARTICULAR EMPLOYER OR CROP.—A nonimmigrant visa issued under the program shall not limit the geographical area (other than by agricultural employment region) within which a seasonal agricultural worker may be employed or limit the type of seasonal agricultural employment services, in perishable commodities, the worker may perform.

"(F) DISQUALIFICATION FROM FEDERAL ASSISTANCE.—A seasonal agricultural worker under the program is not eligible for any program of financial assistance under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government.

"(G) ALLOCATION OF VISAS TO CARIBBEAN BASIN COUNTRIES.—The Attorney General, in consultation with the Secretaries of State and Agriculture, shall establish through regulations the allocation of visas to workers in specific countries under this section. A percentage of the visas issued shall be allocated to qualified workers in countries located in the Caribbean Basin.

"(m) TRUST FUND FOR PROGRAM ADMINISTRATION.—

"(1) ESTABLISHMENT.—The Attorney General shall establish by regulation a trust fund the purpose of which to provide funds for the administration of the program and to provide a monetary incentive for seasonal agricultural workers in the program to return to their country or origin upon expiration of their visas under the program. The Attorney General shall promulgate such other regulations as may be necessary to carry out this subsection.

"(2) PAYMENTS INTO TRUST FUND.—In the case of employment of a seasonal agricultural worker under the program—

"(A) EMPLOYER PAYMENT.—The employer shall provide for payment into the trust fund established under this subsection of an amount equivalent to 11 percent of the wages of the worker.

"(B) WORKER PAYMENT.—There shall be deducted from the wages of the nonimmigrant and paid into such trust fund an amount equivalent to 20 percent of the wages of the worker.

"(C) WAGES DEFINED.—For purposes of this paragraph, the term 'wages' has the meaning given such term in section 3121(a) of the Internal Revenue Code of 1954, except that for these purposes paragraph (1) of that section shall not apply.

"(3) USE OF AMOUNTS IN TRUST FUND.—

"(A) EMPLOYER PAYMENTS AND INTEREST.—Except as provided in paragraph (B), amounts paid into the trust fund, and interest thereon, shall be used for the purpose of administering the program.

"(B) WORKER PAYMENTS.—Amounts described in paragraph (B) paid into the trust fund with respect to a worker and interest thereon shall be paid to the worker if—

"(i) the worker applies for payment within 30 days of the last day of employment under the program (as verified by the Attorney General) at the United States consulate nearest the worker's residence in the country of origin, and

"(ii) the worker complies with the terms and conditions of the program, including the obligation to be continuously employed (or actively seeking employment) in seasonal agricultural employment in perishable commodities.

"(4) EXPANSION OF CONSULATES.—The Secretary of State is authorized to take such steps as may be necessary in order to expand and establish consulates in foreign countries in which aliens are likely to apply for nonimmigrant status under the program.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 404 (8 U.S.C. 1101), as amended by section 101(b) of this Act, is further amended by adding at the end the following new subsections:

"(d) AUTHORIZATIONS OF APPROPRIATIONS FOR SECRETARY OF LABOR.—(1) There are authorized to be appropriated to the Secretary of Labor for each fiscal year, beginning with fiscal year 1986, $10,000,000 for the purposes—

"(A) of recruiting domestic workers for temporary services which might otherwise be performed by seasonal agricultural workers described in section 217, and

"(B) of monitoring terms and conditions under which such temporary and seasonal agricultural workers (and domestic workers employed by the same employers) are employed in the United States.

"(e) AUTHORIZATION OF APPROPRIATIONS FOR SECRETARY OF AGRICULTURE.—There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1986, such sums as may be necessary for the purposes of enabling the Secretary of Agriculture to carry out the Secretary's duties and responsibilities under section 217.".

(d) PROHIBITING ADJUSTMENT OF STATUS OF TEMPORARY AGRICULTURAL WORKERS.—(1) Section 245(c) (8 U.S.C. 1255(c)), as amended by sections 113(a) and 122(e)(1) of this Act, is further amended by adding at the end the following new paragraph:

"(4) An alien (other than an immediate relative specified in section 210(b)) who entered the United States classified as a nonimmigrant under section 101(a)(15)(O).".

(2) Section 248(1) (8 U.S.C. 1258(1)), as amended by section 122(e)(2), is further amended by striking out "(K) or (N)" and inserting in lieu thereof "(K), (N), or (O).".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), (c), and (d) of this section apply to petitions and applications filed under section 217 of the Immigration and Nationality Act on or after the first day of the twelfth month beginning after the date of the enactment of this Act (hereafter in this section referred to as the "effective date").

(f) REGULATIONS.—The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall approve all regulations to be issued implementing sections 101(a)(15)(O) and 217 of the Immigration and Nationality Act. Notwithstanding any other provision of law, final regulations to implement such sections shall first be issued, on an interim or other basis, not later than the effective date.

(g) DEPORTATION OF SEASONAL AGRICULTURAL WORKERS FOR FAILURE TO BE EMPLOYED OR SEEK EMPLOYMENT.—Section 241(a) (8 U.S.C. 1251(a)) is amended—

(1) by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or"; and

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

"(20) entered the United States as nonimmigrants under section 101(a)(15)(O) and failed to be continuously employed or actively seeking employment in seasonal agricultural employment in perishable commodities (as defined in section 217(h)(1) in accordance with the usual and customary employment patterns and practices.".

(h) SENSE OF CONGRESS RESPECTING ADVISORY COMMISSION.—It is the sense of Congress that the President should establish an advisory commission which shall consult with the Government of Mexico and the governments of other appropriate countries

and advise the Attorney General regarding the operation of the seasonal agricultural worker program established under section 217 of the Immigration and Nationality Act.

(i) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by inserting after the item relating to section 216, as added by section 122(h), the following new item:

"Sec. 217. Seasonal agricultural worker program.".

PART D—IMMIGRATION EMERGENCY REVOLVING FUND

SEC. 131. INCREASE IN BORDER PATROL ENFORCEMENT ACTIVITIES.

There are authorized to be appropriated to an immigration emergency revolving fund, to be established in the Treasury, $35,000,000, to be used to provide for an increase in border patrol or other enforcement activities of the Service and for reimbursement of State and localities in providing assistance as requested by the Attorney General in meeting an immigration emergency, except that no amounts may be withdrawn from such funds with respect to an emergency unless the President has determined that the immigration emergency exists and has certified such fact to the Judiciary Committees of the House of Representatives and of the Senate.

TITLE II—LEGALIZATION OF STATUS

SEC. 201. LEGALIZATION COMMISSION.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established a Select Commission on Legalization (hereinafter in this section referred to as the "Commission"), to be composed of nine members—

(A) four to be appointed by the President from a list of names submitted by the Speaker of the House of Representatives,

(B) four to be appointed by the President from a list of names submitted by the President pro tempore of the Senate, and

(C) one to be appointed by the President alone, and who shall be appointed Chairman of the Commission.

(2)(i) Each list submitted under paragraph (1) shall contain the names of at least 12 individuals, none of whom are officials or employees in the legislative branch of the Federal Government and each of whom supports the concept of the legalization program described in section 202. At least seven of the individuals on each list shall be sitting or retired Federal judges, former Members of the Select Commission on Immigration and Refugee Policy, former Members of Congress, or former Attorneys General of the United States. At least two of the remaining individuals on each list shall be representatives of religious organizations, voluntary agencies, civil rights organizations, or organizations representing minority or ethnic groups.

(ii) The individual appointed by the President to be Chairman shall also be one who supports the concept of the legalization program described in section 202.

(3) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(4) The Speaker of the House of Representatives and the President pro tempore of the Senate shall submit the lists described in paragraph (2) to the President not later than 30 days after the date of the enactment of this Act and the President shall first appoint individuals as members of the Commission within 30 days after the date of receipt of such lists. At least five members of the Commission shall be sitting or retired Federal judges, former Members of the Select Commission or Immigration and Refugee Policy, former Members of Congress, or former Attorneys General of the United States.

(5) Members shall be appointed to serve for the life of the Commission.

(b) DUTIES OF COMMISSION.—The Commission shall monitor and review—

(1) the border patrol and other enforcement programs of the Federal Government designed to curtail illegal entry of aliens into, and illegal stay of aliens in, the United States, including the amount of resources devoted to these programs and their effectiveness, and

(2) the programs of the Federal Government designed to curtail the employment of unauthorized aliens in the United States, including the amount of resources devoted to these programs and their effectiveness.

The Commission may also study improvements that can be made to improve the effectiveness of these programs.

(c) REPORTS TO CONGRESS.—(1) The Commission shall transmit a report to Congress on its activities not later than one year after the date a majority of its members are first appointed, and (until its expiration) not less frequently than annually thereafter.

(2) Each report shall include a description of the increase in resources being devoted to the programs described in subsection (b) and the effect of the increase and such recommendations for improvements in the programs as the Commission determines to be appropriate.

(3) Each report also shall contain a finding of whether the following conditions have been met:

(A) More effective enforcement measures (including the new enforcement measures provided in section 274A of the Immigration and Nationality Act) have been instituted by the Federal Government, and have adequate resources, to curtail illegal entry of aliens into, and illegal stay of aliens, in, the United States.

(B) There is reasonable likelihood that these measures will continue to be instituted, and have adequate resources for their implementation, after the implementation of the program of legalization under section 202 of this Act.

(C) Because of more effective enforcement, the program of legalization under section 202 of this Act will not serve as a stimulus to further illegal entry.

(d) COMPENSATION OF MEMBERS, MEETINGS, STAFF, AUTHORITY OF COMMISSION, AND AUTHORIZATION OF APPROPRIATIONS.—(1) The provisions of subsection (d), (e), (f)(3), (g), and (h) of section 124 of this Act shall apply to the Commission under this section in the same manner as they apply to the Commission established under section 124.

(2) Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) TERMINATION DATE.—The Commission shall cease to exist upon the effective date of the legalization program (described in section 202(a)(1)(C)), except that the Commission may continue to function for up to 90 days thereafter for the purpose of concluding its activities.

SEC. 202. LEGALIZATION OF STATUS.

(a) TEMPORARY RESIDENCE STATUS.—The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the alien meets the following requirements:

(1) TIMELY APPLICATION.—

(A) DURING APPLICATION PERIOD.—Except as provided in subparagraph (B), the alien must apply for such adjustment during the 12-month period beginning on a date (not later than 90 days after the effective date of the legalization program, described in subparagraph (C)) designated by the Attorney General.

(B) APPLICATION WITHIN 30 DAYS OF SHOW-CAUSE ORDER.—An alien who, at any time during the 12-month period described in subparagraph (A), is the subject of an order to show cause issued under section 242 of the Immigration and Nationality Act, must make application under this section not later than the end of the 30-day period beginning either on the first day of such 12-month period or on the date of the issuance of such order, whichever day is later.

(C) EFFECTIVE DATE OF LEGALIZATION PROGRAM.—As used in this section, the term "effective date of the legalization program" means the date the Legalization Commission reports, under section 201(c)(3), that conditions described in such section have been met or three years from the date of enactment of this Act, whichever is earlier.

(D) INFORMATION INCLUDED IN APPLICATION.—Each application under this subsection shall contain such information as the Attorney General may require, including information on living relatives of the applicant with respect to whom a petition for preference or other status may be filed by the applicant at any later date under section 204(a) of the Immigration and Nationality Act.

(2) CONTINUOUS UNLAWFUL RESIDENCE SINCE 1980.—

(A) IN GENERAL.—The alien must establish that he either (i) arrived in the United States before January 1, 1980, and has resided continuously in the United States in an unlawful status since such date, or (ii) is a special Cuban or Haitian entrant (as described in subparagraph (D)) and has resided continuously in the United States since October 14, 1981.

(B) NONIMMIGRANTS.—In the case of an alien who entered the United States as a nonimmigrant before January 1, 1980, the alien must establish that the alien's period of authorized stay as a nonimmigrant expired before such date through the passage of time or the alien's unlawful status was known to the Government as of such date.

(C) EXCHANGE VISITORS.—If the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J) of the Immigration and Nationality Act), the alien must establish that the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof.

(D) SPECIAL CUBAN OR HAITIAN ENTRANT.—As used in this section, the term "special Cuban or Haitian entrant" means an alien who is—

(i) a national of Cuba who arrived in the United States and presented himself for inspection after April 20, 1980, and before October 15, 1981, and who was physically present in the United States on October 14, 1981;

(ii) a national of Haiti who has established a record with the Immigration and Naturalization Service before October 15, 1981, and who was physically present in the United States on that date; or

(iii) a national of Cuba or Haiti who on December 31, 1980, had an application for asylum pending with the Immigration and Naturalization Service.

(3) CONTINUOUS PHYSICAL PRESENCE SINCE ENACTMENT.—The alien must establish that the alien has been continuously physically present in the United States since the date of the enactment of this section.

(4) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2),

(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States,

(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion, and

(D) is registered or registering under the Military Selective Service Act, if the alien is required to be so registered under that Act.

(b) SUBSEQUENT ADJUSTMENT TO PERMANENT RESIDENCE AND NATURE OF TEMPORARY RESIDENT STATUS.—

(1) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General, in his discretion and under such regulations as he may prescribe, may adjust the status of any alien provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the alien meets the following requirements:

(A) TIMELY APPLICATION.—The alien must apply for such adjustment during the 12-month period beginning with the first day of the thirty-first month that begins after the date the alien was granted such temporary resident status.

(B) CONTINUOUS LAWFUL RESIDENCE.—

(i) IN GENERAL.—The alien must establish that he has continuously resided in the United States since the date the alien was granted such temporary resident status.

(ii) TREATMENT OF CERTAIN ABSENCES.—An alien shall not be considered to have lost the continuous residence referred to in clause (i) by reason of an absence from the United States permitted under paragraph (3)(A).

(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), and

(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States.

(D) BASIC CITIZENSHIP SKILLS.—

(i) IN GENERAL.—The alien must demonstrate that he either—

(I) meets the requirements of section 312 of the Immigration and Nationality Act (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States), or

(II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

(ii) EXCEPTION FOR ELDERLY INDIVIDUALS.—The Attorney General may, in his discretion, waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older.

(2) TERMINATION OF TEMPORARY RESIDENCE.—The Attorney General shall provide for termination of temporary resident status granted an alien under this subsection—

(A) if it appears to the Attorney General that the alien was in fact not eligible for such status;

(B) if the alien commits an act that—

(i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), or

(ii) is convicted of any felony or three or more misdemeanors committed in the United States; or

(C) at the end of the forty-second month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (1) and such application has not been denied.

(3) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in the lawful temporary resident status granted under subsection (a)—

(A) AUTHORIZATION OF TRAVEL ABROAD.—The Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as the Attorney General determines reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (1).

(B) AUTHORIZATION OF EMPLOYMENT.—The Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an "employment authorized" endorsement or other appropriate work permit.

(c) APPLICATIONS FOR INITIAL ADJUSTMENT OF STATUS.—

(1) TO WHOM MAY BE MADE.—The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

(A) with the Attorney General, or

(B) with a qualified designated entity, but only if the applicant consents to the forwarding of the application to the Attorney General.

As used in this section, the term "qualified designated entity" means an organization or person designated under paragraph (2).

(2) DESIGNATION OF QUALIFIED ENTITIES TO RECEIVE APPLICATIONS.—For purposes of assisting in the program of legalization provided under this section, the Attorney General shall designate qualified organizations and State and local governments as qualified designated entities for purposes of this section.

(3) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualifed designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(B) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

(4) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—Whoever files an application for adjustment of status under this section and knowingly and willfully falsifies, misrepresents, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined, or imprisoned not more than five years, or both.

(5) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Attorney General shall prescribe a fee of $100 or more to be paid by each alien who files an application for adjustment of status under subsection (a) or subsection (b)(1).

(B) USE OF FEES.—The Attorney General shall deposit payments received under the preceding sentence in a separate account and amounts in such account shall be available, without fiscal year limitation, only to cover administrative expenses incurred in connection with the review of applications filed under this section.

(d) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of section 201 and 202 of the Immigration and Nationality Act shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF GROUNDS FOR EXCLUSION.—In the determination of an alien's admissibility under subsections (a)(4)(A), (b)(1)(C)(i), and (b)(2)(B)(i)—

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) of such Act in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) of such Act may not be waived by the Attorney General under clause (i):

(I) Paragraph (9) and (10) (relating to criminals).

(II) Paragraph (15) (relating to aliens likely to become public charges) insofar as it relates to an application for adjustment to permanent residence by an alien other than an alien who is eligible for benefits under title XVI of the Social Security Act or section 212 of Public Law 93-66 for the month in which such alien is granted lawful temporary residence status under subsection (a).

(III) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

(IV) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

(V) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

(e) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who, during the application period described in subsection (a)(1), presents an application for adjustment of status under subsection (a) which application establishes a prima facie case of eligibility to have his status adjusted under such subsection, and until a final administrative determination on the application has been made in accordance with this section, the alien—

(1) may not be deported, and

(2) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

This subsection shall not be construed as preventing the Attorney General from commencing deportation proceedings against any alien.

(f) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) LIMITATION ON ADMINISTRATIVE AND JUDICIAL REVIEW.—Except as provided in paragraph (4) there shall be no administrative or judicial review (by class action or otherwise) of a decision or determination under this section.

(2) NO REVIEW FOR LATE FILINGS.—No denial of adjustment of status under this section based on a late filing of an application for such adjustment may be reviewed by a court of the United States or of any State or reviewed in any administrative proceeding of the United States Government.

(3) NO COLLATERAL ATTACKS.—An alien denied adjustment of status under this section may not raise a claim respecting such adjustment in any proceeding of the United States or any State involving the status of such alien, including any proceeding of deportation or exclusion under this Act.

(4) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of a final determination respecting an application for adjustment of status under this section. Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and may not review a denial described in paragraph (2).

(g) IMPLEMENTATION OF SECTION.—

(1) REGULATIONS.—The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and of the Senate, shall prescribe—

(A) regulations establishing a definition of the term "resided continuously", as used in this section, and the evidence needed to establish that an alien has resided continuously in the United States for purposes of this section, and

(B) such other regulations as may be necessary to carry out this section.

(2) CONSIDERATIONS.—In prescribing regulations described in paragraph (1)(A)—

(A) PERIODS OF CONTINUOUS RESIDENCE.—The Attorney General shall specify individual periods, and aggregate periods, of absence from the United States which will be considered to break a period of continuous residence in the United States.

(B) ABSENCES CAUSED BY DEPORTATION OR ADVANCED PAROLE.—The Attorney General shall provide that—

(i) an alien shall not be considered to have resided continuously in the United States, if, during any period for which continuous residence is required, the alien was outside the United States as a result of a departure under an order of deportation, and

(ii) any period of time during which an alien is outside the United States pursuant to the advance parole procedures of the Service shall not be considered as part of the period of time during which an alien is outside the United States for purposes of this section.

(C) WAIVERS OF CERTAIN ABSENCES.—The Attorney General may provide for a waiver, in the discretion of the Attorney General, of the periods specified under subparagraph (A) in the case of an absence from the United States due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

(D) USE OF CERTAIN DOCUMENTATION.—The Attorney General shall require that—

(i) continuous residence and physical presence in the United States must be established through documents, together with independent corroboration of the information contained in such documents, and

(ii) the documents provided under clause (i) be employment-related if employment-related documents with respect to the alien are available to the applicant.

(3) INTERIM FINAL REGULATIONS.—Regulations prescribed under this section may be prescribed to take effect on an interim final basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

(h) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING CERTAIN PUBLIC ASSISTANCE.—During the six-year period beginning on the date an alien is granted lawful temporary resident status under subsection (a) and notwithstanding any other provision of law—

(1) an alien granted lawful resident status under this section is not eligible for—

(A) financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government,

(B) medical assistance under a State plan approved under title XIX of the Social Security Act,

(C) assistance under the Food Stamp Act of 1977,

except that the foregoing disqualification shall not apply in the case of—

(D) any assistance described in subparagraph (A), (B), or (C) if the alien is a special Cuban or Haitian entrant, as defined in subsection (a)(2)(D), or

(E) the program of supplemental security income benefits authorized by title XVI of the Social Security Act or medical assistance under a State plan approved under title XIX of the Social Security Act, if the alien is determined by the Secretary of Health and Human Services, based on an application for benefits under title XVI of the Social Security Act or section 212 of Public Law 93-66 filed prior to the date designated by the Attorney General in accordance with subsection (a)(1)(A), to be permanently residing in the United States under color of law as provided in section 1614(a)(1)(B)(ii) of the Social Security Act and to be eligible to receive such benefits for the month prior to the month in which such date occurs, for such time as such alien continues without interruption to be eligible to receive such benefits in accordance with the provisions of title XVI of the Social Security Act or section 212 of Public Law 93-66, as appropriate; and

(2) a State or political subdivision therein may, to the extent consistent with paragraph (1), provide that the alien is not eligible for welfare assistance furnished under the law of that State or political subdivision.

For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section. Unless otherwise specifically provided by law, an alien in temporary lawful residence status granted under subsection (a) shall not be considered (for purposes of any law of a State or political subdivision providing welfare assistance) to be permanently residing in the United States under color of law.

(i) MISCELLANEOUS PROVISIONS.—

(1) DISSEMINATION OF INFORMATION ON LEGALIZATION PROGRAM.—During the three-month period beginning on the effective date of the legalization program, the Attorney General, in cooperation with qualified designated entities and the Secretary of Labor, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

(2) PROCEDURES FOR PROPERTY ACQUISITION OR LEASING.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend from the appropriation provided for the administration and enforcement of the Immigration and Nationality Act, such amounts as may be necessary for the leasing or acquisition of property in the fulfillment of this section. This authority shall end two years after the effective date of the legalization program.

(3) USE OF RETIRED FEDERAL EMPLOYEES.—Notwithstanding any other provision of law, the retired or retainer pay of a member or former member of the Armed Forces of the United States or the annuity of a retired employee of the Federal Government shall not be reduced while such individual is temporarily employed by the Immigration and Naturalization Service for a period of not to exceed 18 months to perform duties in connection with the adjustment of status of aliens under this section.

(4) APPLICATION OF PROVISIONS OF IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act apply in the administration of this section. Nothing in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted lawful residence status under this section shall not preclude the alien from seeking such a status under any other provision of law for which the alien may be eligible.

(j) LIMITING APPLICATION OF PUBLIC LAW 89-732.—The first section of Public Law 89-732 shall not apply to any alien who is first inspected and admitted or paroled into the United States after the date of the enactment of this Act.

SEC. 203. STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make payments to States (and for related Federal administration costs) under this section $300,000,000 for each of the first two fiscal years, beginning with the fiscal year in which the application period (described in section 202(a)(1)(A)) ends, and $600,000,000 for each of the next four fiscal years.

(b) CAPPED ENTITLEMENT.—(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall provide, in accordance with this section and from the allotment for that State determined under paragraph (2), for payment to each of the States with an application approved under this section for reimbursement of the costs—

(A) of public programs of assistance provided with respect to eligible legalized aliens, for which such aliens were not dis-

qualified under section 202(h) at the time of such assistance, and

(B) for the imprisonment of aliens convicted of a felony who are in the United States unlawfully and—

(i) whose most recent entry into the United States was without inspection, or

(ii) whose most recent admission to the United States was as a nonimmigrant but—

(I) whose period of authorized stay as a nonimmigrant expired, or

(II) whose unlawful status was known to the Government,

before the date of the commission of the crime for which the imprisonment was imposed.

(2)(A) The amount of the allotment to a State under this section for a fiscal year shall bear the same proportion to the total allotments to States under this section for such fiscal year as the number of eligible legalized aliens (as defined in subsection (i)(3)) in such State that are applying for public programs of assistance (for which such aliens were not disqualified under section 202(h) at the time of such assistance) bears to the total number of such aliens that are applying for such assistance in all States.

(B)(i) The total of the allotments to States under this section is equal to $300,000,000 for each of the first two fiscal years and $600,000,000 for each of the next four fiscal years described in subsection (a).

(ii) To the extent that all the funds appropriated under this section for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under this section for the fiscal year or because some States have indicated in their description of activities that they do not intend to use, in that fiscal year or the succeeding fiscal year, the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this clause.

(2) In determining the number of eligible legalized aliens for purposes of paragraph (1)(A), the Secretary may estimate such number on the basis of such data as he may deem appropriate.

(3) For each fiscal year the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under this subsection. Any amount paid to a State for any of the following fiscal years and remaining unobligated at the end of such year shall remain available to such State for the purposes for which it was made, as follows: Amounts appropriated for the first, second, third, fourth, and fifth fiscal years, as described in subsection (a), shall remain available for the next five, four, three, two, and one fiscal years thereafter, respectively.

(c) STATEMENTS AND ASSURANCES.—(1) No State is eligible for payment under this section unless the State—

(A) has filed with, and had approved by, the Secretary an application containing such information, including the information described in paragraph (2) and criteria for and administrative methods of disbursing funds received under this section, as the Secretary determines to be necessary to carry out this section, and

(B) transmits to the Secretary a statement of assurances that certifies that (i) funds allotted to the State under this section will only be used to carry out the purposes described in subsection (d), (ii) the State will provide a fair method (as determined by the State) for the allocation of funds among State and local agencies in accordance with subsection (d)(2), and (iii) fiscal control and fund accounting procedures will be established that are adequate to meet the requirements of subsections (e) and (f).

(2) The application of each State under this section for each fiscal year must include detailed information on—

(A) the number of eligible legalized aliens residing in the State, and

(B) the costs (excluding any such costs otherwise paid from Federal funds) which the State and each locality is likely to incur for programs of public assistance and for imprisonment costs described in subsection (b)(1)(B).

(d) USE OF FUNDS.—A State may use amounts paid to it under this section only—

(1) for the purpose of providing assistance with respect to eligible legalized aliens under programs of public assistance and under programs of public health assistance for which such aliens were not disqualified under section 202(h) at the time of such assistance, but only to the extent such assistance is otherwise available under such programs to citizens residing in the State, and

(2) for the purpose of paying for costs incurred by the State for the imprisonment of aliens described in subsection (b)(1)(B).

(e) REPORTS AND AUDITS.—(1)(A) Each State shall prepare and submit to the Secretary annual reports on its activities under this section. In order to properly evaluate and to compare the performance of different States assisted under this section and to assure the proper expenditure of funds under this section, such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary—

(i) to secure an accurate description of those activities,

(ii) to secure a complete record of the purposes for which funds were spent, of the recipients of such funds, and of the progress made toward achieving the purposes of this section, and

(iii) to determine the extent to which funds were expended consistent with subsection (d).

Copies of the report shall be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

(B) The Secretary shall annually report to the Congress on activities funded under this section and shall provide for transmittal of a copy of such report to each State.

(2)(A) For requirements relating to audits of funds received by a State under this section, see chapter 75 of title 31, United States Code (relating to requirements for single audit).

(B) Each State shall repay to the United States amounts ultimately found not to have been expended in accordance with this section, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this section.

(C) The Secretary may, after notice and opportunity for a hearing, withhold payment of funds to any State which is not using its allotment under this section in accordance with this section. The Secretary may withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(3) The State shall make copies of the reports and audits required by this subsection available for public inspection within the State.

(4)(A) For the purpose of evaluating and reviewing the assistance provided under this section, the Secretary and the Comptroller General shall have access to any books, accounts, records, correspondence, or other documents that are related to such assistance, and that are in the possession, custody, or control of States, political subdivisions thereof, or any of their grantees.

(B) In conjunction with an evaluation or review under subparagraph (A), no State or political subdivision thereof (or grantee of either) shall be required to create or prepare new records to comply with subparagraph (A).

(f) CRIMINAL PENALTIES FOR FALSE STATEMENTS.—Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or misrepresentation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from funds allotted to the State under this section, or

(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined, imprisoned for not more than five years, or both.

(g) ANTI-DISCRIMINATION PROVISION.—(1)(A) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this section are considered to be programs and activities receiving Federal financial assistance.

(B) No person shall on the ground of sex or religion 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 section.

(2) Whenever the Secretary finds that a State or locality which has been provided payment from an allotment under this section has failed to comply with a provision of law referred to in paragraph (1)(A), with paragraph (1)(B), or with an applicable regulation (including one prescribed to carry out paragraph (1)(B)), he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

(C) take such other action as may be provided by law.

(3) When a matter is referred to the Attorney General pursuant to paragraph (2)(A), or whenever he has reason to believe

that the entity is engaged in a pattern or practice in violation of a provision of law referred to in paragraph (1)(A) or in violation of paragraph (1)(B), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(h) CONSULTATION WITH STATE AND LOCAL OFFICIALS.—In establishing regulations and guidelines to carry out this section, the Secretary shall consult with representatives of State and local governments.

(i) DEFINITIONS.—For purposes of this section:

(1) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

(2) The term "programs of public assistance" means programs in a State or local jurisdiction which—

(A) provide for cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals or required in the interest of public health,

(B) are generally available to needy individuals residing in the State or locality, and

(C) receive funding from units of State or local government.

(3) The term "eligible legalized alien" means an alien who has been granted lawful resident status under section 202(a), but only until the end of the six-year period beginning on the date the alien was granted such status.

TITLE III—OTHER CHANGES IN THE IMMIGRATION LAW

SEC. 301. CHANGE IN COLONIAL QUOTA.

(a) INCREASE TO 5,000.—(1) Section 202(c) (8 U.S.C. 1152(c)) is amended by striking out "six hundred" and inserting in lieu thereof "5,000".

(2) Section 202(e) (8 U.S.C. 1152(e)) is amended by striking out "600" and inserting in lieu thereof "5,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 302. VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS.

(a) ESTABLISHING VISA WAIVER PILOT PROGRAM.—Chapter 2 of title II is amended by adding after section 217 (added by section 125(b) of this Act) the following new section:

"VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS

"SEC. 218. (a) ESTABLISHMENT OF PILOT PROGRAM.—The Attorney General and the Secretary of State are authorized to establish a pilot program (hereafter in this section referred to as the 'pilot program') under which the requirement of paragraph (26)(B) of section 212(a) may be waived by the Attorney General and the Secretary of State, acting jointly and in accordance with this section, in the case of an alien who meets the following requirements:

"(1) SEEKING ENTRY AS TOURIST FOR 90 DAYS OR LESS.—The alien is applying for admission during the pilot program period (as defined in subsection (e)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding 90 days.

"(2) NATIONAL OF PILOT PROGRAM COUNTRY.—The alien is a national of a country which—

"(A) extends (or agrees to extend) reciprocal privileges to citizens and nationals of the United States, and

"(B) is designated as a pilot program country under subsection (c).

"(3) EXECUTES ENTRY CONTROL AND WAIVER FORMS.—The alien before the time of such admission—

"(A) completes such immigration form as the Attorney General shall establish under subsection (b)(3), and

"(B) executes a waiver of review and appeal described in subsection (b)(4).

"(4) ROUND-TRIP TICKET.—The alien has a round-trip, nonrefundable, nontransferable, open-dated transportation ticket which—

"(A) is issued by a carrier which has entered into an agreement described in subsection (d), and

"(B) guarantees transport of the alien out of the United States at the end of the alien's visit.

"(5) NOT A SAFETY THREAT.—The alien has been determined not to represent a threat to the welfare, health, safety, or security of the United States.

"(6) NO PREVIOUS VIOLATION.—If the alien previously was admitted without a visa under this section, the alien must not have failed to comply with the conditions of any previous admission as such a nonimmigrant.

"(b) CONDITIONS BEFORE PILOT PROGRAM CAN BE PUT INTO OPERATION.—

"(1) PRIOR NOTICE TO CONGRESS.—The pilot program may not be put into operation until the end of the 30-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in paragraph (2) is operational and effective and that the form described in paragraph (3) has been produced.

"(2) AUTOMATED DATA ARRIVAL AND DEPARTURE SYSTEM.—The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival into and departure from the United States of nonimmigrant visitors receiving a visa waiver under the pilot program.

"(3) VISA WAIVER INFORMATION FORM.—The Attorney General shall develop a form for use under the pilot program. Such form shall be consistent and compatible with the control system developed under paragraph (2). Such form shall provide for, among other items—

"(A) a summary description of the conditions for excluding nonimmigrant visitors from the United States under section 212(a) and under the pilot program,

"(B) a description of the conditions of entry with a waiver under the pilot program, including the limitation of such entry to 90 days and the consequences of failure to abide by such conditions, and

"(C) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

"(4) WAIVER OF RIGHTS.—An alien may not be provided a waiver under the pilot program unless the alien has waived any right—

"(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States, or

"(B) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(c) DESIGNATION OF PILOT PROGRAM COUNTRIES.—

"(1) UP TO 8 COUNTRIES.—The Attorney General and the Secretary of State acting jointly may designate up to eight countries as pilot program countries for purposes of the pilot program.

"(2) INITIAL QUALIFICATIONS.—For the initial period described in paragraph (4), a country may not be designated as a pilot program country unless the following requirements are met:

"(A) LOW NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(B) LOW IMMIGRANT VISA REFUSAL RATE FOR EACH OF 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS.—For each fiscal year (within the pilot program period) after the initial period—

"(A) CONTINUING QUALIFICATION.—In the case of a country which was a pilot program country in the previous fiscal year, a country may not be designated as a pilot program country unless the sum of—

"(i) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(ii) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

"(B) NEW COUNTRIES.—In the case of another country, the country may not be designated as a pilot program country unless the following requirements are met:

"(i) LOW NONIMMIGRANT VISA REFUSAL RATE IN PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(ii) LOW NONIMMIGRANT VISA REFUSAL RATE IN EACH OF THE 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(4) INITIAL PERIOD.—For purposes of paragraphs (2) and (3), the term 'initial period' means the period beginning at the end of the 30-day period described in subsection (b)(1) and ending on the last day of the first fiscal year which begins after such 30-day period.

"(d) CARRIER AGREEMENTS.—

"(1) IN GENERAL.—The agreement referred to in subsection (a)(4)(A) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under the pilot program—

"(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the 90-day period described in subsection (a)(1)(A), and

"(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under the pilot program.

"(2) TERMINATION OF AGREEMENTS.—The Attorney General may terminate an agreement under paragraph (1) with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

"(e) DEFINITION OF PILOT PROGRAM PERIOD.—For purposes of this section, the term 'pilot program period' means the period beginning at the end of the 30-day period referred to in subsection (b)(1) and ending on the last day of the third fiscal year which begins after such 30-day period.".

(b) LIMITATION ON STAY IN UNITED STATES.—Section 214(a) (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to the United States without a visa pursuant to section 218 may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.".

(c) PROHIBITION OF ADJUSTMENT TO IMMIGRANT STATUS.—Section 245(c) (8 U.S.C. 1255(c)), as amended by sections 113(a) and 122(e)(1) of this Act, is further amended by adding at the end the following new paragraph:

"(5) An alien (other than an immediate relative specified in section 201(b)) who was admitted as a nonimmigrant visitor without a visa under section 212(l) or section 218.".

(d) PROHIBITION OF ADJUSTMENT OF NONIMMIGRANT STATUS.—Section 248 (8 U.S.C. 1258) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l) or section 218.".

(e) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by adding after the item relating to section 217 (added by section 125(i) of this Act) the following new item:

"Sec. 218. Visa waiver pilot program for certain visitors.".

(f) SENSE OF THE SENATE.—It is the sense of the Senate that the visa waiver pilot program authorized by the amendments made by this section will provide economic benefits, greater international understanding and cooperation, and more efficient use of consulor resources, and that such goals are highly desirable and in the national interest. The Senate reaffirms its support for such program.

SEC. 303. G-IV SPECIAL IMMIGRANTS.

(a) SPECIAL IMMIGRANT STATUS FOR CERTAIN OFFICERS AND EMPLOYEES OF INTERNATIONAL ORGANIZATIONS AND THEIR IMMEDIATE FAMILY MEMBERS.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or", and by adding at the end of the following new subparagraph:

"(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(P), has resided and been physically present in the United States for periods totaling at least one half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and 21 years, and (II) applies for admission under this subparagraph no later than his twenty-fifth birthday or six months after the date this subparagraph is enacted, whichever is later;

"(ii) an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(P), has resided and been physically present in the United States for periods totaling at least one half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the death of such officer or employee, and (II) applies for admission under this subparagraph no later than six months after the date of such death or six months after the date this subparagraph is enacted, whichever is later;

"(iii) an immigrant who is a retired officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States for periods totaling at least one half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the officer or employee's retirement from any such international organization, and (II) applies for admission under this subparagraph before January 1, 1993, and no later than six months after the date of such retirement or six months after the date this subparagraph is enacted, whichever is later; or

"(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family.".

(b) NONIMMIGRANT STATUS FOR CERTAIN PARENTS AND CHILDREN OF ALIENS GIVEN SPECIAL IMMIGRANT STATUS.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by sections 122(a) and 125(b) of this Act, is further amended by striking out "or" at the end of subparagraph (N), by striking out the period at the end of subparagraph (O) and inserting in lieu thereof "; or", and by adding at the end the following new paragraph:

"(P)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or

"(ii) a child of such parent or of an alien accorded the status of a special immigrant under paragraph (27)(I) (ii), (iii), or (iv).".

SEC. 304. VERIFICATION OF IMMIGRATION STATUS OF ALIENS APPLYING FOR BENEFITS UNDER CERTAIN PROGRAMS.

(a) REQUIRING IMMIGRATION STATUS VERIFICATION.—

(1) UNDER AFDC, MEDICAID, UNEMPLOYMENT COMPENSATION, AND FOOD STAMP PROGRAMS.—Section 1137 of the Social Security Act (42 U.S.C. 1320b-7) is amended—

(A) by redesignating paragraphs (4) through (7) of subsection (a) as paragraphs (5) through (8), respectively, and inserting after paragraph (3) the following new paragraph:

"(4) the State shall require, as a condition of eligibility for benefits under any program listed in subsection (b), that each applicant for or recipient of benefits under that program must declare in writing, under penalty of perjury, whether or not the individual is a citizen of the United States, and, if not a citizen of the United States, the individual shall present alien registration documents or other proof of immigration registration from the Immigration and Naturalization Service that contain the individual's alien admission number, or alien file number (or numbers if he has more than one number), and—

"(A) if such applicant or recipient is not a citizen of the United States, the State shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the alien's immigration status through an automated or other system (designated by the Service for use with States) that—

"(i) utilize the alien's name, file number, admission number or other means permitting efficient verification, and

"(ii) protects the alien's privacy to the maximum degree possible,

"(B) if the verification under subparagraph (A) does not indicate that the individual is in an immigration status permitting eligibility for benefits under the applicable program—

"(i) the State shall provide the alien with an opportunity to prove otherwise by submitting to the State documents establishing a satisfactory immigration status for the applicable program, photostatic or other similar copies of which documents shall be transmitted by the State to the Immigration and Naturalization Service for official verification, and

"(ii) the State may not deny, reduce, or terminate an individual's benefits under the program on the basis of immigration status without affording the individual the opportunity described in clause (i), and

"(C) if an individual has been determined (after the opportunity described in subparagraph (B)(i)) to be an alien in an immigration status which does not permit the individual to be eligible for benefits under the applicable program, the State shall deny or terminate the individual's participation in the program;"; and

(B) in subsection (b), by striking out "income verification system" in the matter preceding paragraph (1) and inserting in lieu "income and eligibility verification system".

(2) UNDER SSI PROGRAM.—Section 1631(e)(1)(B) of such Act is amended by striking out "subsections (a)(6) and (c)" and inserting in lieu thereof "(a)(4), (a)(7), and (c)".

(b) PROVIDING 90 PERCENT MATCHING FUNDS FOR NONLABOR COSTS OF IMPLEMENTATION AND OPERATION.—

(1) UNDER AFDC PROGRAM.—Section 403(a)(3) of the Social Security Act is amended by inserting before subparagraph (B) the following new subparagraph:

"(A) 90 percent of so much of such expenditures as are for the nonlabor costs of the implementation and operation of the

immigration status verification system described in section 1137(a)(4),".

(2) UNDER MEDICAID PROGRAM.—Section 1903(a) of such Act is amended by inserting after paragraph (3) the following new paragraph:

"(4) an amount equal to 90 percent of the sums expended during the quarter which are attributable to the nonlabor costs of the implementation and operation of the immigration status verification system described in section 1137(a)(4); plus".

(3) UNDER UNEMPLOYMENT COMPENSATION PROGRAM.—The first sentence of section 302(a) of such Act is amended by inserting before the period at the end the following: ", including 90 percent of so much of the reasonable expenditures of the State as are attributable to the nonlabor costs of the implementation and operation of the immigration status verification system described in section 1137(a)(4)".

(4) UNDER CERTAIN TERRITORIAL ASSISTANCE PROGRAMS.—Sections 3(a)(4), 1003(a)(3), 1403(a)(3), and 1603(a)(4) of the Social Security Act (as in effect without regard to section 301 of the Social Security Amendments of 1972) are each amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

"(B) 90 percent of so much of such expenditures as are for the nonlabor costs of the implementation and operation of the immigration status verification system described in section 1137(a)(4); plus".

(5) UNDER THE FOOD STAMP PROGRAM.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following new subsection:

"(h) The Secretary is authorized to pay to each State agency an amount equal to 90 per centum of the non-labor costs incurred by the State agency in implementing and operating the immigration status verification system described in section 1137(a)(4) of the Social Security Act.".

(c) EFFECTIVE DATES.—

(1) INS ESTABLISHING VERIFICATION SYSTEM BY OCTOBER 1, 1987.—The Commissioner of Immigration and Naturalization shall implement a system for the verification of immigration status under section 1137(a)(4)(A) of the Social Security Act (as amended by this section) so that the system is available to all the States by not later than October 1, 1987.

(2) HIGHER MATCHING EFFECTIVE IN FISCAL YEAR 1988.—The amendments made by subsection (b) take effect on October 1, 1987.

(3) USE OF VERIFICATION SYSTEM REQUIRED IN FISCAL YEAR 1989.—The amendments made by subsection (a) take effect on October 1, 1988. States have until that date to begin complying with the requirements imposed by those amendments.

(4) FUNDS AUTHORIZED.—Such sums as may be necessary are authorized for the Immigration and Naturalization Service to carry out the purposes of this section.

SEC. 305. POWERS OF IMMIGRATION OFFICERS AND EMPLOYEES.

Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end thereof the following:

"(d) Notwithstanding any other provision of this section (other than paragraph (3) of subsection (a)), in the enforcement of this Act an officer or employee or the Service may not enter onto the premises of a farm or other agricultural operation without a properly executed warrant.".

TITLE IV—REPORTS

SEC. 401. TRIENNIAL COMPREHENSIVE REPORT ON IMMIGRATION.

(a) TRIENNIAL REPORT.—The President shall transmit to the Congress, not later than January 1, 1987, and not later than January 1 of every third year thereafter, a comprehensive immigration-impact report.

(b) DETAILS IN EACH REPORT.—Each report shall include—

(1) the number and classification of aliens admitted (whether as immediate relatives, special immigrants, refugees, or under the preferences classifications, or as nonimmigrants), paroled, or granted asylum, during the relevant period;

(2) a reasonable estimate of the number of aliens who entered the United States during the period without visas or who became deportable during the period under section 241 of the Immigration and Nationality Act; and

(3) a description of the impact of admissions and other entries of immigrants, refugees, asylees, and parolees into the United States during the period on the economy, labor and housing markets, the educational system, social services, foreign policy, environmental quality and resources, the rate, size, and distribution of population growth in the United States, and the impact on specific States and local units of government of high rates of immigration resettlement.

(c) HISTORY AND PROJECTIONS.—The information (referred to in subsection (b)) contained in each report shall be—

(1) described for the preceding three-year period, and

(2) projected for the succeeding five-year period, based on reasonable estimates substantiated by the best available evidence.

(d) RECOMMENDATIONS.—The President also may include in such report any appropriate recommendations on changes in numerical limitations or other policies under title II of the Immigration and Nationality Act bearing on the admission and entry of such aliens to the United States.

SEC. 402. REPORTS ON UNAUTHORIZED ALIEN EMPLOYMENT AND DISCRIMINATION IN EMPLOYMENT.

(a) PRESIDENTIAL REPORTS.—The President shall transmit to Congress annual reports on the implementation of section 274A of the Immigration and Nationality Act (relating to unlawful employment of aliens) during the first three years after its implementation. Each report shall include—

(1) an analysis of the adequacy of the employment verification system provided under subsection (b) of that section;

(2) a description of the status of the development and implementation of changes in that system under subsection (c) of that section, including the results of any demonstration projects conducted under paragraph (4) of such subsection; and

(3) an analysis of the impact of the enforcement of that section on—

(A) the employment, wages, and working conditions of United States workers and on the economy of the United States,

(B) the number of aliens entering the United States illegally or who fail to maintain legal status after entry, and

(C) the violation of terms and conditions of nonimmigrant visas by foreign visitors.

(b) GAO REPORTS.—(1) Beginning one year after the date of enactment of this Act, and at intervals of one year thereafter for a period of three years after such date, the Comptroller General of the United States shall prepare and transmit to the Congress and to the taskforce established under subsection (c) a report describing the results of a review of the implementation and enforcement of section 274A of the Immigration and Nationality Act during the preceding twelve-month period, for the purpose of determining if—

(A) such provisions have been carried out satisfactorily;

(B) a pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment; and

(C) an unnecessary regulatory burden has been created for employers hiring such workers.

(2) In each report, the Comptroller General shall make a specific determination as to whether the implementation of that section has resulted in a pattern of discrimination in employment (against other than unauthorized aliens) on the basis of national origin.

(3) If the Comptroller General has determined that such a pattern of discrimination has resulted, the report—

(A) shall include a description of the scope of that discrimination, and

(B) may include recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

(c) REVIEW BY TASKFORCE.—(1) The Attorney General, jointly with the Chairman of the Commission on Civil Rights and the Chairman of the Equal Employment Opportunity Commission, shall establish a taskforce to review each report of the Comptroller General transmitted under subsection (b)(1).

(2) If the report transmitted includes a determination that the implementation of section 274A of the Immigration and Nationality Act has resulted in a pattern of discrimination in employment (against other than unauthorized aliens) on the basis of national origin, the taskforce shall, taking into consideration any recommendations in the report, report to Congress recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

(3) The Committees on the Judiciary of the House of Representatives and of the Senate shall hold hearings respecting any report of the taskforce under paragraph (2) within 60 days after the date of receipt of the report.

(d) TERMINATION DATE FOR EMPLOYER SANCTIONS.—(1) The provisions of section 274A of the Immigration and Nationality Act shall terminate 30 calendar days after receipt of the last report required to be transmitted under subsection (b),

(A) the Comptroller General determines, and so reports in such report, that a widespread pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment, the sole result of the implementation of employer sanctions; and

(B) there is enacted, within such period of 30 calendar days, a joint resolution stating in substance that the Congress approves the findings of the Comptroller General contained in such report.

(2) Any joint resolution referred to in clause (B) of paragraph (1) shall be considered in the Senate in accordance with subsection (f).

(e) EXPEDITED PROCEDURES IN THE HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and adoption of joint resolutions under subsection (d), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall

be treated as highly privileged in the House of Representatives.

(f) EXPEDITED PROCEDURES IN THE SENATE.—(1) For purposes of subsection (d), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of joint resolutions referred to in subsection (d), and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner as in the case of any other rule of the Senate.

(3)(A) If the committee of the Senate to which has been referred a joint resolution relating to the report described in subsection (d) has not reported such joint resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the joint resolution or to discharge the committee from further consideration of any other joint resolution introduced with respect to the same report which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a joint resolution with respect to the same report.

(B) A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the joint resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4)(A) A motion in the Senate to proceed to the consideration of a joint resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a joint resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a joint resolution is in order in the Senate.

SEC. 403. REPORT ON VISA WAIVER PILOT PROGRAM.

(a) MONITORING AND REPORT PILOT PROGRAM.—The Attorney General and the Secretary of State shall jointly monitor the pilot program established under section 218 of the Immigration and Nationality Act and shall report to the Congress not later than two years after the beginning of the program.

(b) DETAILS IN REPORT.—The report shall include—

(1) an evaluation of the program, including its impact—

(A) on the control of alien visitors to the United States,

(B) on consular operations in the countries designated under the program, as well as on consular operations in other countries in which additional consular personnel have been relocated as a result of the implementation of the program, and

(C) on the United States tourism industry; and

(2) recommendations—

(A) on extending the pilot program period, and

(B) on increasing the number of countries that may be designated under the program.

SEC. 404. PRESIDENTIAL REPORTS ON ANY LEGALIZATION PROGRAM.

(a) IN GENERAL.—The President shall transmit to Congress two reports after the legalization program has been established under section 202 of this Act.

(b) INITIAL REPORT ON LEGALIZED ALIENS.—The first report, which shall be transmitted not later than 18 months after the end of the application period for adjustment to lawful temporary residence status under the program, shall include a description of the population whose status is legalized under the program, including—

(1) geographical origins and manner of entry of these aliens into the United States,

(2) their demographic characteristics, and

(3) a general profile and characteristics of the population legalized under the program.

(c) SECOND REPORT ON IMPACT OF LEGALIZATION PROGRAM.—The second report, which shall be transmitted not later than three years after the date of transmittal of the first report, shall include a description of—

(1) the impact of the program on State and local governments and on public health and medical needs of individuals in the different regions of the United States,

(2) the patterns of employment of the legalized population, and

(3) the participation of legalized aliens in social service programs.

SEC. 405. REPORT ON THE IMMIGRATION AND NATURALIZATION SERVICE.

Not later than 90 days after the date of enactment of this Act, the Attorney General shall prepare and transmit to the Congress a report describing the type of equipment and personnel resources required to improve the capabilities of the Immigration and Naturalization Service so that it can adequately carry out services and enforcement activities.

SEC. 406. SENSE OF THE CONGRESS.

It is the sense of the Congress that the President of the United States should consult with the President of the Republic of Mexico within 90 days after enactment of this act regarding the implementation of this Act and its possible effect on the United States or Mexico. After the consultation, it is the sense of the Congress that the President should report to the Congress any legislative or administrative changes that may be necessary as a result of the consultation and the enactment of this legislation.

TITLE V—COMMISSION FOR THE STUDY OF COOPERATIVE UNITED STATES-MEXICAN ENDEAVORS TO IMPROVE ECONOMIC CONDITIONS

SEC. 501. COMMISSION.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established the Commission for the Study of Cooperative United States-Mexican Endeavors to Improve Economic Conditions (hereafter in this section referred to as the "Commission"), to be composed of twelve members—

(A) four Members of the House of Representatives to be appointed by the Speaker of the House of Representatives, upon the recommendation of the majority leader and the minority leader; and

(B) four Members of the Senate to be appointed by the President pro tempore of the Senate, upon the recommendation of the majority leader and the minority leader.

(C) four members to be appointed by the President, not more than two from any one political party.

(2) Members shall be appointed to serve for the life of the Commission.

(3) A majority of the members of the Commission shall elect a Chairman.

(b) DUTY OF COMMISSION.—The Commission shall examine how the United States and Mexico can work together to improve the economy of Mexico and the economy of the United States.

(c) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than one hundred and eighty days after the appointment of the members of the Commission, the Commission shall prepare and transmit to the President and to the Congress a report describing what steps the United States should be taking to work with Mexico to improve economic conditions.

(d) COMPENSATION OF MEMBERS, MEETINGS, STAFF, AUTHORITY OF COMMISSION, AND AUTHORIZATION OF APPROPRIATIONS.—(1) The provisions of subsections (d), (f)(2), (f)(3), (g), (h), and (i) of section 124 of this Act shall apply to the Commission under this section in the same manner as they apply to the Commission established under section 124.

(2) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) TERMINATION DATE.—The Commission shall terminate on the date on which a report is required to be submitted by subsection (c), except that the Commission may continue to function for not more than thirty days thereafter for the purpose of concluding its activities.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. POLICY TOWARD THE ENGLISH LANGUAGE.

(a) FINDINGS.—The Congress finds that—

(1) the United States has been and will continue to be enriched by the contributions of immigrants from diverse cultures;

(2) a common language, English, fosters harmony among our people, promotes political stability, permits the interchange of ideas, encourages societal accord, and unites

us as a people committed to freedom and equality;

(3) the learning of the English language by our Nation's immigrants is vital to their participation in the economic, education, social, and political opportunities of our country; and

(4) a role of the Congress is supporting the bonds that unite our people, one of the most important of which is the use of the English language.

(b) POLICY.—It is the sense of the Congress that the English language is the official language of the United States.

SEC. 602. SENSE OF THE SENATE REGARDING ETHANOL IMPORTS.

(a) ETHANOL IMPORTS.—The Congress finds and declares that—

(1) the Treasury Department's decision on August 28, 1985, to postpone until November 1, 1985, implementation of a 60-cent-per-gallon tariff on imported Brazilian ethanol would cause significant harm to United States agricultural and commercial ethanol industries, a loss of jobs in the ethanol and related industries, further deteriorate the United States balance of trade, pressure downward commodity prices even further and heighten the long-term threat of more United States dependence on imported oil;

(2) this decision clearly is counter to the explicit dictates of the Congress in the passage of Public Law 96-499 adopted by the Congress in 1980 and signed into law by the President; and

(3) the potential amount of ethanol which could be imported under reduced tariffs before November 1, 1985, could equal the total amount of annual domestic ethanol production in the United States.

(b) TARIFF ON IMPORTED ETHANOL.—It is therefore the sense of the Senate that the 60-cent-per-gallon tariff on imported ethanol should be immediately implemented.

SEC. 603. REIMBURSE STATE GOVERNMENTS FOR COST OF INCARCERATING ILLEGAL ALIENS.

(a) REIMBURSEMENT TO STATES.—The Attorney General shall reimburse a State for the costs incurred by such State for the imprisonment of any illegal alien or Marielito Cuban who is convicted of a felony by such State.

(b) ILLEGAL ALIENS CONVICTED OF A FELONY.—An illegal alien referred to in subsection (a) is any alien convicted of a felony who is in the United States unlawfully and—

(1) whose most recent entry into the United States was without inspection, or

(2) whose most recent admission to the United States was a nonimmigrant but—

(A) whose period of unauthorized stay as a nonimmigrant expired, or

(B) whose unlawful status was known to the Government,

before the date of the commission of the crime for which the imprisonment was imposed.

(c) MARIELITO CUBANS CONVICTED OF A FELONY.—A Marielito Cuban convicted of a felony referred to in subsection (a) is a national of Cuba who—

(1) was allowed by the Attorney General to enter the United States in 1980,

(2) after such entry committed any violation of State law for which a term of imprisonment was imposed, and

(3) at the time of such entry and such violation was not an alien lawfully admitted to the United States—

(A) for permanent residence, or

(B) under the terms of an immigrant visa or a nonimmigrant visa issued,

under the laws of the United States.

(d) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(e) EFFECTIVE DATE.—This section shall become effective on October 1, 1985.

SEC. 604. TERMINATION DATE FOR CERTAIN AGRICULTURAL PROVISIONS.

(a) TERMINATION DATE FOR CERTAIN AGRICULTURAL PROVISIONS.—(1) The provisions of section 125 of this Act and amendments made by such section shall terminate 90 calendar days after receipt of the report described in section 124(c) of this Act unless there is enacted within 90 calendar days a joint resolution stating in substance that Congress approves the continued applicability of the provisions of section 125 and amendments made by such section.

(2) Any joint resolution referred to in paragraph (1) of this subsection shall be considered in the Senate in accordance with subsection (c).

(b) EXPEDITED PROCEDURES IN THE HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and adoption of joint resolutions under subsection (a), a motion to proceed to the consideration of any such joint resolution after it has been reported to the appropriate committee shall be treated as highly privileged in the House of Representatives.

(c) EXPEDITED PROCEDURES IN THE SENATE.—(1) For purposes of subsection (a), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of joint resolutions referred to in subsection (a), and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner as in the case of any other rule of the Senate.

(3)(A) If the committee of the Senate to which has been referred a joint resolution relating to the report described in subsection (a) has not reported such joint resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the joint resolution or to discharge the committee from further consideration of any other joint resolution introduced with respect to the same report which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a joint resolution with respect to the same report.

(B) A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the joint resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4)(A) A motion in the Senate to proceed to the consideration of a joint resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a joint resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a joint resolution is in order in the Senate.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I wish to take this opportunity to commend the able Senator from Wyoming, Senator SIMPSON, for the skill and splendid manner in which he handled this bill. We have passed this bill through the Senate now for the third time and we are hoping this time the House will come across and go with us and pass a bill. We almost got a bill last year.

Senator SIMPSON has worked ardently and he has worked around the clock on this bill. He is very knowledgeable on it. He did a fine job in the committee. He had done an excellent job here and he did a splendid job in conference. I am hoping this time that we can get a bill for the American people, as it is badly needed.

I just wanted to especially commend and congratulate the able Senator from Wyoming on the magnificent work he has done on this immigration bill.

Mr. SIMPSON. Mr. President, as chairman of the Subcommittee on Immigration and Refugee Policy, my duties are presented to me often by the chairman of the committee. I could never have had a more supportive, loyal, and remarkable chairman

than Senator STROM THURMOND. I cannot say enough about him. He has proved his loyalty, his kindness, and his affection to me. He served with my father in this place and when I came here he took me under his wing. He has been like a second father to me. He is a special, special person, and I thank him for his remarks.

Mr. THURMOND. I wish to thank the able Senator for his kind remarks.

Mr. SIMPSON. Mr. President, let me just thank the members of the staff, diligent people on both sides of the aisle in this remarkable Immigration Subcommittee, especially these people: Debbie Gibbs, Denise Herzog, Chip Wood, Carl Hampe, Jodi Brayton, Helen York, and Frankey DeGooyer. I deeply appreciate their extraordinary time and effort; the intrustion on their weekends and the things that go with a piece of legislation.

Also, a particular thanks to Jerry Tinker, who represents Senator KENNEDY so very well; Ally Milder, of Senator GRASSLEY'S staff; Andy Hartsfield, of Senator DENTON'S staff; Mark Contreras, of Senator SIMON'S staff; and Dick Dargan, of Senator THURMOND'S staff. All of those are members of the subcommittee. I am deeply appreciative of their efforts.

Especially, thanks to Dick Day, who I lured out of Cody, WY some 4 years ago and said, "Come on out and help me with the immigration bill, Dick; you will love it." And he came, like a lovely friend. I am sure that he is as pleased as I am, but if we have to do this one more round, he will go back to Cody, WY and practice his mysteries of law back there. To Dick Day, a special friend, who is the right hemisphere of my brain on immigration, my thanks, my richest thanks.

With that, Mr. President, just to comment to another man in the Chamber, Senator GORTON, who entered into the spirited parts of the debate and left much of his imprint here—and I deeply appreciate that—as a very remarkable Member of this body.

I would also like to extend my appreciation to INS Commissioner Alan Nelson and his fine organization. They are unfailingly helpful to those of us who have grappled with this difficult and complex issue of immigation reform.

Again, thanks to Senator KENNEDY, who fully realized the situation. Throughout the entire endeavor, as he has come to positions for which he could not vote, out of this finest conscience, he was always there supporting me and guiding me and assisting me with certain constituencies that I did not exactly have access to. I appreciate that.

Mr. President, I thank my colleague, who will now take the floor, Senator STAFFORD, for his continuing support. He is my other chairman. I have two—Senator THURMOND and Senator STAFFORD. I appreciate their good counsel.

Mr. KENNEDY. Mr. President, I, too, want to express my appreciation for the outstanding work of the Immigration Subcommittee staff. They have shown the same patience and perseverance that Senator SIMPSON has shown.

I particularly what to note the work of the subcommittee's chief counsel, Dick Day. He has been extraordinarily thoughtful and helpful to me and to my staff, as has Karl Hampe and others.

Finally, I want to thank Jerry Tinker of my staff, who has served as my counsel on this difficult issue for 15 years.

The issue now moves to the House of Representatives, and I am prepared to work with Senator SIMPSON if and when we go to conference.

SUPERFUND IMPROVEMENT ACT OF 1985

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 51) to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act Of 1980, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 647

(Purpose: To encourage the use of innovative technologies at radon contaminated Superfund sites)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself and Mr. LAUTENBERG, proposes an amendment numbered 647.

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

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

The amendment is as follows:

At the end of title I insert the following new section:

"SEC. . RADON PROTECTION AT CURRENT NPL SITES.—It is the sense of the Congress that the President, in selecting response action for facilities included on the National Priorities List published under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 because of the presence of radon, is not required by statute or regulations to use fully demonstrated methods, particularly those involving the offsite transport and disposition of contaminated material, but may use innovative or alternative methods which protect human health and the environment in a more cost-effective manner."

Mr. BRADLEY. Mr. President, this amendment would provide congressional guidance to enable EPA to use innovative or alternative cleanup methods at radon-contaminated Superfund sites if these methods protect human health and the environment in a more cost effective manner than is now the practice at EPA. These alternative cleanup techniques have the potential to provide more effective, more rapid, and less costly relief from the dangers of radon gas.

Radon gas creates a severe health problem to humans when it collects in a building. It is not a problem if the gas is allowed to diffuse into the air. The sources of radon gas are, first, naturally occurring radon in the Earth's surface and, second, manmade radon deposited as the waste product of a manufacturing process. I am joining Senators MITCHELL and LAUTENBERG in offering an amendment dealing with the problem of naturally occurring radon and the indoor air pollution problem in general. The pending amendment deals only with manmade radon contamination.

There are several sites on the current Superfund list where the hazardous waste is manmade radon buried in the ground. Current practice at Superfund sites is to use only previously demonstrated techniques. This is not as irrational as it may seem. There is a real concern that untried and unproven cleanup techniques could lead to wasteful and even counterproductive efforts. However, the problem of radon gas is very unusual. The only cleanup procedure now being considered at Superfund sites where manmade radon is the principal contaminant is to dig up the ground beneath the building and truck the contaminated dirt somewhere else. This cleanup technique is extremely time consuming and expensive and, if unchecked, could result in a real drain on limited Superfund resources.

Other cleanup techniques have been studied and have been tested. These techniques have been shown to be effective at reducing the threat to the health of the occupants of the home. The intent of this amendment is to encourage EPA to consider and use all techniques when they protect public health and the environment in a cost-effective manner.

An additional benefit of this amendment is that the experience gained by EPA at radon-contaminated Superfund sites may be incorporated into the indoor air pollution program being established by the Mitchell-Lautenberg-Bradley amendment.

I urge my colleagues to support this amendment.

Mr. President, I have checked this amendment with both the distinguished chairman of the committee, Senator STAFFORD, and the distinguished ranking member, Senator BENTSEN. I offer the amendment on behalf of myself and my distinguished

colleague, Senator LAUTENBERG, and ask unanimous consent that he be listed as offering the amendment as an original cosponsor.

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

Mr. LAUTENBERG. Mr. President, I am pleased to join my colleague from New Jersey, Senator BRADLEY, in sponsoring this amendment to address the treatment of radon contamination at Superfund sites.

This amendment expresses the sense of the Senate that the Environmental Protection Agency, in determining proper remedial action plans for treating radon-contaminated national priorities list sites, is not limited to consideration of fully demonstrated methods, particularly those involving offsite transport and disposal of contaminated material. The amendment further expresses the sense of the Senate that the EPA, in selecting response actions for these sites, may use innovative or alternative methods which protect human health and the environment in a cost-effective manner.

According to EPA regulations, in order to qualify as an innovative or alternative method which would protect human health and the environment, any such method would have to provide a degree of protection equal to or superior to existing standards.

Mr. President, the threat to public health from radon exposure has only recently begun to receive the attention it deserves. The problem of naturally occurring radon contamination has surfaced in recent months, and could, according to estimates by the Environmental Protection Agency, affect 1 million homes nationwide. The extensive threat naturally occurring radon contamination poses nationwide underscores the need to implement Federal programs to address the radon hazard.

Earlier in this debate, Senator MITCHELL, Senator BRADLEY, and I were successful in adding an amendment to S. 51 which directs the Environmental Protection Agency to undertake an aggressive national program to deal with the threat posed by naturally occurring radon.

However, Mr. President, we have situations were radon contamination is not a naturally occurring phenomenon, but is the result of human activities. In the communities of Montclair, West Orange, and Glen Ridge, NJ, over 100 homes are located immediately above radon-contaminated soil. This contamination resulted from the reckless disposal of radium wastes by a firm involved in the manufacture of luminescent watch dials many years ago. Soil contaminated with the radium was later taken from the site, and used as fill for the development of homes on more than 100 acres in New Jersey.

The threat posed by radon contamination is clear. Long term, high-level exposure to radon is known to cause lung cancer. Because of this threat, the Environmental Protection Agency has included these radon sites in New Jersey on the national priorities list, making them eligible for federally funded cleanup under Superfund.

But radon contamination is a treatable hazard. Once a problem is diagnosed, relatively inexpensive, simple measures can be taken to alleviate the health threats of radon. In many cases, alternatives to excavation and removal of soil may be available and adequate to protect human health. There are means which have been employed by the Environmental Protection Agency in treating radon contaminated homes in Pennsylvania that can alleviate the threat. These measures, such as sealing of cracks and spaces in foundations and installation of ventilation systems, are relatively low-cost items, and provide the degree of health protection needed.

In its remedial investigation/feasibility study recently completed for these sites, the EPA has investigated the feasibility of using such measures. However, because of the nature of the contamination, such alternative and innovative measures may not be adequate remedial action. In cases where the contamination could be remediated and public health protected through the implementation of alternative and innovative measures, this option should be fully investigated.

Prior to the undertaking of Federal remedial action under Superfund, the State of New Jersey began a pilot program to alleviate the health hazard facing the residents in the affected homes. Under this program, the State of New Jersey is excavating and removing the contaminated soil from 12 homes.

The cost of this action is staggering. This pilot program will cost at least $8 million. If similar action were taken to remediate the remainder of the affected homes, the price tag, according to the EPA, could easily approach $200 million. Mr. President, this enormous cost would serve as a significant drain on the Superfund, and could slow down the cleanup of these sites.

However, Mr. President, the residents of these contaminated homes should be protected from this health hazard as soon as possible.

The use of such innovative technologies, where feasible and adequate to protect human health and the environment, would make the cleanup of these sites more cost-effective and practical, and timely while ensuring the health of those residents affected in an expedient manner.

I urge my colleagues to support this measure.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, we have examined the legislation proposed in the amendment by the able Senator from New Jersey. We are prepared to accept it.

Mr. BENTSEN. Mr. President, acting for the minority, we have examined the legislation and think its contribution will be helpful. We have no objection to it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (No. 647) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 648

Mr. STAFFORD. Mr. President, I send an amendment to the desk on behalf of myself and the able Senator from Texas [Mr. BENTSEN] and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD], for himself and Mr. BENTSEN, proposes an amendment numbered 648.

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

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

The amendment is as follows:

Delete the text from page 54, line 4, through page 58, line 20, and insert in lieu thereof a new section as follows:

"SEC. 106. (a) Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by this Act, is further amended by adding after "Notice, Penalties" in the title to section 103: ", Inventory, and Emergency Response". Section 103 is further amended by adding at the end thereof the following new subsection:

"(h)(1) The requirements of this subsection shall apply to owners and operators of facilities that have ten or more full-time employees and that are in Standard Industrial Classification Codes 20 through 39 (as in effect on July 1, 1985) that manufacture or process more than 200,000 pounds per year of a chemical substance listed pursuant to paragraph (2) or that use more than 2,000 pounds per year of a substance listed pursuant to paragraph (2). For purposes of this subsection,

"(A) The term 'manufacture' means to produce, prepare or compound a chemical substance.

"(B) The term 'process' means the preparation of a chemical substance, after its manufacture, for distribution in commerce—

"(i) in the same form or physical state as, or in a different form or physical state

from, that in which it was received by the person so preparing such substance,

"(ii) as part of an article containing the chemical substance.

"(C) The term 'use' means to use for purposes other than processing.

"(2)(A) Not later than July 1, 1986 the President shall publish a list of toxic chemical substances which, on the basis of available information and in the judgment of the President, are manufactured in or imported into the United States in aggregate quantities that exceed 500,000 pounds per year and, (i) based on epidemiological or other population studies, generally accepted laboratory tests, or structural analysis are known to cause or are suspected of causing in humans adverse acute health effects, cancer, birth defects, heritable genetic mutations, or other health effects such as reproductive dysfunction, neurological disorder, or behavioral abnormalities, or (ii) because of toxicity, persistence, or tendency to bioaccumulate in the environment, may cause adverse environmental effects. Unless and until such list is published, those specific chemical substances identified in section 101(14) of this Act shall constitute such list.

"(B) the President shall, as necessary, but no less other than every two years, review and revise the list required by this paragraph. Any person may petition the President to add a chemical substance to the list or to remove a chemical substance from the list.

"(C) The President may establish a quantity different from that established in paragraphs (1), (2), or (3) for particular chemical substances, based on their toxicity, extent of usage and such other factors as the President deems appropriate. The President, on his own motion or at the request of a Governor of a State (with regard to facilities located in that State), may apply the requirements of this subsection to the owners and operators of any particular facility that manufactures, processes, or uses a chemical substance listed under subparagraph (A) if the President determines that such action is warranted on the basis of toxicity of the substance, proximity to other facilities that release the substance or to population centers, the history of releases of such substances at such facility, or such other factors as the President deems appropriate.

"(3) The owners or operators of a facility subject to this subsection shall complete a Toxic Chemical Release Inventory Form as published under paragraph (4) for each chemical substance listed under paragraph (2) that was manufactured, processed, or used in quantities exceeding those established under paragraph (1) or, where applicable, subparagraph (2)(C), during the preceding calendar year at such facility. Such form shall be submitted on or before June 30, 1987, June 30, 1990, and June 30, 1993, and shall contain data reflecting releases during the preceding calendar year. If the President has not published the form required by paragraph (4) on or before December 31, 1986, owners and operator required to submit information under this subsection shall do so by letter to the Administrator of the Environmental Protection Agency postmarked on or before June 30, 1987.

"(4)(A) Not later than June 1, 1986, the President shall publish a Toxic Chemicals Release Inventory Form. Such form shall provide for the name and location of and principal business activities at the facility and shall provide for submission of the following information for each listed substance known to be present at the facility—

"(i) the use or uses of the chemical substance at the facility;

"(ii) the annual quantity of the chemical substance transported to the facility, produced at the facility, consumed at the facility, and transported from the facility as waste or as a commercial product or byproduct or component or constitutent of a commercial product or byproduct;

"(iii) the annual quantity of the chemical substance entering each environmental wastestream, including air, surface water, land, subsurface injection, and discharge to publicly owned treatment works; and

"(iv) for each wastestream, the waste treatment methods employed and the annual quantity of the chemical substance remaining in the waste-stream after treatment.

"(B) For purposes of this paragraph, facility owners and operators may utilize readily available data collected pursuant to other State and Federal environmental laws, or, where such data are not readily available, reasonable estimates. Nothing in this subsection shall require the monitoring or actual measurement of quantities of substances or releases beyond that required under other authorities. In order to assure consistency, the President shall require that data be expressed in common units.

"(5) The Governor of each State shall designate an official or officials of the State to receive Toxic Chemical Release Inventory Forms. The facility owner or operators shall submit the Forms to such official or officials and to the President.

"(6) Subject to the provisions of paragraph (8), the President and the Governor shall make the information submitted pursuant to this subsection available to the public. The President and the Governor may charge reasonable fees to recover the cost of reproduction and mailing of data.

"(7) The President shall establish and maintain in a computer database a National Toxic Chemical Release Inventory based on data submitted under this section. EPA shall make these data accessible by computer telecommunication to any person on a cost-reimburseable user fee basis.

"(8)(A) The President may verify the data contained in the Toxic Chemicals Release Inventory Form using the authority of section 104(e) of this Act.

"(B) Information submitted under this subsection shall be treated as information submitted under section 104(e) and (other than data on the quantity and nature of any release and the identity of the chemical substance released) shall be subject to the provisions of section 104(e).

"(9) Any person who knowingly omits material information or makes any false material statement or representation in the Toxic Chemicals Release Inventory Form shall, upon conviction, be fined not more than $25,000 or imprisoned for not more than one year, or both.

"(10) Nothing in this subsection shall be construed to limit the ability of any State or locality to require submission of information related to hazardous substances, toxic chemical substances pollutants or contaminants or other materials.

"(11) Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by this Act, is further amended by inserting 'and section 103' after 'under this section' in the first sentence.".

Mr. STAFFORD. Mr. President, this amendment is a substitute for section 106 of S. 51, which provides for a hazardous substances inventory. Section 106 was included in the bill.

At the suggestion of my good friend and colleague, and most valuable member of our committee, the Senator from New Jersey, Senator LAUTENBERG, has been instrumental in developing this substitute as well.

The intent behind this amendment is to require manufacturing facilities handling substantial quantities of toxic chemicals to report the annual quantities of these chemicals they dump into the environment. These reports when compiled will constitute an inventory which tells us where the toxic chemicals are and where they are being released into the environment. Such an inventory will be a valuable tool for environmental regulators, for the health professionals, the concerned public, and the companies themselves.

The inventory will provide the basic what, where, and how information that is vital for sensible management and control of toxic chemicals. This substitute amendment responds to concerns that have been raised about the inventory requirements in section 106. It will apply to fewer facilities and require less reporting by submitters.

It will include only chemicals that can harm public health or the environment when released, allows the use of already available data and reasonable estimates, no new testing or monitoring requirements are established, trade secrets are protected, and it reduces the paperwork burden on industry in terms of distributing completed forms. In short, Mr. President, this amendment is as responsive as possible to the legitimate concerns that have been expressed while not giving up to any significant degree its intended public health and environmental benefits. This inventory is a concept that the people support.

After the Bhopal disaster and the continuing litany of chemical accidents in this country, the public wants to know and the public has a right to know about the releases of toxic chemicals, deliberate releases that occur every day as well as accidental releases. This amendment, Mr. President, will provide that information.

Mr. President, I would like to take a few minutes to discuss further the need for a toxic chemicals release inventory and the intent behind this amendment. But first, I particularly want to thank my good friend and colleague, the distinguished Senator from Texas, Senator BENTSEN, for his help in developing this amendment. As usual, he was the source of many good ideas for ways to achieve the goals of the amendment without creating too large a burden on the manufacturing industry.

Public concern about toxic chemicals is at an all time high. Hardly a week

passes without new revelations about the dangers of chemicals substances in our daily lives. Chemical substances that are known to cause cancer, birth defects, and other serious diseases are being released daily into our environment not only by accident, but also by design. Despite 15 years of progress in pollution control, it is still common business practice to dump dangerous chemicals into the air, into the water, and under the ground.

Mr. President, it is clear that, as a society, we still have a long way to go before we can say we are effectively managing our exposure to these chemicals. What do we need to do? Common sense and the most elementary principles of management tell us that one essential component is information. We need answers to three questions. First, which chemicals are we really worried about? Second, where are these toxic chemicals being manufactured, used, and released? And third, what quantities are being released?

Our present system of pollution control laws suffers from being fragmented. The information needed to answer these three vital questions, to the extent it exists, is scattered throughout different program files at several levels of government. Even if these data could be systematically collected together by the thousands of bureaucrats who control them, they still would be hard to analyze. Existing data are reported in inconsistent units—pounds per hour on the one hand versus milligrams per liter on the other. It is difficult if not impossible, to get a picture of toxic chemical releases at one industrial plant, much less develop a community or regional or national picture of toxic pollution activity.

My colleagues may well ask whether I am exaggerating. I am not. Last year, a sophisticated environmental research organization in New York City tried for months to understand waste handling practices at some 35 chemical processing plants around the country. The organization, Inform, Inc., selected several toxic chemicals widely used in industry. They searched every publicly available pollution control agency file at every level of government trying to get answers to these simple questions: On an annual basis, how much of the chemical is used at the plant? How much waste containing the chemical is generated in a year? What happens to this waste?

Despite hundreds of hours of research, Inform could not get satisfactory answers to these questions.

Except in the State of New Jersey, where the answers exist on one-page forms submitted by the companies themselves. These forms, called the New Jersey Industrial Survey, contain each facility manager's best estimate of the input, output, and loss of designated toxic chemicals. A very similar inventory exists in the State of Maryland.

Both the Maryland and New Jersey inventories have proven to be very useful to environmental managers and health officials. With these inventories, officials know how to contact persons who handle particular chemicals so that they can be notified of health warnings or other important information. the inventories reveal geographic and industrial patterns of environmental release, which health officials can correlate with records of disease incidence to seek out possible relationships. Regulatory officials from various programs, from occupational safety to air and water pollution, use these inventories to cross check other data. Aggregated data from an inventory of chemical waste production and discharge can be used by environmental managers to help set program priorities. Are there certain geographical areas with particularly heavy air emissions of a potent carcinogen? Which toxic chemicals or categories of chemicals are discharged the most, and into which media? Do some companies release more toxics than others manufacturing the same product? Which industrial categories warrant more attention?

In short, Mr. President, a toxic chemicals release inventory offers the possibility of making the management of toxic chemicals more efficient. Scarce resources can perhaps be targeted to where the problems are greatest.

Mr. President, there is another reason why companies should disclose their dumping practices. It is that the public has a right to know about the toxic chemicals that are being released day by day into the air and water. Just as there is a right to know about accidental release of a carcinogen, for example, there is a right to know about intentional release of the same chemical.

The amendment which Senator BENTSEN and I are offering today makes an important contribution to achieving the benefits I have been describing. And it does so without placing an undue burden on industries. There are thresholds in terms of size of facility and volume of production and use that are sensitive to the concerns of small companies. Further, the amendment does not require new emissions monitoring programs. It simply requires that exising data be gathered into one place, supplemented by reasonable estimates where necessary. Mr. President, it simply cannot be very expensive to go through the files, or talk to the plant foreman, and pull these numbers together. They probably already are consolidated in most facilities in order to assure compliance with regulatory programs; and if they aren't, they should be.

This amendment responds to every concern that I have heard about the provision in S. 1251 that it would replace, section 106. Yet it does so without harming the intent of that section. I commend this amendment to my colleagues and urge that they support it.

Mr. President, if I may, I will continue now with a discussion of the specific provisions of this amendment and the intent behind them.

This amendment establishes a new subsection (h) in section 103 of the Comprehensive Environmental Response Compensation and Liability Act of 1980.

Consistent with other provisions of the Comprehensive Environmental Response Compensation and Liability Act, the amendment places responsibility for implementation on the President. It is intended that the President delegate this responsibility to the Administrator of the Environmental Protection Agency as he has other Comprehensive Environmental Response Compensation and Liability Act Responsibilities.

Paragraph (1) establishes the characteristics of facilities that are subject to the requirements of this subsection. These include a small business exemption: facilities with fewer than 10 employees are not subject to the reporting requirements.

The requirements apply to facilities in Standard Industrial Codes 20 through 39. They do not apply to retail outlets, dry cleaning establishments or warehouses not associated with manufacturing facilities.

The requirements apply to facilities that handle substantial quantities of listed toxic chemicals. These include facilities that manufacture or process more than 200,000 pounds per year of a listed substance, or that use more than 2,000 pounds per year.

The term "use" is deliberately not defined precisely. Examples of chemical use, as distinct from chemical manufacture or processing, would include use as a nonreactive industrial solvent or a component of a cutting fluid. The President may, of course, further define these terms in regulations, based on the experience and knowledge of chemical uses obtained under the Toxic Substances Control Act and other statutes.

A distinction in threshold quantities is made between manufacturing and processing facilities and facilities that use a listed chemical for other purposes. This distinction is made because users of chemicals are more likely to release a larger proportion of the toxic chemicals as waste than are facilities that manufacture or process the chemical for sale as a product.

Paragraph (2) requires the President to publish a list of toxic chemicals which shall be the subject of reporting requirements. To be designated, a

chemical generally must be manufactured or imported in aggregate quantities that exceed 500,000 pounds per year. This determination of aggregate quantity is to be based on information available to the President. It is recognized that the quantity of a chemical manufactured and imported may vary from year to year. The President should use the most recent data available to him in making a determination of aggregate volume pursuant to this paragraph. Implementation of these provisions should not be delayed while waiting for more recent or more precise production and import data. Nor is the President expected to undertake programs to gather production and import data solely for the purpose of identifying chemicals pursuant to this paragraph although he has the authority to obtain such information under the Toxic Substances Control Act and may choose to do so for purposes of this subsection, provided it will not delay implementation.

In order to determine that a chemical meets the aggregate volume criterion, the President need not prove that the chemical exceeded that volume in the year for which reporting is required. He need only determine that the criterion was met in the most recent year for which he has data. Of course, substances may be added to or moved from the list during periodic revisions if more recent data should so indicate.

This paragraph also describes the toxicity criteria for including a chemical substance on the list. These are broadly defined to include both acute and chronic adverse human health effects as well as adverse environmental effects. As adverse human health effect need not be life threatening, debilitating or long lasting to be considered. The President should include, for example, substances that can cause significant respiratory or eye irritation in exposed populations.

The President is to list chemical substances known to cause or suspected of causing adverse human health effects. The potential for causing human cancer for example, is indicated by tests carried out on animals or other organisms, or in some cases because of structural similarity to other substances which have been subjected to testing. Such substances should be listed. It is not intended that chemical substances should be listed only on the basis of proof of human toxicity, because such proof often is unavailable.

In construction the list of toxic chemical substances under this paragraph, the President should consult lists of toxic chemicals compiled by the International Agency for Research on Cancer, the National Toxicology Program Annual Report on Carcinogens, and other lists compiled by other entities. He also should consult various State lists of chemicals for which similar reporting has been required, including those of New Jersey and Maryland. Generally, any substance appearing on these lists that also meets the aggregate volume requirement should be included on the list compiled under this paragraph.

Should the President fail to publish the required list of chemicals, then the reporting requirements will apply to specific chemicals that appear on the list of hazardous substances compiled under section 101(14)—the so called Superfund list.

Subparagraph (B) of paragraph (2) requires the President to review and revise the list of chemicals no less often than every 2 years. Any person may petition the President to add chemical substances to the list or delete chemical substances from the list, based upon the criteria set forth in this amendment.

It is recognized that, with regard to particular chemical substances, the threshold quantities described ip paragraphs (1), (2), or (3) may be found to be inappropriate. Consequently, the President is given the authority to establish, for a particular chemical substance, a different quantity based on toxicity, extent of usage, and such other factors as the President deems appropriate.

Similarly, the President may apply the requirements of this subsection to a facility to which they otherwise would not apply, based on the toxicity of a chemical substance manufactured, processed or used at the facility, proximity to other facilities or to population centers, history of releases at the facility, and other factors the President deems appropriate. The Governor of a State may request that this subsection apply to such facilities within that State, and it is expected that the President will comply with such a request.

Paragraph (3) calls for three toxic chemicals release inventory reports, at 3-year intervals, beginning in 1987. Each inventory is to be based on activity during the preceding calendar year. This approach allows ample time for affected facilities to obtain and compile the necessary data or estimates during calendar year 1986 for reporting by June 1, 1987.

This subsection does not require actual measurement or monitoring of the quantities of listed toxic substances or releases beyond that required in other statutes. The President has ample authority in the various environmental statutes to require measurement and monitoring, should additional measurement or monitoring be warranted. Owners and operators of facilities subject to the requirements of this subsection may utilize readily available data collected pursuant to other laws. Reasonable estimates may be used where actual data are not available. Estimates may be based on engineering estimates and computation, process material balance studies, or other estimation techniques. In order to report data in common units, it may be necessary to perform conversion calculations on some existing data before they are submitted.

Paragraph (5) requires the Governor of each State to designate one or more officials to receive inventory forms, and requires facility owners or operators to submit the forms to these officials and to the President. Paragraph (8) provides that submitted data is subject to the provisions of section 104(e), which defines applicable trade secret protection and the conditions under which information obtained from any person may be held confidential. Data on the annual quantity and nature of chemical substances released and the identity of released substances may not be held confidential. This provision is consistent with other environmental statutes.

Except insofar as information is protected by these provisions, the Governor and the President are required to make all submitted data and information available to the public. Consistent with the purposes of this subsection, the public must have access to the name and location of the facility and to data on which chemical substances are being released and the annual quantity of such substances released.

The President is required by paragraph (7) to establish and maintain in a computer data base a National Toxic Chemical Release Inventory into which information submitted on the forms will be entered. The information should be entered in such a way as to allow aggregation and analysis according to location and type of facility, by chemical substance, and by such other variables as may lead to useful analyses of patterns and trends of release of toxic chemical substances. The Environmental Protection Agency already maintains a chemical information data base under the Toxic Substances Control Act with which the information and data required by this subsection generally are compatible. According to information supplied by the Agency, this data base can be modified to allow input of data from these requirements within a short time and with little expense. Consequently, it is assumed and intended that the President will make use of this existing data base rather than establishing a new data base.

Paragraph (9) establishes penalties applicable to any person who knowingly omits material information or makes any false material statement or representation in the toxic chemicals release inventory form.

Paragraph (10) provides that this subsection does not preempt State or local submission requirements. Also,

paragraph (11) is a conforming amendment to clarify that the provisions of section 104(e)(2) apply to reports and information obtained by the President under this subsection, as provided in paragraph (8).

Mr. BENTSEN. Mr. President, when the Committee on Environment and Public Works reported S. 51, it recognized that section 106 was an imperfect provision that would need additional attention. As reported, section 106 included some provisions that were designed to acquire information to assess emissions and discharges of hazardous substances to the environment and some provisions that were designed to provide information to emergency response authorities. This combination tended to produce an unwieldy array of material for authorities who needed something much simpler.

The amendment the committee leadership is introducing now replaces this section with a more targeted inventory of hazardous substances emissions and discharges. Other amendments will address the question of the information and procedures to be required for an Emergency Preparedness and Response Program.

A hazardous substances inventory, on a national scale, is a new and extensive undertaking. Inventories have been used effectively by several States for regulatory purposes. A properly constructed inventory can provide valuable information about potential emissions that should be regulated, the effectiveness of regulations, and trends in emissions over time. At issue now is how to construct a national inventory which attempts to balance adequacy of information and the inherent demands on businesses that an inventory poses when its uses are not precisely defined. This amendment changes several aspects of the committee bill to address this dilemma.

First, it limits the facilities subject to the inventory to industries in the manufacturing division of the standard industrial classification. These are groups 20 through 39. Mr. President, I ask unanimous consent that a listing of these industries be printed in the RECORD at this point.

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

DIVISION D—MANUFACTURING

Major Group 20: Food and kindred products;

Major Group 21: Tobacco manufactures;

Major Group 22: Textile mill products;

Major Group 23: Apparel and other finished products made from fabrics and similar materials;

Major Group 24: Lumber and wood products, except furniture;

Major Group 25: Furniture and fixtures;

Major Group 26: Paper and allied products;

Major Group 27: Printing, publishing, and allied industries;

Major Group 28: Chemicals and allied products;

Major Group 29: Petroleum refining and related industries;

Major Group 30: Rubber and miscellaneous plastics products;

Major Group 31: Leather and leather products;

Major Group 32: Stone, clay, glass, and concrete products;

Major Group 33: Primary metal industries;

Major Group 34: Fabricated metal products, except machinery and transportation equipment;

Major Group 35: Machinery, except electrical;

Major Group 36: Electrical and electronic machinery, equipment, and supplies;

Major Group 37: Transportation equipment;

Major Group 38: Measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks; and

Major Group 39: Miscellaneous manufacturing industries.

Mr. BENTSEN. Facilities in the SIC groups that manufacture or process more than 200,000 pounds per year of substances subject to the inventory or that use more than 2,000 pounds per year of these substances would respond to the inventory. Thus, a chemical plant manufacturing substances or using them above these quantities would be affected, but a dry-cleaner would not.

Second, it more precisely focuses the inventory on hazardous substances. While the committee-reported section would cover any hazardous substance under Superfund if it were more than 1 percent of a mixture, this proposal looks at the substance itself. If a plant used a product that was 1 weight percent a hazardous substance, it would have to use 200,000 pounds per year before meeting the 2,000-pound-per-year reporting threshold for use.

Third, the committee-reported bill applied to all substances defined as hazardous under Superfund. This proposal requires the President to establish a list of toxic chemical substances which are manufactured or imported into the United States in an aggregate volume of more than 500,000 pounds per year and are known to cause or are suspected of causing, in humans, adverse acute health effects, cancer, birth defects, heritable genetic mutations, or other health effects such as reproductive dysfunction, neurological disorder, or behavioral abnormalities, or, because of toxicity, persistence, or tendency to bioaccumulate in the environment, may cause adverse environmental effects. Until this list is published, specific chemicals defined as hazardous under Superfund serve as the list.

The President is given the authority to establish different thresholds for particular chemicals based on his judgment of their toxicity, extent of use, or other factors. The President may lower the threshold for other manufacturing facilities in S.I.C. Codes 20-39 based on such factors as toxicity of the substance, proximity to other facilities that release the same substance or to population centers, the history of releases at a facility. For his State, a Governor can request that additional manufacturing facilities in S.I.C. Codes 20-39 be added to the inventory.

The committee-reported bill would have required the first inventory 180 days after enactment and additional inventories at least every 2 years thereafter. This proposal requires three inventories: the first by June 30, 1987, for calendar year 1986; the second by June 30, 1990, for calendar year 1989; the third by June 30, 1993, for calendar year 1992. There were several reasons for these changes. It allows ample opportunity for industry to consider how to collect or estimate its emissions during 1986 and an adequate time to prepare this data for submission by mid-1987. There are 3 years between inventories to reduce the burden of preparing them and to allow the recipients to evaluate and use the information they receive. Finally, Congress must act to continue this inventory requirement. If it proves to be a useless effort or unreasonably burdensome or poorly targeted, it will not continue beyond these three submissions. If the information is useful but needed more or less frequently, Congress will have the opportunity to make such judgments and to weigh these needs against their costs.

The information required has been reduced one, to require annual quantities of materials known to be present at a facility rather than annual and monthly quantity information and two, to require general waste treatment information rather than detailed information regarding such items as the location of disposal and the identity of transporters. These are items more properly related to regulatory activities rather than inventories.

In preparing the inventory, a facility may use readily available data collected pursuant to other State and Federal environmental laws; or, where such data are not readily available, reasonable estimates may be used. In my view, this inventory is created to try to develop a reasonable sense of where hazardous substances encounter the environment. It attempts to create a loose material balance of such substances. It will be imperfect. Consequently, the use of data required by State or Federal law should be emphasized. Estimates are equally appropriate and techniques are available for such estimates—many published by EPA and other regulatory agencies. It is not the intent of this inventory to generate massive monitoring and data collection efforts. In fact, nothing here shall require the monitoring or actual measurement of quantities of substances or

releases beyond that required under other authorities. The Clean Air Act, Clean Water Act, Solid Waste Disposal Act, Toxic Substances Control Act, other provisions of Superfund, and other environmental laws contain ample authority to require monitoring and data collection for regulatory or enforcement purposes. This is an important distinction. Decisions to require monitoring or data collection need to have a defined intent. In some cases a regulatory program needs to be developed, sometimes nationally, sometimes locally or regionally. In other cases, site-specific enforcement actions may be under consideration. These situations warrant the cost and burdens of added monitoring or data collection. Such decisions should be made through the authorities provided in these other authorities. This inventory is not the proper place to vest such authority and it is prohibited here.

This is not to say that an inventory is not a useful regulatory tool. Several States have developed inventories far more extensive than this one. They have used them for regulatory development such as State implementation plans under the Clean Air Act or cross checks on solid waste disposal quantities. These are important functions, tailored to the specific needs of a State and should be preserved. This proposal preserves State and local authority.

Finally, I would like to emphasize that this proposal has modified the recipients of this inventory considerably. The committee-reported bill would have required the inventories to be submitted, at a minimum, to the following: the President; State and local emergency and medical response personnel; the State police, health and environmental departments; area police and fire departments; area emergency medical services; area hospitals; and area libraries. This proposal provides for the inventory to be sent to State officials designated by the Governor and to the President. They shall make the information available to the public at a cost to cover reproduction and mailing. The President shall establish and maintain a computer data base which shall be accessible by computer telecommunication at a cost-reimbursable user fee basis. Confidential business information protection under section 104(e) of this act applies to the inventory as well.

Mr. LAUTENBERG. Mr. President, I would like to commend the leadership of the committee for its hard work on section 106 of this bill. I offered this provision when the committee considered S. 51 in March. As the esteemed chairman of the committee has explained, the bill contains a provision which would establish a hazardous substances inventory. The amendment before us would serve as a substitute to the existing section 106 in S. 51. The differences between the existing section 106 and the amendment before us reflect changes that the committee felt should be made based on comments received subsequent to markup of S. 51.

The amendment before us would accomplish the emissions inventory goals set out in section 106. It would establish a national industrial inventory that would provide information about chemical use, storage, and regular environmental releases into the air and environment from facilities manufacturing or storing certain hazardous substances.

This inventory is to be used by State and Federal agencies to improve toxic chemical management by monitoring use and tracking releases of these substances. An effective inventory will help us better understand the flow of toxics into the environment and thereby aid in preventing future Superfund sites. It will also provide critical information to Federal and State air, water, and hazardous waste programs to track compliance and enforcement efforts within these programs. As in the State of New Jersey, such information can help inform and direct research efforts. Finally, Mr. President, the inventory will provide the Government and the public with information about daily and routine exposure to toxics in our environment—something essential to protecting the public health.

Mr. President, the inventory provided for in the committee amendment will better organize existing data about chemicals being released into the environment. EPA and the States currently collect much of this information, and a number of States and cities have instituted similar inventories. They have found that the inventories are quite helpful in conducting their environmental programs. However, many States and the EPA do not have so-called multimedia inventories. The information may be scattered in air files, water files, and on RCRA manifest forms, for example, but not pulled together in one place to provide a complete, and usable, picture of total environmental exposure. In some cases, the information may not be available at all.

If we are to slow the creation of Superfund sites, and develop a profile of public exposure to toxic emissions, we must do a better job of monitoring the release of hazardous substances to the environment.

Since the committee deliberations on Superfund in March, our staffs have had the opportunity to hear many comments and continue our work on this provision. Many hours have been spent analyzing threshold levels for substances and facilities that would be covered by this provision. Our staffs have met with concerned parties and they have discussed the experience that States have had in implementing industrial inventories with State officials.

The result is a provision that will accomplish our goal of establishing a national inventory, while at the same time meeting a number of the concerns raised by small business and other industries.

Mr. President, section 106 of S. 51 is widely supported by firefighting, labor, health, environmental, religious, and consumer organizations. These organizations include the International Association of Firefighters, the National Lung Association, the AFSCME, the U.S. Conference of Mayors, the AFL–CIO, and many of our Nation's prominent environmental organizations. While the orginal provision of the bill has been limited somewhat in scope to meet concerns raised about its implementation, the provision should go far toward meeting the goals to which section 106 was addressed. I ask that a letter in support of section 106 authored by 43 of these groups be inserted in the RECORD at the conclusion of my comments.

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

(See exhibit 1.)

Mr. LAUTENBERG. Again, Mr. President, I very much appreciate the committee's support for the inventory and the work of the committees leadership on this provision. I urge Senate adoption of the committee amendment.

EXHIBIT 1

FIREFIGHTING, LABOR, HEALTH, ENVIRONMENTAL, AGRICULTURAL, RELIGIOUS, CITIZEN AND CONSUMER ORGANIZATIONS STRONGLY SUPPORT SUPERFUND HAZARDOUS SUBSTANCE INVENTORY AND EMERGENCY PREPAREDNESS AND RESPONSES PROVISIONS

Dear Senator: On December 3, 1984, more than 2,000 citizens were killed and 200,000 injured in Bhopal, India, when the toxic cloud of methyl isocyanate from a Union Carbide manufacturing facility spread over the sleeping city. Following the Bhopal tragedy, the worst industrial accident in history, the American public asked, "Could it happen here?"

Today, we know it can. According to the Congressional Research Service, approximately 75 percent of all Americans live in the vacinity of facilities which handle, treat, or store hazardous chemicals. Recent chemical releases in this country, especially the release on August 11 from another Union Carbide facility in Institute, West Virginia, have underscored the lack of adequate public information about hazardous substances and the health hazards associated with exposure to them. In addition, life-threatening inadequacies in emergency response capabilities also have become apparent.

In response to these chemical disasters, the Senate Environment and Public Works Committee incorporated a provision establishing a Hazardous Substance Inventory in S. 51, the Superfund Improvement Act of 1985.

The Hazardous Substances Inventory would provide information about chemical use, storage, and releases into the air and environment from facilities handling hazardous substances. Covered facilities also would attach Material Safety Data Sheets, required by the OSHA Hazard Communication Standard, to the inventory form in order to provide information about the health hazards and safe handling of these substances.

The inventory is to be used by local, state, and federal agencies to improve toxic chemical management by monitoring location and use, as well as tracking regular environmental releases of these substances. It is to be made widely available to the public, including emergency response officials, who sorely need this information to plan for and respond to toxic chemical releases.

In addition, in late July, Senators Lautenberg, Moynihan, and Humphrey introduced S. 1531, the Community Emergency Preparedness and Response Act of 1985. They intend to offer an amendment similar to S. 1531 when the full Senate takes up the Superfund reauthorization this fall. This legislation builds upon the emergency response provisions of Superfund by providing a framework for improved community preparedness and notification around facilities that handle hazardous substances.

S. 1531 mandates that a priority list of hazardous substances be developed by the Environmental Protection Agency and that designated facilities, which store, handle or manufacture these substances, participate in emergency response planning. The Governors of each state are responsible for designating planning districts in areas where releases from such facilities might endanger public health or the environment. Local emergency planning committees subsequently would be established to prepare emergency response plans and ensure that local emergency response personnel are trained to carry out the plans successfully. This legislation provides federal technical assistance where appropriate, but relies upon the states and localities to take primary responsibility for developing plans for protecting their citizens.

The undersigned firefighting, labor, health, environmental, agricultural, religious, citizen, and consumer organizations strongly support the Hazardous Substance Inventory in S. 51, and the emergency preparedness amendment to be offered when the full Senate takes up S. 51. The events of recent months have illustrated dramatically the need for strengthening the information requirements and emergency response capabilities under Superfund. The adoption of these provisions could literally mean the difference between life and death for the citizens of this country and for those who must respond to chemical releases.

We urge you to support these important provisions when S. 51 is brought to the Senate floor.

Sincerely,

Mike Kerr, American Federation of State, County, and Municipal Employees; Richard Duffy, International Association of Firefighters; Fran Dumelle, American Lung Association; Greg Humphrey, American Federation of Teachers; Mary Lou Licwinko, Association of Schools of Public Health; Len Simon, U.S. Conference of Mayors; Julia A. Holmes, League of Women Voters; Linda Tarr-Whelan, National Education Association; Lori Rogovin, American Association of University Women; Janet Hathaway, Public Citizen's Congress Watch; Diane VanDe Hie, National Association of Local Governments on Hazardous Waste; Robert Alpern, Washington Office, Unitarian Universalist Association of Congregations in North America; Allen Spalt, Rural Advancement Fund; Haviland C. Houston, General Board of Church and Society, United Methodist Church; Rick Hind, U.S. Pirg; Eric Jansson, National Network to Prevent Birth Defects; Linda Golodner, National Consumers League; David Mallino, Industrial Union Department, AFL-CIO; Jeff Tryens, Conference on Alternative State and Local Policies; Gene Kimmelman, Consumer Federation of America; Leslie Dach, National Audubon Society; Jay Feidman, National Coalition Against the Misuse of Pesticides; and Shirley Briggs, Rachel Carson Council.

Charles Lee, United Church of Christ Commission for Racial Justice; Bill Klinefelter, United Steelworkers of America; Victoria Leonard, National Women's Health Network; Ken Kamlet, National Wildlife Federation; Martha Broad, Natural Resources Defense Council; Anthony Guarisco, International Alliance of Atomic Veterans; Geoff Webb, Friends of the Earth; John O'Connor, National Campaign Against Toxic Hazards; Norman Solomon, Fellowship of Reconciliation; Ann F. Lewis, Americans for Democratic Action; Cathy Hurwit, Citizen Action; Blaise Lupo, Clergy and Laity Concerned; Fred Millar, Environmental Policy Institute; Scott Martin, League of Conservation Voters; Joseph R. Hacala, S.J., Jesuit Social Ministries, National Office; Kathleen Tucker, Health and Energy Institute; David Zwick, Clean Water Action Project; Dan Becker, Environmental Action; Sally Timmel, Church Women United; and Ralph Watkins, Church of the Brethren.

Mr. STAFFORD. Mr. President, this amendment is a substitute for language which was reported by the committee in S. 51. In the bill as reported and in the first draft of this floor amendment, but excluded from the language as we are presenting it here this afternoon, was an exemption from the Paperwork Reduction Act for the form that is required by this amendment. Mr. President, I would like to take a few moments of the Senate's time to outline the considerations that caused us to remove the exemption from the final language that we are offering.

Frankly, Mr. President, we included the exemption in the committee bill because we were concerned, and it is a concern well founded in recent experience, that if the Office of Management and Budget should decide to oppose the program required by this amendment, that it might block the program by prohibiting the information collection procedures on which the success of the program depends. OMB has authority to review forms and surveys and other information collection instruments prepared by the regulatory agencies under the Paperwork Reduction Act which was adopted by the Congress in 1980.

Although the committee is not now aware of any case in which the Paperwork Reduction Act has been used to prohibit the publication or use of a form required by statute, it is important that Congress exercise vigilance in this area. For instance, members of the committee—members who will be joining in this colloquy—have also recently joined in communicating our concern to the Director of the Office of Management and Budget on the use of review authorities under Executive Order No. 12291 which have unduly delayed publication of some 40 recommended maximum contaminant levels that have been proposed by the Administrator of the Environmental Protection Agency to fulfill, in part, his responsibilities under the Safe Drinking Water Act. Those RMCL's, as they are called, have been gathering dust on a desk at OMB since last April—long past the deadline set by Executive Order 12291 for Agency review.

So, Mr. President, there is cause for concern in this area. But Senator BENTSEN and I have been willing to consider removing the Paperwork Reduction Act exemption in our amendment, and which was contained in the bill as reported, on the assurance that the Office of Management and Budget does not have the authority under that act to prohibit the publication or use of a form that is specifically required by law. Let me be clear on this point, Mr. President. This amendment requires EPA to publish and distribute a form to collect information. We are taking the Senate's time to establish the point that OMB cannot prohibit EPA from writing, publishing, circulating, and collecting data through this form. It cannot be prohibited because it is required by law.

As it happens, one of the members of our committee is also chairman of the Subcommittee on Intergovernmental Relations which has legislative jurisdiction over the Paperwork Reduction Act. On behalf of that subcommittee, the Senator from Minnesota is here to describe the provisions of the Paperwork Reduction Act which are relevant in this case. He is joined by the Senator from Florida who is also the ranking minority member of the subcommittee.

I would yield at this time, Mr. President, to the Senator from Minnesota so that the Senate might learn of his views.

Mr. DURENBERGER. Mr. President, I thank the distinguished chairman of the Committee on Environment and Public Works, the Senator from Vermont, for bringing this issue to the attention of the Senate and for his willingness to consider a different method to assure the same end. The Senator from Florida, Senator CHILES, and the Senator from Missouri, Senator DANFORTH, both raised concerns when they reviewed the committee reported bill and saw that it contained an exemption to the Paperwork Reduction Act. That exemption is removed by this amendment. But in no

event should this legislative history confuse a point which is clear to all Senators. OMB cannot use its authority under the Paperwork Reduction Act to block or delay the publication or use of a form or survey or other information collection instrument that is required by law. The amendment offered by Senator STAFFORD and Senator BENTSEN here today will require the preparation and use of a form to assure the success of the program. The form which is developed under authority of this amendment is a form required by law.

Mr. President, in 1980 when the Paperwork Reduction Act was presented to the full Senate by the Governmental Affairs Committee it was accompanied by a committee report, Senate Report 96-930, which contained the following language at page 49.

Unless the collection of information is specifically required by statutory law, the Director's determination is final for agencies which are not independent regulatory agencies.

Mr. President, that language from the committee report reflects a carefully crafted compromise. It states two conditions under which the authority of the Director on whether an information collection instrument is necessary is not final. One case is the case of independent regulatory agencies, a matter which does not concern the Senate this afternoon. The other case is the one in which the collection of information is specifically required by law. In that case it is clear that the Director does not have authority to block or prohibit use of the form.

Mr. President, I hope that those comments have been helpful, if only in reiteration of the case already well stated by the chairman of the Committee on Environment and Public Works. OMB can't stop this form.

Mr. BENTSEN. Mr. President, I want to join in remarks by Senators STAFFORD, DURENBERGER, and CHILES. The requirement for a hazardous substance inventory, which has been specifically established by the substitute amendment, can be accommodated with the requirements and protections of the Paperwork Reduction Act.

The committee was sensitive to the precedent which would be established by an exemption. The Paperwork Act is Governmentwide in its scope and covers all the Federal agencies. Given the concerns raised, and the understanding of the Paperwork Act which has been discussed today, we did not feel an exemption was warranted. The idea that Congress is not going to try to keep controls on paperwork requirements that impact the public is not a signal that should be sent.

Mr. STAFFORD. Mr. President, I thank all Senators for their remarks and participation in this colloquy. The Paperwork Reduction Act can be a useful tool to reduce the burden of Government paperwork which has been felt by so many small businesses and other concerns in this country.

But as useful as this management tool can be, it is just as important that those of us in Congress who created the Paperwork Reduction Act and have provided authority for other management tools of a similar kind make sure that authority is not abused to the point that substantive provisions of law or national policies established by the Congress are undone. I believe that this discussion on the floor of the Senate has served both ends well.

Mr. CHILES. Mr. President, I want to thank Senators STAFFORD, BENTSEN, and DURENBERGER for their consideration of whether an exemption to the Paperwork Reduction Act is needed in mandating an inventory for hazardous substances. The substitute amendment to section 106 of S. 51 proposed by the Senators does not contain any such exemption. I agree with that judgment.

As the sponsor of the Paperwork Reduction Act in 1980, I do want to address certain concerns which have been raised over the relationship of the requirements and protections provided by the Paperwork Act to the creation of a national hazardous substances inventory.

Collecting, using, and disseminating information is a vital activity to the proper functioning of our Government. Congress has made critically important commitments to the people of this Nation in such areas as civil rights, and ensuring a safe workplace and healthy environment. Without adequate information these commitments can not be met.

The premise behind the Paperwork Reduction Act is that the Federal Government has a positive responsibility to ensure information it asks the public to provide or maintain is necessary, and will be used for the purposes intended by Congress. The public protection section of the act declares that all individuals, State and local governments, nonprofit organizations, or businesses are entitled to an assurance from their Government that the information they are either asked or required to provide has been checked for its need and efficiency. The law requires a control number be displayed by all requests for information, whether they came by way of regulations, forms, or recordkeeping requirements. Absent this control number, no one can be penalized for not following the request.

The intent behind this entitlement was to eliminate waste and hidden taxes imposed by unnecessary paperwork and regulatory requirements; and to create a meaningful structure of accountability to help restore public confidence in the idea that Government can work effectively and efficiently to use and provide information needed to meet our national commitments.

To this end, the act requires Federal agencies to justify their information demands. The public, by way of the Federal Register, is to be made aware that an agency intends to request information. Public comment is invited. The agency is to check to be sure the information is not duplicative, does have practical utility, and is being asked for in the least costly manner.

The Director of the Office of Management and Budget is responsible for reviewing agency justifications. The Director is intended to be the central manager, the manager that insists on interagency coordination if needed, the point in the system accountable for seeing to it that agencies have an incentive to meet the standards in the act. With an approval comes a control number; no control number is assigned a disapproval.

The Director must make all decisions publicly available. Both the agencies and the Director must operate within statutorily prescribed timetables.

The law is designed to enable an open and visible decision process which encourages public participation. Plenty of sunshine is key to the integrity of this process. All requests of the public, in whatever form, must be rejustified and opened for public comment every 3 years.

Unless the collection of information is specifically required by statutory law the Director's determination of an agency justification is final. Independent regulatory agencies may override the Director's review. Executive branch agencies may not.

This aspect of the Director's role raised questions concerning the form and collecting of information required by the mandate for an inventory for hazardous substances. The Director's ability to disapprove a justification of need does not extend to a collection of information requirement specifically contained in statutory law. In such instances, Congress has determined the need for information. The Paperwork Reduction Act in no way enables the Director to overturn a determinaton made by Congress and stated in law. What an agency may decide to add to a requirement specifically contained in law would be subject to approval.

In those cases Congress has specified the request and where the Director may not disapprove, the agency would still be required to assess the burden of the requirement. The Federal Register announcement and invitation for public comments would still prevail. A control number would be automatically assigned. The intent here is to enable Congress to have the best information to carry out its responsibility for oversight and periodic review of its determination of need.

From the standpoint of a single agency, or single program whose primary mission may be to save lives or protect the public, it is sometimes difficult to understand the need for a governmentwide accountability structure for paperwork and regulatory demands with its associated justification and public participation requirements. It is when you look at the overall impact of all the Federal Government's information needs upon the public that the need to establish a discipline within the exectutive agencies to control and better manage information resources becomes apparent.

Again I want to thank the sponsors of this amendment for their consideration. Senator BENTSEN, I know, has long been a warrior in the fight against unnecessary paperwork and regulations. His experience goes back to the early 1970's in trying to keep the old Federal Reports Act, the law upon which the Paperwork Reduction Act was built, from being weakened. He was a key and original sponsor of the Paperwork Reduction Act efforts in 1980.

Mr. STAFFORD. Mr. President, I know of no further speakers on this side of the aisle. I am prepared to have the Senate act.

Mr. BENTSEN. Mr. President, I know of no additional speakers on this side. We are prepared to act.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 648) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 649

Mr. STAFFORD. Mr. President, I send an amendment to the desk on behalf of myself and Senator BENTSEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD], for himself and Mr. BENTSEN, proposes an amendment numbered 649.

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

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

The amendment is as follows:

On page 48, after line 3, insert the following new section and renumber subsequent sections accordingly:

METHANE RECOVERY

SEC. . (a) Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subparagraph:

"(D) in the case of a facility at which equipment for the recovery or processing (including recirculation of condensate) of methane has been installed (i) the term "owner or operator" shall not include the owner or operator of such equipment, unless such owner or operator is also the owner or operator of the facility at which such equipment has been installed, and (ii) the owner or operator or manufacturer of such equipment (other than the owner or operator of the facility at which such equipment has been installed) shall not be considered to have arranged for disposal or treatment of any hazardous substance at such facility pursuant to section 107 of this Act, except to the extent that there is a release of a hazardous substance from such facility which was primarily caused by activities of the owner or operator of such equipment other than the recirculation of condensate or other waste material which is not a waste meeting any of the characteristics indentified under section 3001 of the Solid Waste Disposal Act."

(b) Unless the Administrator promulgates regulations under Subtitle C of the Solid Waste Disposal Act addressing the extraction of wastes from landfills as part of the process of recovering methane from such landfills, the owner and operator of equipment used to recover methane from a landfill shall not be deemed to be managing, generating, transporting, treating, storing, or disposing of hazardous or liquid wastes within the meaning of that subtitle; provided, however, that if the aqueous or hydrocarbon phase of the condensate or any other waste material removed from the gas recovered from the landfill meets any of the characteristics identified under section 3001 of that subtitle, then such condensate phase or other waste material shall be deemed a hazardous waste under that subtitle, and shall be regulated accordingly.

EXPLANATION OF METHANE RECOVERY AMENDMENT

Mr. STAFFORD. Mr. President, subsection (a) of this amendment modifies the current law's definition of "owner or operator" to promote the development of methane gas recovery facilities at landfills. The amendment will remove the present risk that the owner and operator of a landfill gas operation may become involved in Superfund litigation as a result of releases or threatened releases that result from activities unrelated to the gas recovery operation.

Subsection (b) provides that unless and until EPA decides to regulate methane gas recovery processes under subtitle C of RCRA, the landfill gas operator will not be subject to challenge by a third party who alleges that the gas operator is handling hazardous wastes in violation of RCRA. The exception to this provision is the case where it can be shown that the waste material removed from the gas that is recovered from the landfill meets any of the characteristics identified under section 3001 of RCRA.

EPA's determination that methane gas recovery processes should be subject to regulation under subtitle C of RCRA is not to be constrained by the factors set forth in this amendment. A finding that the waste material removed from the gas meets a 3001 characteristic is just one of many factors that might justify an EPA decision to regulate the process of extracting wastes from landfills to recover methane. Such a finding is not necessarily a prerequisite to an EPA decision to regulate such processes under RCRA.

Mr. BENTSEN. Mr. President, a lot of these operators are small operators and would not get involved in this business because they cannot afford to be exposed to the kind of liability in Superfund. Therefore, we would not accomplish the utilization of the methane gas from landfills. This amendment changes the definition of "owner-operator." I believe it is a progressive step and would be helpful. We suggest adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 649) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I would like to bring to the attention of the Senate a grave problem that exists in qualifying Louisiana's hazardous waste sites for funding under the current Superfund Program. Namely it is a question of equity and fair dealing and directly involves application of the hazardous ranking system [HRS] criteria to the geological characteristics of Louisiana.

The inability of this system to adequately address my State's hazardous waste sites is especially disconcerting given the large monetary Superfund contribution that is made by Louisiana-based petroleum and petrochemical industries. For example, during the past 5 years petroleum refiners and petrochemical manufacturers in Texas and Louisiana paid approximately 40 percent of the crude oil taxes and 80 percent of the petrochemical feedstock taxes; even though we only have 3 percent of the hazardous waste sites that are eligible for Superfund cleanup. In contrast, New Jersey contains 16 percent of the total number of hazardous waste sites, yet the industry in that State contributes only 2 percent of the petrochemical feedstock tax and 3 percent of the crude oil tax.

Two factors contribute to this regional discrepancy between funding of the program and cleanup of sites. First and most important is the inadequacy of the Mitre Model to take into account the geological characteristics of Louisiana. Second, is the inability of the petrochemical and petroleum in-

dustries to pass along the feedstock taxes to consumers.

As you know, Mr. President, when the Superfund Program was implemented in 1980, it was funded primarily by a petroleum tax and a chemical feedstock tax that was levied on 42 chemicals, many of which are not hazardous themselves, but which comprise the building blocks of hazardous substances. It was generally believed that this tax would then be passed along through the production process and would ultimately be paid by the consumer. However, this has not happened. Rather, it appears that 12 companies are paying 70 percent of the tax and that due to current market conditions these companies are unable to pass this tax along to the consumer. Furthermore, it appears that the overwhelming majority of these companies are located in the South, primarily in Louisiana and Texas.

Mr. President, the petrochemical and petroleum industries are the prime industries in my State. They are credited with developing Louisiana's economy, including new jobs for construction of these production facilities and the thousands of jobs at these plants themselves. More than any other category of industry to this time, these industries have transformed Louisiana's economy from a primarily agricultural economy to one of the leading petrochemical production forces in our country.

Beginning in 1979, and with more detail as new Federal hazardous waste requirements were added into Louisiana's regulations, stringent permitting requirements have been set for treatment, storage, and disposal of hazardous wastes that were and are attributable to Louisiana's industries. In general, Louisiana's businesses have responded well to these requirements. There is an improving track record of protection of the public and the environment from hazardous wastes that are now being generated, or that will be generated and managed in the future.

However, we still have a legacy of improper management of hazardous sites from the past. This happened for a variety of reasons. Federal and State hazardous waste management regulations in the past were sketchy or nonexistent, so that industry was not provided with sufficient guidelines or regulatory requirements. Some technologies once thought to be adequate for proper management of waste have not worked well and some waste disposers were careless or negligent, thus contributing to the problems that must now be solved.

Mr. President, there are currently 337 sites in Louisiana that EPA determined to be potential hazardous waste sites. The Louisiana Department of Environmental Quality estimates that 60 of these sites will turn out to be actual sites. The State needs Federal Superfund moneys to help clean up these sites. However, it appears that the current Superfund regulations are biased against solving Louisiana's problems. Under this system, Louisiana has found it very difficult to qualify sites for the national priorities list, which is the first step in qualifying for investigation and cleanup assistance from Superfund.

There are several reasons for this and I would like to briefly mention them. The hazardous ranking system [HRS] is the scoring and ranking model employed by EPA for qualifying sites for the national priorities list. The HRS model scores candidate sites as to three potential routes of exposure of the public and the environment to releases from hazardous sites; namely, ground water releases, surface water releases, and air emissions. For both surface and ground water releases, high scores can be obtained only if there are significant population exposures through drinking water contamination threats within a 3-mile radius of the site. This ranking system has worked against Louisiana's interests for the following reasons:

First, no inactive or abandoned hazardous waste site so far scored in Louisiana is within 3 miles upstream of a public drinking water supply system surface water intake. This is because most of the sites are located in areas of the State primarily using ground water;

Second, most inactive or abandoned waste sites in Louisiana are in relatively sparsely populated areas, or areas in which public water wells are more than 3 miles from the site. The Federal HRS model acts like a triage screen, which concentrates attention on large population exposures to toxics and gives relatively little weight to potential toxic exposure to small populations in rural areas; and

Third, no active or abandoned hazardous waste site as yet actually contaminated a drinking water source. Most sites are in areas where ground water contaminants move toward drinking water aquifers relatively slowly. Few sites are old by comparison to similar sites in the older industrialized States such as New Jersey, New York, and Massachusetts. As above, the HRS scoring tends to be biased toward high scores for sites that have actually contaminated drinking water supplies. This means that relatively little scoring weight is given to Louisiana's needs to stop ground water threats before contamination actually happens. Within a few decades, perhaps, many sites in Louisiana will have aged enough to qualify just like sites in New Jersey do, today. Waiting for this eventuality will neither be in the interest of Louisiana nor the Nation as the cost differential for cleanup after drinking water contamination has occurred is staggering.

EPA's strong reliance on already existing damage to usable ground water aquifers is especially damaging to Louisiana's attempts to qualify sites for the NPL. This is so because the Mitre Model, the model that is used in the HRS scoring gives few points for potential damage to deep water aquifers. Rather, in order to score points, the Mitre Model requires the State to prove that there is a connection between the ground water resources and the underlying deep aquifer. In technical terms, the model wants the State to show that there exists "least permeable continuous confining layers." Without such a showing, EPA presumes that there is no connection between the water systems and therefore, the site is not given many points.

The problem with this grading system is that it does not recognize the unique hydrological features of Louisiana. The State's entire water regime acts as one system, and, in fact, to geologists who are accustomed to working with soils and ground water in southern Louisiana, it has become an acceptable fact that the water table acts in concert with, and is an integral part to, the underlying aquifers. In essence, the entire ground water regime, from the water table to the deepest freshwater aquifer, acts as one system.

Mr. President, the Louisiana Department of Environmental Quality developed a position paper which explains in detail how the shallow water aquifer and the deeper artesian aquifers interconnect in southern Louisiana. This paper concisely describes how a waste may seep through layers of Pleistocene clays and why this geographic situation cannot be recreated in the laboratory setting. This paper has been reviewed and verified by the District Chief of the Department of Interior's U.S. Geological Survey Water Resources Division. I ask unanimous consent that a copy of the position paper and the comments of the USGS District Chief be printed in the RECORD immediately following my statement.

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

(See exhibit 1.)

I would now like to take a moment to apply this information to the Louisiana situation. The Department of Environmental Quality has identified 27 sites as either Superfund or potential Superfund sites. Five of these sites have already been listed on the NPL and one site is on the proposed list of NPL sites. Of these 27 sites, 19 have the potential of contaminating the Chicot and Norco aquifers. These acquifers are the prime drinking water sources for the all of southern Louisiana. However, given the EPA ranking system, it will be an uphill battle to

qualify any of the 19 sites for the NPL list.

Mr. President, given my State's inability to have its unique geographic characteristics adequately considered under the current regulations, I was pleased to see that the committee reported bill requires the President to revise the national hazardous substance plan to make sure the system accurately assesses the relative degree of risk to human health and environment posed by sites and facilities. I believe the situation in Louisiana that I have just described is but one example of the flaws that are apparent with this system. I am sure other States will be able to demonstrate similar shortcomings.

EXHIBIT 1

THE INTERCONNECTION OF THE SHALLOW WATER TABLE AQUIFER WITH THE DEEPER ARTESIAN AQUIFERS IN SOUTHERN LOUISIANA, APRIL 26, 1985

To most geologists accustomed to working with soils and groundwater in southern Louisiana, it has become an accepted fact that the water table acts in concert with, and is an integral part of, the underlying aquifers. In essence, the entire ground water regime, from the water table to the deepest freshwater aquifer, acts as one system. Each component of this system, including the aquitards, has a measurable contribution to the flow of water within the system. While the geology of the Gulf Coast Regional Aquifer System is well known, and therefore not documented herein, we are just now beginning to appreciate the amount of interconnection between the components of the system.

Several studies, some of which are used as backup documents for this position paper, have shown that the degree of leakance through the aquitards and aquicludes is much higher than previously suspected. While this interconnection is a complex issue, three primary factors contribute to this condition: (1) the artesian nature of the entire system; (2) the heterogeneity of the aquifer materials; and (3) the physical structure of the Pleistocene clays.

Due to the Gulfward-dipping attitude of all the strata in Louisiana, the major aquifers in the system are under artesian pressure. This pressure acts in three dimensions, producing a complex pattern of groundwater flow between the discrete aquifers of the system. These complex pressure gradients are acting on the intervening clays, producing leakance values far different than those predictable by means of laboratory-produced data.

The second factor involves the character of the geologic materials that make up the aquifer system. Due to their depositional history, deltaic and alluvial deposits consist of beds that are very hetergeneous. A bed classified as clay may contain lenses of coarser material, as well as coalescing and bifurcating stringers of sand. Even though in one dimension there appears to be a discontinuity of sediments, groundwater and contaminants are able to move, albeit circuitously, through the aquitards. The attached cross-section, developed through ongoing work by the USGS, demonstrates this heterogeneity in an area south of the Baton Rouge Fault, similar to the Dutchtown site.

This heterogeneity is also documented in the enclosed Louisiana Highway Research Report "Pressuremeter Correlation Study". Although this study mainly investigates engineering parameters, the study does document the minute variations evident in Pleistocene clays. The Houma and Plaquemine sites are Recent clays. The Sorrento site (at depth), Perkins Road and Lake Charles sites evaluated Pleistocene clays.

The physical structure of the Pleistocene clays has a major role in groundwater flow. The megascopic structure of these clays in the Gulf Coast cannot be reproduced in the laboratory where soil samples are either remolded, or taken on such a small scale that the gross structural aspects are negated. The most widespread and dominant structure feature is the "slickenside". This fracture pattern was produced when the clays were differentially consolidated during burial and the rise and fall of sea level during glacial periods. Slickensides are a prevalent, non-predictable fracture feature which form preferential pathways of migration for fluids.

Although the reference "The Effects of Conventional Soil Sampling Methods on the Engineering Properties of Cohesive Soils in Louisiana" primarily explores the effects of sampling and handling on soil engineering properties, it also documents the extent and prevalence of these fractures and slickensides throughout Pleistocene and Recent clays in Louisiana. Also documented in the report are the geochemical effects of groundwater migration through the soils dissolving and precipitating minerals such as calcium and pyrite. This reference additionally includes a good general description of geology in Louisian.

A particular case demonstrating this factor is at the BFI (CECOS) Willow Springs facility in Louisiana, where contaminants were shown to be migrating through slickensides across silt lenses. The source of this contamination was a series of old pits dug in the native clay. The enclosed photograph and report depict this situation.

Although not proven through observation, as in the case of Willow Springs, the BFI (CECOS) facility in Livingston Parish, Louisiana clearly demonstrates movement of contaminants through clays which was not predictable by laboratory permeabilities. It is our contention that the heterogeneity of the confining Pleistocene clay provides "conduits" for the movement of contaminants through sand lenses and silt stringers to the underlying aquifers.

All the major aquifer systems in Louisiana evidence these three factors to one degree or another. Although boundaries between the systems can be theoretically drawn, all the systems overlap and interconnect with each other. The same geological processes produced all the Pleistocene aquifer materials and aquitards throughout the southern part of the state; thus the groundwater movement through these geologic materials has similar flow patterns throughout this region.

These are only a few of the observations and case situations that have lead to the conclusion that all groundwater in southern Louisiana acts as one system from the water table to the lowest freshwater aquifer.

GEORGE H. CRAMER. II,
Assistant Administrator, Hazardous Waste Division, Louisiana Department of Environmental Quality.

U.S. DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, WATER RESOURCES DIVISION,

Baton Rouge, LA, May 6, 1985.

MS. PATRICIA L. NORTON,
Secretary, LA Dept. of Environmental Quality, Baton Rouge, LA

DEAR MS. NORTON: We have reviewed the Position Paper on "The Interconnection of the Shallow Water-Table Aquifer with the Deeper Artesian Aquifers in Southern Louisiana", and find the hydrogeology to be conceptually correct. Our work has dealt more with the first two factors, those of artesian presssures and aquifer materials, than with the physical structure of the clays. However, the documentation by other investigators on the "slickensides" supports its occurrence and the fracture phenomena is just another means by which water can preferentially move downward through low hydraulic conductivity materials.

The basic concept that we have formulated through our studies over the years is that the aquifer systems in southern Louisiana are described as leaky. In other words—because of heterogeneity of the materials, fractures in the clays, plant roots, and animal burrows—avenues for preferential flow have developed. The average vertical hydraulic conductivity is low when considered on a regional basis, but in those places where there is preferential flow routes, the hydraulic conductivity can be many orders of magnitude higher.

The stratigraphy and structure of the deltaic deposits, as found in southern Louisiana, are characterized by heterogeneity and thus allow for higher vertical flow rates than homogeneous clay alone would allow.

We hope our review has been beneficial and within the framework of the cooperative program; we always are pleased to help with water-resource problems.

Sincerely yours,

DARWIN KNOCHENMUS.

Mr. JOHNSTON. Mr. President, in my statement I have described how the hazardous ranking system fails to take into consideration the unique geological characteristics of Louisiana. I was wondering if it might be possible to ask the managers of the bill whether they think Louisiana's situation should be addressed by EPA as it tries to develop and improve its NPL ranking system.

Mr. STAFFORD. The Senator from Louisiana has correctly stated that S. 51 requires EPA to amend its hazard ranking system to more accurately assess the relative degree of risk to health and the environment posed by sites and facilities. The points raised by the Senator regarding Louisiana's geology are certainly examples of the type of situation the committee intended EPA to review before amending the hazard ranking system.

Mr. BENTSEN. Mr. President, the Senator from Louisiana raises some important concerns related to the geology of Louisiana. It is certainly my view that this situation be addressed by EPA as it revises the hazard ranking system.

Mr. STAFFORD. Mr. President, for the information of our colleagues, we are anticipating that the Senator from Minnesota [Mr. DURENBERGER] will arrive in the Chamber shortly to offer an amendment.

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

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

Mr. DURENBERGER. Mr. President, this afternoon, I wish to offer a few general remarks on the legislation that is before the Senate, the Superfund Improvement Act of 1985.

Let me begin by commending the distinguished chairman of the Committee on Environment and Public Works, the Senator from Vermont [Mr. STAFFORD] for successfully seeing this major piece of legislation to the floor of the Senate. There have been many days of hearings and markups on this bill, both in this session and over the last 2 years in the committee. The bill has been reviewed by three separate Senate committees and will be the subject of many amendments here on the floor.

Superfund is a very complicated program with many very technical aspects that must be reviewed in the authorization process. That we are here on the floor of the Senate, wrapping up the last stages of the reauthorizations, is a testament to the skill and the patience of the Senator from Vermont.

Let me also say, Mr. President, that this is not the only piece of major legislation that has come from the Environment and Public Works Committee this year. We have already considered the Clean Water Act amendments and the Safe Drinking Water Act amendments. The omnibus water resources bill is also on the Senate Calendar. There has been much that has been accomplished by the committee this year. So it is appropriate that, during the discussion of Superfund, many Senators will have remarked on the productivity of the committee under the leadership of the Senator from Vermont and the unparalleled skills of the ranking member, the Senator from Texas [Mr. BENTSEN]. Our colleagues will rise to admire their skills in assuring that the legislative work of the Senate gets accomplished.

Turning now to the subject at hand, Mr. President, I must confess that throughout the entire process of Superfund reauthorization, I have been somewhat ambivalent about the issues before the committee and now before the Senate. On the one hand Superfund is an extremely important program that offers needed protection to the environment and millions of Americans exposed to hazardous substances being released from thousands of sites across the country. On the other hand, Congress has been under constant pressure to turn this critical piece of public health legislation into just another public works program that will put the names of politicians in hometown headlines.

As I look at the bill that we have produced and the amendments that are before us, I see much that adds to the strength of the program. We will be increasing the funding for the program about fivefold when the process is completed. We will be adding tough, new, and much-needed provisions to assure that Federal agencies like the Defense Department and the Department of Energy adhere to a tight schedule of cleanup at facilities they own and operate. We will be authorizing health assessments at Superfund sites and will be giving the toxicologists new resources to increase our knowledge of the health effects of various chemicals which are released into our environment everyday. Perhaps, most important, we have decisively rejected the suggestions made by some that the liability standard now applied at Superfund sites be substantially weakened.

So there is much that is good in this bill. But there are also other items that trouble me. In 1980, when Congress first embraced this problem, it was intended that Superfund would be a new kind of environmental statute. It was not to focus on any specific natural resource or any specific type of pollution. It was to be a generic program that was to address all forms of releases of substances that could be hazardous to human health or valued natural resources.

Superfund was not conceived to be principally a regulatory program. It was intended that a combination of feedstock taxes to pay for cleanups and strict, joint, and several liability imposed on responsible parties would work in tandem to prevent and correct releases.

So the 1980 law was a fundamental departure from past programs and represented a concerted effort to put new principles of environmental protection into Federal law.

As we have gone through the hearings and markups on Superfund over the past 2 years, I have often returned to those fundamental principles of the program to ask myself whether the proposals before us would extend the program along paths begun in 1980 or are we instead, being asked to make the public rather than the polluter pay and to edge away from full liability for responsible parties.

I think my colleagues must agree that—at least in the financing title of this bill—we are beginning to abandon the polluter-pays principle. The manufacturers' excise tax which is the revenue engine of this new authorization effectively breaks any connection between the cause of the releases—that is the production and use of hazardous substances—and the remedy for releases—a national fund to pay for cleanups.

I think that everyone well understands why the tax has been shifted away from feedstocks and why a waste end tax—another variation of polluter pays—was not adopted. Neither of those taxes would produce sufficient revenue to run a program of the size that we now realize is necessary. The Congress has been convinced that a waste-end tax of more than $1 billion per year would not be a reliable source of funding.

As the Senator from Rhode Island [Mr. CHAFEE] argues so convincingly, it is not that we fear falling short of the needed revenue that has kept us from adopting the waste-end tax. It is the effect that a huge waste-end tax might have. It would encourage the taxed parties to seek exclusions from this program and from the regulatory regime under RCRA, even though the materials in question pose substantial hazards to the public and the environment.

In the Senate Finance Committee most members were persuaded that a very large increase in the feedstock tax would have negative consequences for the American chemical industry which today is one of the few industries that contributes a positive balance to the international trading position of our country.

So everyone knows why we have moved to a broad-based tax. But I do not know that everyone fully appreciates how this change in tax mechanisms also changes the underlying philosophy of the program in ways that have important implications on the spending side of the equation, as well.

Take for example the provision in the 1980 law which allows States to file claims against the fund for compensation for the loss of natural resources. This provison has not been implemented fully, because the Department of the Interior failed to produce the necessary regulations. And now the Senate and the House have been asked to extend the deadline for filing natural resource damage claims that have been developed by the States.

On its face the natural resource damage claim provision of the existing law is a curious component of the Superfund Program. It appears that the Federal Government is being required to make payments to the States to compensate them for losses that were caused by actions of parties in the private sector who were wholly unrelated to the Federal Government. Why in the world should all the taxpayers of the United States compensate the State of South Dakota, for instance, for losses that were caused by a business concern operating under South

Dakota law? That does not seem to make sense.

The answer under Superfund as it exists, of course, is that all the taxpayers of the Nation are not being required to compensate the State of South Dakota for its loss. Under Superfund as it exists the cost of compensation is taken from a fund financed by the tax on chemical feedstocks which are used in the production of the kinds of hazardous substances that have caused natural resource damages. There is connection between the source of the damage and the source of the compensation.

But that is only a good explanation of the damage claims provision under the law through 1985. The reauthorization that we are about to adopt puts Superfund on a new foundation, establishes a new set of fundamental principles. It will now be the general taxpayers of the Nation who will bear the burden of any natural resource damage compensation because we are financing Superfund with general excise tax. Do natural resource damage claims continue to make sense in that context? I think not.

Mr. President, I am very much opposed to the manufacturers' excise tax that we have in the bill before us. I appreciate the dilemma that faced the Finance Committee when it designed this tax, because I am a member of the Finance Committee. We needed to raise $7.5 billion and there was no certain way to achieve that amount and stay close to the polluter-pays principle. But I think this new revenue title moves much too far in the direction of a general fund tax and it is my hope that in conference with the House we will find some middle ground between this bill and the fundamentals of the current program.

Mr. President, there is another aspect of this reauthorization package that has troubled me a great deal and that is the relationship between the Federal Government and the States that is established by this program. The 1980 law built a program with a very strong Federal Government component. The Federal Government imposed the tax. The Federal Government wrote the priority list. The Federal Government designed the cleanups to meet Federal standards. The 1980 Superfund was a very national program for what was perceived to be a national problem.

States were, some thought, even preempted for imposing a feedstock tax on the same chemicals for the same purposes. States were obligated to bear 50 percent of the costs for sites that were on lands that they owned. Localities would eventually bear the full cost of cleanup at landfills that they owned and operated. There was no grant to the States to run the administrative side of their own cleanup programs. The 1980 law was very much a Federal emergency action designed to protect Americans wherever they lived from immediate and substantial hazards. Superfund was the farthest thing from a public works block grant to the States that has been less than vigilant in protecting their own natural resources.

But we see here in 1985 a virtual parade of amendments to make Superfund the porkbarrel of first resort. The tax preemption has been lifted. The 90-to-10 match has been extended from the cost of cleanup to the cost of operation and maintenance, as well. States are being forgiven their 50 percent share at sites owned by the States. Credits for expenditures at one site are being allowed to pull down the 90 percent match at another site. A floor amendment will be offered to create a new grant program out of Superfund to pay for cleanup at sites that are not on the national priority list.

And that is just the Senate bill. Over in the House, much more is promised. State expenditures on administration and litigation are allowed as a match against Federal cleanup spending. And there is a State credit feature in the House bill that, I believe, will be the proverbial straw that breaks the camel's back.

Under the language reported by the Energy and Commerce Committee in the House, a State may make whatever authorized expenditures it chooses to today and it will thereby guarantee that nine times that amount in Federal dollars will be spent at that site or in that State at other sites in the future. Testimony before the Senate Environment and Public Works Committee indicates that New Jersey intends to spend about $240 million on its Superfund cleanup program during the 1985 and 1986 fiscal years. Under the House bill, the Federal Government will be obligated to spend nine times that amount or $2.16 billion—about 30 percent of the total 5-year program we are authorizing—in New Jersey at some point in the future. It's guaranteed. We are making New Jersey an appropriations subcommittee of the U.S. Congress because through this advance credit mechanism they will control the future direction of the Superfund Program.

Should four or five States make the decision to invest substantial funds in eligible activities—and almost everything from administration to litigation to construction is eligible under the House bill—in the next year or two, the rest of the Nation could find itself virtually shut out of the program because all of the funds would already be under obligation through this credit mechanism. Mr. President, I think that is unfair and I think that it fundamentally changes the underlying philosophy of the Superfund Program.

Even under current law, spending is already concentrated in a few States. I ask unanimous consent that a short article and table of statistics from the August 15, 1985, issue of the Washington Post be printed in the RECORD at this point, Mr. President.

This article shows where in the Nation that Superfund dollars have been spent in the fiscal years 1982, 1983, and 1984. Sixty percent of the funds have been spent in just six States, New Jersey, New York, California, Missouri, Pennsylvania, and Massachusetts. Fifteen percent of the dollars have gone to New Jersy alone.

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

[From the Washington Post, Aug. 15, 1985]

WHERE SUPERFUND MONEY GOES

A handful of states accounted for nearly 60 percent of the funds obligated for hazardous waste cleanup under the Superfund program in fiscal 1982-84, according to a new study.

Because the Superfund program is not a grant program, the Environmental Protection Agency does not keep track of how much money goes to each state. But the Federal Funds Information for States, a computerized data base sponsored by the National Governors' Association and the National Conference of State Legislatures, has prepared a breakdown of where the funds were distributed.

It found that three states—New Jersey, Missouri and California—accounted for nearly 40 percent of the funds obligated. When New York, Pennsylvania and Massachusetts were included, the six accounted for 60 percent of the obligated funds.

Five states—Alaska, Mississippi, Nebraska, Nevada and South Dakota—had no sites designated for cleanup and no funds obligated during that period. States in the industrial Northeast, where larger volumes of hazardous waste were disposed in the past, tended to receive more of the funds.

EPA decides whether to include sites nominated by the states on the Superfund priorities list. Funds are distributed as the cleanup takes place. All together, $335 million was obligated in 1982-84, but only $91 million was actually spent.

[Dollar amounts in thousands]

	Obligations	Share (percent)
State:		
Alabama	$34	.01
Alaska		
Arizona	8,956	2.67
Arkansas	3,046	.91
California	38,478	11.48
Colorado	3,620	1.08
Connecticut	1,394	.42
Delaware	2,575	.77
Florida	7,538	2.25
Georgia	732	.22
Hawaii	50	.01
Idaho	139	.04
Illinois	5,715	1.70
Indiana	3,679	1.10
Iowa	2,287	.68
Kansas	350	.10
Kentucky	2,293	.68
Louisiana	2,810	.84
Maine	1,090	.33
Maryland	1,511	.45
Massachusetts	20,035	5.98
Michigan	11,778	3.51
Minnesota	5,993	1.79

[Dollar amounts in thousands]

	Obligations	Share (percent)
Mississippi		
Missouri	40,149	11.98
Montana	3,178	.95
Nebraska		
Nevada		
New Hampshire	11,570	3.45
New Jersey	51,593	15.39
New Mexico	1,485	.44
New York	28,874	8.61
North Carolina	2,394	.71
North Dakota	250	.07
Ohio	10,155	3.03
Oklahoma	5,875	1.75
Oregon	139	.04
Pennsylvania	23,327	6.96
Rhode Island	4,116	1.23
South Carolina	2,551	.76
South Dakota		
Tennessee	828	.25
Texas	11,919	3.56
Utah	15	
Vermont	360	.11
Virginia	1,884	.56
Washington	7,818	2.33
West Virginia	554	.17
Wisconsin	300	.09
Wyoming	50	.01
Territories	300	.09
Puerto Rico	1,430	.43
Total	335,217	100

Source: Federal funds Information for States (obligations for fiscal 1982–84).

Mr. DURENBERGER. Under Superfund as it existed from 1980 to 1984, the issue of State shares did not even arise. There is no formula for the program. No maximums or minimums for any State. And that was quite appropriate, Mr. President. For under the program as it existed, those who produce and use hazardous substances were taxed to cleanup sites that were caused by the release of those substances according to a priority list that had the Nation cleaning up the most dangerous sites first. If that resulted in all the money being spent in one State, then so be it.

But that is not the program that is contemplated in the bill before the Senate. And the result of combining the Senate financing scheme—which imposes a general excise tax—and the House programmatic amendments—which turn the priority setting powers within the program over to the States through this advance credit mechanism—runs the risk of turning Superfund, which has been an important program to protect public health, into just another public works program to please the folks back home. That would be a tragedy, Mr. President.

There are ways, of course, to prevent that outcome. I have floated the idea of a cap on the amount of remedial funds that could be spent in any one State in any 1 fiscal year. We could set the cap at 15 percent for instance. That is the average percentage that New Jersey has received over the last 3 years.

Again, New Jersey has received the largest share, 15 percent would be about $225 million per year, if the program was spending out at about $1.5 billion. but Senators should realize that even 15 percent, even $225 million, would only provide New Jersey with about a 2-to-1 match against their planned expenditures. Not the 9 to 1 that the House is guaranteeing in advance.

Mr. President, I shall not offer a cap. The debate on a cap amendment would be acrimonious. It would slow down consideration of the program here on the floor of the Senate. So I shall not offer the amendment.

I shall rely instead upon the steady hand of the chairman in conference. The bill he brought to the floor of the Senate is a balanced bill. It is not so much the Senate bill I have spoken against, but the porkbarrel we expect from the House that worries me. I have raised the issue. I shall continue to watch the development of this legislation and raise the issue again, if needed. I do not envy any State its need for Superfund dollars. What to do with hazardous waste at inadequate facilities continues to be a national problem of crisis proportions. And a national response is appropriate.

All I ask is that the needs of each State be balanced with the needs of all other states in a truly national program designed to protect public health and the environment wherever it is threatened.

That, Mr. President, is the purpose of Superfund as it was enacted by the Congress in 1980 and it is the principle in Superfund that has made it such a special part of the national commitment to environmental protection. We must not sacrifice the fundamental design of this public health law to the politics of public works in the Congress.

It was in large part the vigilance and skill of the Chairman of the Environment and Public Works Committee that put Superfund into the law in 1980, that saved it from negligence and outright hostility at the Environmental Protection Agency in 1981 and 1982 and that has seen this reauthorization to the floor after two years of debate and consideration. And we trust that his abilities as a legislator and his commitment to the principles of Superfund will see us through the completion of this Senate action and a conference with the House. With that, Mr. President, I yield the floor, thanking the managers of the bill for allowing me this opportunity to share my views.

AMENDMENT NO. 650

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 650.

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

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

The amendment is as follows:

At the end thereof add the following new Sec.

"Not later than October 9, 1985, the Director of the Office of Management and Budget shall complete his review and make available for publication in the Federal Register all of the proposed recommended maximum contaminant levels for those organic and inorganic chemicals published by the Administrator of the Environmental Protection Agency in volume 48, Federal Register, page 45502 and submitted by the Administrator to the Director prior to April 30, 1985."

Mr. DURENBERGER. Mr. President, one of the most difficult issues that the committee has had to face in the Superfund debate is the so-called "How clean is clean" issue. Under current law the Administrator of the Environmental Protection Agency is granted broad discretion to determine how much effort will be made to clean up a Superfund site and how much contamination will be allowed to remain when the job is completed.

Many have advocated that Congress require that the Administrator use some more objective standard to answer the question, "How clean is clean." For instance, there is legislation in the House that would require that Superfund sites be cleaned up to the level of the health-based standards that have been established under other laws, like the Clean Air Act, the Clean Water Act or the Safe Drinking Water Act.

The problem with that proposal in that to date the Agency has been practically incapable of setting health-based standards under those other statutes. There are virtually no well-developed health-based standards that can be used in making cleanup decisions at Superfund sites.

Let me be specific as the point I am making relates to the Safe Drinking Water Act. In 1974 Congress passed the drinking water law. Under that act, EPA was charged with the responsibility to develop two types of drinking water standards that would set upper limits on each of the many contaminants that have been found in drinking water supplies.

The first type of standard, called "Recommended Maximum Contaminant Levels or RMCL's," are to be entirely health-based. The Agency is instructed to survey the drinking water supplies of the Nation to determine which specific contaminants are present. Then it is determined through health effects research whether any of those contaminants may present any adverse health consequences for consumers. And finally it

is to establish the recommended maximum contaminant levels at a point where no adverse health effects will occur.

After the RMCL or health goal is established, the Agency then develops a second, regulatory standard called the "Maximum Contaminant Level or MCL." These standards are intended to be as close to the health goal as possible taking into account the ability of available drinking water treatment technology to purify water that has been contaminated.

When Congress passed the drinking water law in 1974, there were 16 MCL's already on the books that had been established by the Public Health Service in the early 1960's. They were primarily for biological contaminants and for heavy metals which often occur in groundwater supplies naturally.

But the Nation discovered in the early 1970's that its drinking water supply was also threatened by hundreds of manmade synthetic organic chemicals. By shifting the program from the Public Health Service to the Environmental Protection Agency and mandating that health-based standards be set for all contaminants found in drinking water, the Congress intended to take a large step in protecting the health of the American public.

Unfortunately very little has happened in the 11 years that the Drinking Water Act has been down at EPA. MCL's for only seven more contaminants have been set and many of those are for pesticides that have already been banned for use in the United States.

Mr. President, despite this sorry record there is always cause for hope. There are several events that have occurred this year that suggest that the Drinking Water Program might finally be getting under way. Both the Senate and the House have passed bills to reauthorize the program and set deadlines for publishing standards. Conferees have been appointed to resolve the differences between those bills and I want to report to my colleagues that discussions at the staff level are going quite well and we look forward to moving the conference rapidly, as soon as Superfund is completed here on the floor.

And things are starting to move down at the Agency, as well. We can expect proposed MCL's to be published for eight volatile organics in the next few weeks. And the Agency has sent proposed RMCL's for 40 more synthetic organic chemicals to the Office of Management and Budget for review.

Mr. President, it is the fate of those 40 RMCL's that brings me to the floor of the Senate this afternoon. EPA sent their proposals to OMB for review on April 9 of this year. The review was to be conducted under provisions of the Executive Order 12291 which gives OMB a full 60 days, but only 60 days, to complete its review and return the proposal and its comments to the Agency. But it has been more than 5 months, Mr. President, and EPA has not yet heard from OMB on these health-based standards for 40 drinking water contaminants.

The delay in releasing the proposed RMCL's caused the leadership of the Committee on Environment and Public Works to send a letter to Joseph Wright, Acting Director of OBM, on August 1, asking that he release the EPA proposed RMCL's or state why he had not yet done so. That letter was, as I say, sent on August 1. This is September 19. So far, there has been no response to the members of the Environmental Committe on their request.

After 6 weeks of waiting, the distinguished chairman of the committee, Senator STAFFORD, joined with Senator BENTSEN, Senator BAUCUS, and myself to send a second letter to OMB asking again that the RMCL's be released. That letter is also addressed to Mr. Wright and is dated September 6. Since we had not had a reply to our previous communication, we also wrote the Administrator of the Environmental Protection Agency. We suggested to Mr. Thomas that he, acting on authority which the Justice Department has stated he possesses, that he simply publish the proposed RMCL's in the Federal Register without waiting any longer for OMB's review. Mr. President, I would ask that the letters to Mr. Wright and Mr. Thomas also be printed in the RECORD with my comments today.

Well, we've written three letters from the leadership of the Environment Committee and the subcommittee with jurisdiction and we have yet to hear anything at all on the fate of the proposed health standards which were sent to the President of of the United States by This Administrator of Environmental Protection.

Which brings me to the floor and this amendment. Mr. President, the amendment is very simple. It only requires that the Office of Management and Budget act as required by Executive order and release the proposed RMCL's for publication in the Federal Register. The amendment sets a deadline for this action of October 9, 1985. Mr. President, this is a necessary amendment. That is established by the facts I have laid before the Senate in the last few minutes. I hope that the manager of the bill can also agree that it is an appropriate amendment to Superfund, since the health-based standards under the Drinking Water Act play an important role in deciding "How clean is clean" under Superfund.

Mr. President, I ask unanimous consent to have printed in the RECORD letters directed by me and a number of my colleagues on this committee, including the chairman and the ranking minority member, to the Acting Director of the Office of Management and Budget.

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

U.S. SENATE,
COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, DC, August 1, 1985.

Hon. JOSEPH R. WRIGHT,
Acting Director, Office of Management and Budget, Old Executive Office Building, Washington, DC.

DEAR MR. WRIGHT: We are writing to express our concern about the lengthy delay in completion of the Office of Management and Budget's review of proposed Recommended Maximum Contaminant Levels (RMCLs) for 30 drinking water contaminants. EPA's Office of Drinking Water sent these proposals to OMB on April 9, 1985 for your review which has yet to be completed nearly four months later. This appears to be an excessive amount of time for evaluation of the Agency's scientific basis for setting RMCLs under the drinking water statute. The 30 Phase II contaminants submitted for review are those that the Agency believes may have adverse effects on human health in accordance with their standard-setting responsibility under the Safe Drinking Water Act.

In the eleven years since enactment of this statute, EPA's Office of Drinking Water has not fulfilled the public health protection objectives mandated by Congress. Drinking water standards constitute the regulatory foundation of the Act. However, only 22 such standards have been established by the Agency. This is totally inadequate in view of the hundreds of contaminants that have been detected in public and private water systems, many of which are synthetic organic chemicals of significant public concern.

Public health officials and constituents from each of our States have indicated their urgent need for these standards to make sound water supply decisions. In their absence, States have had to expend limited resources to develop standards without adequate scientific information. A Federal responsibility to issue standards was established under this Act to eliminate such duplicative and ill-informed State efforts.

The great concern over the lack of sufficient standards to adequately protect public health from drinking water contaminants is reflected in amendments passed by the Senate and House that would significantly strengthen the standard-setting provisions of the Safe Drinking Water Act. Widespread concern about the Agency's historical inability to issue standards and indications of OMB resistance to the establishment of standards served as the impetus for the passage of schedules and deadlines in the Senate bill. It should be apparent from these actions that Congress intends that standards are to be set for drinking water contaminants in a responsible and timely manner.

Now that the Drinking Water Office has finally selected priority contaminants of public concern and gathered sufficient evidence on which to base RMCLs, we believe that your Office has a responsibility to review this information in an expeditious manner. Therefore, we ask that you allow EPA to publish the proposed RMCLs as

soon as possible so they may begin to fulfill their regulatory responsibilities or provide an explanation for the excessive delay in completing your review.

Sincerely,

MAX BAUCUS,
U.S. Senator.
LLOYD BENTSEN,
Ranking Member.
DAVE DURENBERGER,
U.S. Senator.
ROBERT T. STAFFORD,
Chairman.

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, September 6, 1985.

Hon. JOSEPH R. WRIGHT,
Acting Director, Office of Management and Budget, Old Executive Office Building, Washington, DC.

DEAR MR. WRIGHT: Having received no reply to our letter of August 1, 1985 regarding the proposed Recommended Maximum Contaminant Levels (RMCLs) submitted by the Administrator of the Environmental Protection Agency, we are writing again, for the following reasons:

First, to urge that you or your staff approve or disapprove the RMCLs without further delay;

Second, to express our belief that if you fail to act on the RMCLs, the Administrator should unilaterally propose them formally through publication in the Federal Register;

Third, to request an explanation for OMB failure to comply with the sixty-day time limitation on review imposed by Executive Order 12291; and,

Finally, if the reason for the delay is inconsistency of the RMCLs with Administration policy, to request a clear statement of that policy as it regards the contamination of drinking water supplies in the United States. Specifically, we would appreciate knowing whether and under what circumstances, if any, the Administration supports the promulgation of Recommended Maximum Contaminant Levels pursuant to the Safe Drinking Water Act.

We would appreciate your prompt attention to this request. For your possible use, a copy of our earlier letter is enclosed.

Sincerely,

MAX BAUCUS,
U.S. Senator.
LLOYD BENTSEN,
Ranking Member.
DAVE DURENBERGER,
U.S. Senator.
ROBERT T. STAFFORD,
Chairman.

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, September 10, 1985.

Hon. LEE M. THOMAS,
Administrator, U.S. Environmental Protection Agency, Washington, DC.

DEAR MR. THOMAS: Please find enclosed letters which we have written to the Acting Director of the Office of Management and Budget regarding proposed Recommended Maximum Contaminant Levels (RMCLs) submitted for OMB review pursuant to Executive Order 12291.

The purpose of this letter is to urge that you unilaterally propose the RMCLs if no action has been taken at the Office of Management and Budget by close of business September 13, 1985.

As you may recall, there was discussion during your confirmation hearing of the degree of independence which you would exercise as Administrator, especially with respect to the Office of Management and Budget. You responded to several written questions on this subject, including the following:

Question. In any case in which a law or other authority assigns the responsibility for making a decision to the Administrator of the Environmental Protection Agency, will you ever allow another person—assuming you are confirmed—to make the decision in questions?

Answer. No, unless I delegate the responsibility for actions other than rulemaking to another person in EPA consistent with the appropriate statute. Historically, and for the foreseeable future, EPA has not delegated signature authority for regulations.

Question. In those cases where the law sets forth the facts or other circumstances which you must take into account, will you fail to take such factors or circumstances into account?

Answer. No.

Question. If the law requires you to make a decision and sets forth the critera and these compel you to choose an option to which objection is raised on the grounds that it is not consistent with the Administration's policy, what will you do?

Answer. I will make my decision consistent with the statute. E.O. 12291 clearly addresses this point by exempting agencies from complying with Administration policy when that policy is not consistent with the applicable statute.

During the Confirmation hearing, you also stated that the Agency's progress in establishing standards under the Safe Drinking Water Act was "disappointing" but "I believe we have broken the back of that problem." The hearing was held seven months ago, on February 6, 1985.

On April 9, proposed RMCLs were forwarded to the Office of Management and Budget for review pursuant to Executive Order 12291, which limits the time for OMB consideration to 60 days. Even if OMB had approved the proposals within the 60-day period, it would still have been several more years before the RMCLs had any direct regulatory impact on the safety of drinking water in the United States. But OMB has not acted.

The Safe Drinking Water Act was enacted in 1974 because of widespread public concern over contaminated water supplies. In the intervening 11 years, contamination has not decreased, but increased. Indeed, EPA's own estimates are that one of every three large drinking water systems which rely on ground-water are contaminated by synthetic organic chemicals. State and local public health departments throughout the United States, as well as private suppliers of drinking water, justifiably look to the Environmental Protection Agency for guidance as to the acceptable level, if any, of such contamination. But this guidance is not forthcoming because regulations which you are required by law to propose are under review at the Office of Management and Budget.

We would appreciate knowing what action you propose to take with regard to the current impasse and would appreciate a response at your earliest convenience.

Sincerely,

MAX BAUCUS,
U.S. Senator.
LLOYD BENTSEN,
Ranking Member.
DAVE DURENBERGER,
U.S. Senator.
ROBERT T. STAFFORD,
Chairman.

Mr. DURENBERGER. Mr. President, I wonder if this amendment is in a form and of a nature that is acceptable to the distinguished chairman and ranking minority member and if they would indicate to the Senate their view on the amendment at this time.

Mr. STAFFORD. Mr. President, we have examined the amendment offered by the Senator from Minnesota, a very valuable member of our committee, and, for the majority, we are prepared to accept it.

Mr. BENTSEN. Mr. President, I congratulate the Senator from Minnesota on what he is trying to do in expediting the regulatory process.

OMB has been holding this thing up since April 9 of this year with a review. I can understand some delay in regulatory decisions, but I think what we are seeing is excessive and unnecessary interference on the part of OMB.

I am delighted to see the amendment offered. On this side, I see no objection to it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 650) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT FOR RADON DEMONSTRATION PROGRAM AND INDOOR AIR QUALITY

Mr. HEINZ. Mr. President, yesterday we passed an amendment introduced by my colleagues Senator MITCHELL, Senator LAUTENBERG, and Senator BRADLEY to provide for a demonstration program within the Environmental Protection Agency to research the impact of toxic chemicals on indoor air quality. Among the most serious chemicals that have been released inside buildings and homes is radon. Radon is a radioactive gas that is colorless, odorless, and tasteless, and which studies have shown can cause an increased risk of lung cancer.

The problem of radon releases is particularly acute in an area of the country called the Reading prong, which occupies a major portion of southern Pennsylvania. Unacceptably high levels of radon have been discovered in approximately 40 percent of over 1,400 homes tested in Berks County, PA, along the Reading prong. The cost to homeowners for remedial work to permanently lower these levels of radon gas can be as high as $20,000. Yet there is no comprehensive Federal program to even research this

problem. Our amendment addresses this glaring gap in the EPA's research programs, and provides a modest amount of funding—$3 million in each of fiscal year 1986 and fiscal year 1987—for the Agency to at least begin to address this widespread and growing health problem. As a Senator from Pennsylvania, one of the most affected States, and as a cosponsor of this amendment, I urge my colleagues to support this effort.

AMENDMENT TO IMPROVE COMMUNITY EMERGENCY PREPAREDNESS AND RESPONSE

Mr. President, yesterday we passed an amendment, which I cosponsored, to improve the ability of all levels of government to respond to emergencies caused by the release of dangerous substances. This amendment puts in place a series of mechanisms that will help State and local governments work efficiently and effectively to minimize the health hazards that arise from the release of hazardous substances into the environment. In addition, the amendment requires the Environmental Protection Agency to compile a list of extremely hazardous substances that will allow us to define the universe of chemicals that could provoke emergencies. Facilities handling these substances would be required to assist in resolving any such incident. We need only remember the recent tragedy in Bhopal, India, and the accidents in Institute, WV, to realize how essential it is that we develop the means to respond quickly to the release of hazardous substances into open air.

Mr. President, I urge the adoption of this amendment. It will remove the information gap that has thus far hindered our ability to plan for and react to chemical emergencies, and it will establish systems for governments at all levels to cooperate and properly utilize this vital information. I urge my colleagues to support this measure. It will help us prevent immediate problems from becoming serious and far-reaching disasters.

Mr. STAFFORD. Mr. President, I am unaware of any more amendments we can handle this evening. Unless my able colleague from Texas knows of another amendment to be handled tonight, I am prepared to suggest the absence of a quorum.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the name of the Senator from New Jersey [Mr. LAUTENBERG] be added as a cosponsor of the hazardous substances inventory amendment.

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

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

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

THE CALENDAR

Mr. STAFFORD. Mr. President, I inquire of the minority leader if he is in a position to pass the following joint resolutions that were reported out of the Judiciary Committee today: H.J. Res. 218 National Dental Hygiene Week; H.J. Res. 229, Adult Day Care Center Week; S.J. Res. 132, National Head Injury Awareness Month; S.J. Res. 194, National Buy American Week; S.J. Res. 175, National CPR Awareness Week; S.J. Res. 197, National Housing Week; S.J. Res. 191, Learning Disability Awareness Month; and H.J. Res. 305 commemorating the 25th anniversary of the Peace Corps.

Mr. BYRD. Mr. President, there is no objection on this side.

Mr. STAFFORD. In that event, Mr. President, I ask unanimous consent that the joint resolutions be considered en bloc and adopted en bloc and that all amendments, preambles, and title amendments be considered en bloc.

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

NATIONAL DENTAL HYGIENE WEEK

The joint resolution (H.J. Res. 218) to designate the week beginning September 15, 1985, as "National Dental Hygiene Week," was considered, order to a third reading, read the third time, and passed.

The preamble was agreed to.

ADULT DAY CARE CENTER WEEK

The joint resolution (H.J. Res. 229) to designate the week beginning September 22, 1985, as "National Adult Day Care Center Week," was considered, ordered to a third reading and read the third time, and passed.

The preamble was agreed to.

NATIONAL HEAD INJURY AWARENESS MONTH

The joint resolution (S.J. Res. 132) designating October 1985 as "National Head Injury Awareness Month" was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

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

S.J. RES. 132

Whereas an estimated four hundred and fifty thousand to seven hundred thousand people require hospitalization each year for head injuries;

Whereas an estimated one hundred thousand of these victims die as a result of head injuries;

Whereas approximately fifty thousand head injury victims, more than two-thirds of whom are under the age of thirty, suffer permanent brain damage that prevents them from returning to schools, jobs, or normal lifestyles.

Whereas the effects of head injuries are emotionally and financially devastating to families;

Whereas there is a serious lack of facilities designed to care for the special needs of the head injured; and

Whereas long-term medical research on brain-injured patients is incomplete: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1985 is designated "National Head Injury Awareness Month" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that month with appropriate programs and activities.

NATIONAL BUY AMERICAN WEEK

The joint resolution (S.J. Res. 194) to designate the week beginning October 1, 1985, as "National Buy American Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

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

S.J. RES. 194

Whereas the Nation accumulated record merchandise trade deficits in 1982, 1983, and 1984, and a record deficit is predicted for 1985;

Whereas we have become a debtor nation for the first time since the onset of World War I;

Whereas in many cases the prices of imported goods are artificially low because of illegal subsidies by foreign governments; and

Whereas record merchandise trade deficits cause loss of jobs, loss of productivity, loss of tax revenues, and a decline in the American standard of living: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 1, 1985, hereby is designated "National Buy American Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

NATIONAL CPR AWARENESS WEEK

The joint resolution (S.J. Res. 175) to designate the week of August 25, 1985, through August 31, 1985, as "National CPR Awareness Week."

The joint resolution was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

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

S.J. RES. 175

Whereas heart attacks are the leading cause of death in the United States;

Whereas as many as 1,500,000 Americans may be stricken by a heart attack during 1985;

Whereas cardio-pulmonary resuscitation, commonly referred to as CPR, is a first aid procedure which significantly reduces the incidence of sudden death due to a heart attack; and

Whereas the death rate due to heart attacks would be reduced if more Americans received training in CPR: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 20, 1985, through October 26, 1985, is designated as "National CPR Awareness Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs and activities.

Amend the title to read: "To designate the week of October 20, 1985, through October 26, 1985, as 'National CPR Awareness Week'."

NATIONAL HOUSING WEEK

The joint resolution (S.J. Res. 197) to designate the week of October 6, 1985, through October 13, 1985, as "National Housing Week" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

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

S.J. RES. 197

Whereas the combined commitment of the Federal Government with the strength and ingenuity of private enterprise has brought decent housing to an overwhelming majority of all Americans;

Whereas the opportunity to own a home and live in decent housing strengthens the family, the community, and the Nation, giving individual Americans a stake in the local community and stimulating political involvement;

Whereas the housing industry has led the Nation to economic recovery following every recession since World War II by creating millions of productive jobs for the unemployed, generating billions of dollars worth of tax revenue, and creating demand for goods and services;

Whereas shelter is one of the basic needs for all individuals, and the production of affordable housing is an important concern at all levels of government; and

Whereas it is appropriate to reaffirm the national historical commitment to housing and homeownership and to recognize the economic opportunities created by the present housing recovery: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 6, 1985, through October 13, 1985, is designated as "National Housing Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

LEARNING DISABILITIES AWARENESS MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 191) to designate the month of October 1985 as "Learning Disabilities Awareness Month."

Mr. BUMPERS. Mr. President, I rise today to express my sincere thanks to those Senators on the Judiciary Committee who have acted expediently on Senate Joint Resolution 191. This resolution will help to shed light on the problems that confront the 10 million learning disabled of this country and help open the door to greater knowledge of the nature and causes of these learning difficulties.

Along with my distinguished colleagues who have cosponsored this resolution, I simply want to say that we care about these children, and that we also care about the many more who may be suffering from learning disabilities but have not yet been diagnosed as such.

This October will hopefully prove to be a significant turning point in the history of rolling back the superstition surrounding learning disabilities. Great strides have been made since the adoption of the Education for All Handicapped Children Act of 1975 (Public Law 94-142). The programs created by this law have served over 1.8 million people throughout the United States.

The term "learning disability" itself is only 20 years old. Learning disabilities are neurological problems that can impair a child's ability to perform certain tasks that require accurate perceptive skills. These are physiological problems that in no way reflect a child's intellectual capacity or potential. The learning disabled child encounters difficulty in linguistic skills such as reading, writing, spelling, and often in mathematics, concentration, memory and symbolism. Regulations that accompany Public Law 94-142 state that learning disabilities include "such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia."

The Presidential Initiative on Adult Literacy has documented the ongoing problem of adult literacy in this country. These studies establish that 60 million men and women in this country cannot read the front page of their local newspaper. The link between adult illiteracy and learning disabilities has also been firmly ascertained. We simply cannot allow today's learning disabled child to become tomorrow's illiterate adult.

Before concluding, I wish to once again acknowledge the dedication of my distinguished colleagues in the House of Representatives who sponsored this resolution in that body—Mr. GEORGE BROWN of California and JACK KEMP of New York. Also, Mr. President, I would also like to extend my praise for the tireless efforts of the many and varied organizations in this country who have embraced this cause and worked so hard to improve the lives of the learning disabled. This praise particularly extends to the Foundation for Children with Learning Disabilities, who gave much assistance in seeing this resolution enacted into law.

Mr. President, those with learning disabilities can overcome their difficulties. These problems do not have to be tragic. October 1985, is the time to interject hope and understanding into the lives of those who have such disabilities. With the designation of October as "Learning Disabilities Awareness Month" we can bring down the barriers that prevent the recognition and treatment of these problems. I once again urge the Senate to adopt this resolution.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

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

S.J. RES. 191

Whereas millions of Americans suffer from one or more learning disabilities;

Whereas it is estimated that ten million American children have been diagnosed as suffering from learning disabilities;

Whereas most learning-disabled persons are of normal or above normal intelligence but cannot learn to read and write in the conventional manner;

Whereas it is important for parents, educators, physicians, and learning-disabled persons to be aware of the nature of learning disabilities and the resources available to help learning-disabled persons;

Whereas early diagnosis and treatment of learning-disabled children gives such children a better chance for a happy and productive adult life;

Whereas the courage necessary for learning-disabled persons to meet their special challenges should be recognized;

Whereas hundreds of national and local support groups for learning-disabled persons, parents of learning-disabled children, and professionals who work with learning-disabled persons have made important contributions to the treatment of learning disabilities;

Whereas research and study have contributed to public knowledge about learning disabilities, but much remains to be learned; and

Whereas public awareness of and concern about learning disabilities may encourage the establishment of the programs necessary to promote early diagnosis and treatment of learning disabilities and to help learning-disabled persons and their families cope with their learning disabilities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1985 hereby is designated "Learning Disabilities

Awareness Month", and the President of the United States is authorized and requested to issue a proclamation calling upon all public officials and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

TWENTY-FIFTH ANNIVERSARY OF THE PEACE CORPS

The joint resolution (H.J. Res. 305) to recognize both Peace Corps volunteers and the Peace Corps on the agency's 25th anniversary 1985–86, was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the various resolutions and their titles and amendments were adopted en bloc.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDEFINITE POSTPONEMENT OF SENATE JOINT RESOLUTION 149

Mr. STAFFORD. Mr. President, I wonder if the minority leader would be willing now to turn to Senate Joint Resolution 149?

Mr. BYRD. Yes.

Mr. STAFFORD. Mr. President, in that event, I ask unanimous consent that Senate Joint Resolution 149, "National Dental Hygiene Week," which was reported out of the Judiciary Committee today, be indefinitely postponed.

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

S. 1671 PLACED ON CALENDAR

Mr. STAFFORD. Mr. President, I send a bill (S. 1671) to the desk on behalf of Senators MURKOWSKI and CRANSTON and ask unanimous consent that it be placed on the calendar.

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

HUMANITARIAN RESPONSE TO THE EARTHQUAKE IN MEXICO CITY

Mr. BYRD. Mr. President, I send to the desk a concurrent resolution on behalf of Mr. KENNEDY, for himself, Mr. LUGAR, Mr. SIMPSON, Mr. DOLE, Mr. BYRD, Mr. PELL, Mr. HATCH, Mr. WILSON, and Mr. BOREN, and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 67) relating to humanitarian response to the earthquake in Mexico City.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 67) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 67

Whereas an earthquake of disastrous proportions has leveled parts of Mexcio City today;

Whereas significant and irreparable damage has been done to "the old city";

Whereas between a third and a half of all structures have reportedly been destroyed;

Whereas millions of citizens of Mexico City may now be homeless and thousands may be killed or injured; and

Whereas the people of the United States share long-standing bonds of history and culture with the people of Mexico and, as neighbors, have deep concern for the well-being of the people of Mexico; Therefore be it

Resolved, That it is the sense of the Senate that the Government of the United States should make available to the Government of Mexico and to the people of Mexico City—on an emergency basis—humanitarian assistance and relief required to help deal with this tragedy.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE HOUSE

At 3:17 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 388. Joint resolution making continuing appropriations for the fiscal year 1986, and for the other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 817. An act to authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1986 and 1987, and for other purposes; and

S. 818. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974.

The enrolled bills were subsequently signed by the President pro tempore [Mr. THURMOND].

At 4:21 p.m., a message from the House of Repesentatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill and joint resolutions, without amendment:

S. 1514. An act to approve the Interstate Cost Estimate and Interstate Substitute Cost Estimate;

S.J. Res. 67. Joint resolution to designate the week of October 6, 1985, through October 12, 1985, as "Mental Illness Awareness Week";

S.J. Res. 111. Joint resolution to designate the month of October 1985 as "National Spina Bifida Month";

S.J. Res. 115. Joint resolution to designate 1985 as the "Oil Heat Centennial Year";

S.J. Res. 141. Joint resolution to designate the week beginning on May 18, 1986, as "National Tourism Week"; and

S.J. Res. 173. Joint resolution to designate the month of September 1985 as "National Sewing Month."

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

S. Con. Res. 62. A concurrent resolution expressing solidarity with the Sakharov family in their efforts to exercise their rights of freedom of expression, of travel, and of communication, as guaranteed them under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe.

The message further announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 7. An act to extend and improve the National School Lunch Act and the Child Nutrition Act of 1966;

H.J. Res. 218. Joint resolution to designate the week beginning September 15, 1985, as "National Dental Hygiene Week"; and

H.J. Res. 384. Joint resolution designating September 22, 1985, as "Farm Aid Day."

MEASURES REFERRED

The following bill and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 7. An act to extend and improve the National School Lunch Act and the Child Nutrition Act of 1966; to the Committee on Agriculture, Nutrition, and Forestry.

H.J. Res. 384. Joint resolution designating September 22, 1985, as "Farm Aid Day"; to the Committee on the Judiciary.

H.J. Res. 388. Joint resolution making continuing appropriations for the fiscal year 1986, and for other purposes; to the Committee on Appropriations.

ENROLLED JOINT RESOLUTIONS SIGNED

The Vice President announced that on today, September 19, 1985, he signed the following enrolled joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

H.J. Res. 128. Joint resolution designating the month of October 1985, as "National High-Tech Month"; and

H.J. Res. 299. Joint resolution recognizing the accomplishments over the past 50 years resulting from the passage of the Historic Sites Act of 1935, one of the Nation's landmark preservation laws.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble.

H.J. Res. 229: A joint resolution designating the week beginning September 22, 1985, as "National Adult Day Care Center Week."

H.J. Res. 305: A joint resolution to recognize both Peace Corps volunteers and Peace Corps on the agency's 25th anniversary, 1985–86.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment.

S. 44: A bill to grant the consent of the Congress of the Southeast Interstate Low-Level Radioactive Waste Management Compact.

S. 356: A bill granting the consent of Congress to the Northwest Interstate Compact on Low-Level Radioactive Waste Management.

S. 442: A bill to grant the consent of the Congress to the Rocky Mountain Low-Level Radioactive Waste Compact.

S. 655: A bill granting the consent of Congress to the Central Interstate Low-Level Radioactive Waste Compact.

S. 802: A bill to grant the consent of the Congress to the Central Midwest Interstate Low-Level Radioactive Waste Compact.

S. 899: A bill granting the consent of Congress to the Midwest Interstate Compact on Low-Level Radioactive Waste Management.

By Mr. DOMENICI, from the Committee on the Budget, without amendment.

S. 1200: A bill to amend the Immigration and Nationality Act to effectively control unauthorized immigration into the United States, and for other purposes.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 132: A joint resolution designating October, 1985, as "National Head Injury Awareness Month."

S.J. Res. 149: A joint resolution to designate the week of September 15, 1985 through September 21, 1985, as "National Dental Hygiene Week."

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S.J. Res. 175: A joint resolution to designate the week of August 25, 1985, through August 31, 1985, as "National CPR Awareness Week."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 191: A joint resolution to designate the month of October 1985 as "Learning Disabilities Awareness Month."

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amended preamble:

S.J. Res. 194: A joint resolution to designate the week beginning October 1, 1985, as "National Buy American Week."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 197: A joint resolution to designate the week of October 6, 1985 through October 13, 1985 as "National Housing Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Edmund V. Ludwig, of Pennsylvania, to be U.S. district judge from the eastern district of Pennsylvania;

Stephen V. Wilson, of California, to be U.S. district judge for the central district of California;

David Sam, of Utah, to be U.S. district judge for the district of Utah;

By Mr. THURMOND, from the Committee on the Judiciary:

J.C. Argetsinger, of Virginia, to be a Commissioner of the Copyright Royalty Tribunal for the term of 7 years from September 27, 1984.

(The above nomination was reported from the Committee on the Judiciary with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH, from the Committee on Labor and Human Resources:

To be members of the National Council on the Humanities for a term expiring January 26, 1990:

George D. Hart, of California;
William Barclay Allen, of California
Mary Joseph Conrad Cresimore, of North Carolina;
Leon Richard Kass, of Illinois;
Kathleen S. Kilpatrick, of Connecticut;
Robert Laxalt, of Nevada; and
James V. Schall, of California.

(The above nominations were reported from the Committee on Labor and Human Resources 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. GOLDWATER, from the Committee on Armed Services:

Mr. GOLDWATER. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 9 and September 11, 1985, at the end of the Senate proceedings.)

*1. Brigadier General Stuart E. Barstad, U.S. Air Force, to be major general; and

Colonel John P. McDonough, U.S. Air Force, to be brigadier general. (Ref. No. 538)

*2. Colonel Walter F. Johnson, III, U.S. Army, to be brigadier general. (Ref. No. 539)

*3. Vice Admiral Richard A. Miller, U.S. Navy, to be placed on the retired list. (Ref. No. 546)

*4. Vice Admiral Donald S. Jones, U.S. Navy, to be Senior Navy Member of the Military Staff Committee of the United Nations. (Ref. No. 547)

*5. Rear Admiral Joseph B. Wilkinson, Jr., U.S. Navy, to be vice admiral. (Ref. No. 548)

*6. In the Navy Reserve there are 8 promotions to the grade of commodore (list begins with John William Gates, Jr.). (Ref. No. 549)

**7. In the Air Force there are 4 promotions to the grade of colonel and below (list begins with Theodore N. Sahd). (Ref. No. 550)

**8. In the Air Force Reserve there are 824 promotions to the grade of lieutentant colonel (list begins with Charles D. Ables). (Ref. No. 551)

**9. In the Air National Guard there are 16 promotions in the Air Force Reserve to the grade of lieutenant colonel (list begins with Dennis M. Anderson). (Ref. No. 552)

**10. In the Air Force there is 1 appointment to a grade not higher than major (James M. Kinsella). (Ref. No. 553)

**11. In the Air Force there are 946 appointments to a grade not higher than captain (list begins with Raymond A. Abole). (Ref. No. 554)

**12. In the Army there are 14 permanent promotions to the grade of lieutenant colonel and below (list begins with William F. Norris). (Ref. No. 555)

** 13. In the Army there are 2,985 permanent promotions to the grade of major (list begins with Johnny R. Abbott). (Ref. No. 556)

** 14. In the Navy Reserve there are 24 permanent promotions to the grade of captain and below (list begins with Robert P. Burroughs). (Ref. No. 557)

** 15. In the Navy there are 2 promotions to the grade of lieutenant commander (list begins with Nicholas Sabalos). (Ref. No. 558)

** 16. In the Navy and Navy Reserve there are 41 appointments to the grade of commander and below (list begins with Orlando A. Alfred). (Ref. No. 559)

** 17. In the Marine Corps there is 1 reappointment to the grade of major (James M. Johnson). (Ref. No. 560)

** 18. In the Marine Corps there are 8 permanent appointments to the grade of second lieutenant (list begins with Harold D. Jones). (Ref. No. 561)

** 19. In the Air Force there is 1 promotion to the grade of colonel (Richard D. Covey). (Ref. No. 568)

** 20. In the Navy there are 715 permanent promotions to the grade of chief warrant officer W4 and below (list begins with Donald Jacob Beyer, Jr.) (Ref. No. 569)

* 21. Vice Admiral Thomas R. Kinnebrew, U.S. Navy, to be placed on the retired list. (Ref. No. 572)

Total: 5,597.

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. HEINZ:

S. 1661. A bill to amend the Internal Revenue Code of 1954 to exempt certain emergency medical transportation from the excise tax on transportation by air; to the Committee on Finance.

By Mr. PELL:

S. 1662. A bill to encourage the transfer of training technology developed by the Federal Government to commercial users and public interest users; to the Committee on Labor and Human Resources.

By Mr. BOSCHWITZ:

S. 1663. A bill for the relief of Arlene Mix; to the Committee on Armed Services.

S. 1664. A bill for the relief of Gloria O'Connell; to the Committee on Armed Services.

By Mr. WALLOP (for himself, Mr. SYMMS, Mr. DENTON, and Mr. HUMPHREY):

S. 1665. A bill to provide economic support fund assistance or military assistance for the non-Communist resistance forces in Mozambique; to the Committee on Foreign Relations.

By Mr. DODD (for himself, Mr. ANDREWS, Mr. HART, Mr. PELL, Mr. KENNEDY, Mr. MATSUNAGA, Mr. SIMON, Mr. KERRY, Mr. RIEGLE, Mr. SARBANES, and Mr. BURDICK):

S. 1666. A bill to provide assistance to States for educational excellence and for assuring access for underserved populations to the benefits of general State educational reforms; to the Committee on Labor and Human Resources.

By Mr. LEAHY (for himself and Mr. MATHIAS):

S. 1667. A bill to amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself and Mr. WILSON):

S. 1668. A bill imposing certain limitations and restrictions on leasing ends on the Outer Continental Shelf off the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BRADLEY:

S. 1669. A bill to provide an efficient method of taking actions against unfair foreign trade practices and to promote industrial partnerships for adjustment to import competition; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. DECONCINI, Mr. GOLDWATER, Mr. HATCH, Mr. GARN, Mr. HECHT, Mr. MELCHER, Mr. BINGAMAN, and Mr. BAUCUS):

S. 1670. A bill to establish a government-to-government International Copper Action Commission; to the Committee on Finance.

By Mr. STAFFORD (for Mr. MURKOWSKI (for himself and Mr. CRANSTON)):

S. 1671. A bill to amend title 38, United States Code, to provide interim extensions of the authority of the Veterans' Administration to operate a regional office in the Republic of the Philippines, to contract for hospital care and outpatient services in Puerto Rico and the Virgin Islands, and to contract for treatment and rehabilitation services for alcohol and drug dependence and abuse disabilities, and to amend the Emergency Veterans' Job Training Act of 1983 to extend the period for entering into training under such Act; read twice and ordered to be placed on the calendar.

By Mr. DECONCINI:

S.J. Res. 204. A joint resolution prohibiting the sale to Jordan or to Saudi Arabia of certain defense articles and related defense services unless certain conditions are met; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for Mr. KENNEDY (for himself, Mr. LUGAR, Mr. SIMPSON, Mr. DOLE, Mr. BYRD, Mr. PELL, Mr. HATCH, Mr. WILSON, and Mr. BOREN)):

S. Con. Res. 67. A concurrent resolution relating humanitarian response to the earthquake in Mexico City; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ:

S. 1661. A bill to amend the Internal Revenue Code of 1954 to exempt certain emergency medical transportation from the excise tax on transportation by air; to the Committee on Finance.

EXEMPTION OF EMERGENCY MEDICAL TRANSPORTATION FROM EXCISE TAX ON TRANSPORTATION BY AIR

Mr. HEINZ. Mr. President, today I have introduced legislation to amend the Internal Revenue Code of 1954 to exempt certain emergency medical transportation from the excise tax on transportation by air.

Currently, there is an 8-percent excise tax on the cost of certain types of emergency medical air trnsportation. This cost is often not covered by insurance and must be paid out of the individual's personal or family income. Ironically, this burden is being imposed upon those who are the most critically ill or the most severely injured. Since the average emergency transport may cost between $2,000 and $3,000, an 8-percent tax on this amount can prove a substantial burden on individuals who are already facing a costly and difficult period.

Our proposed legislation is designed to cover only operations which derive no benefits from the federally assisted airports to which the excise tax is dedicated. Its breadth is further limited to include only not-for-profit medical institutions and only those services whose primary purpose is the provision of essential emergency medical air transportation.

Although expensive, such emergency helicopter transportation is cost effective when evaluated from a regional perspective. Patients transported are in acute need of definitive care at a tertiary medical center. The dispatch of a critical patient by a physician to a hospital, without sufficient advance life-support attendance, is synonymous with medical negligence in today's health care environment. Hospital-based helicopters, staffed with specially trained personnel, achieve continuity of medical care and rapid access for acute patients to definitive, therapeutic intervention.

When complemented with a helicopter, one tertiary medical center can serve the population of approximately 50,000 square miles within a 1-hour response time. Using ground transportation intensive care units, seven such facilities would be required. Provision of advance life support to the area covered by one helicopter would cost 50 percent more using ground transportation intensive care units, with the additional drawback that the patient may not even reach treatment at a tertiary care center within an hour's time.

The annual costs of operating hospital-based helicopter services range from $625,000 to $1.5 million. As much as $50,000 of this expense is due to the current Federal excise tax assessed against hospitals that use aircraft weighing in excess of 6,000 pounds. However, due to the relatively low number of transports being carried out, the amount of revenue to be gained by the Treasury from the imposition of this tax is minimal.

It is proposed that not-for-profit health care facilities be exempted from section 4261 of the Internal Revenue Code of 1954 if their helicopter: First, does not take off from or land at a facility eligible for assistance under the Airport and Airway Development Act of 1970; second, does not otherwise use services provided pursuant to the Airport and Airway System Improvement Act of 1982 during such transportation; and third, has as its primary purpose the provision of emergency medical services.

I ask unanimous consent that a copy of the bill be included for the RECORD at this point.

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

S. 1661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4261 of the Internal Revenue Code of 1954 (relating to imposition of tax on transportation by air) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION.—No tax shall be imposed under this section or section 4271 on any air transportation by helicopter if such helicopter—

"(1) does not take off, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970,

"(2) does not otherwise use services provided pursuant to the Airport and Airway System Improvement Act of 1982 during such transportation,

"(3) is primarily used for purposes of providing emergency medical services, and

"(4) is owned or leased by a nonprofit health care facility and is operated exclusively under the control of such facility."

(b) The amendment made by subsection (a) shall apply to transportation beginning after January 1, 1985.

By Mr. PELL:

S. 1662. A bill to encourage the transfer of training technology developed by the Federal Government to commercial users and public interest

users; to the Committee on Labor and Human Resources.

TRAINING TECHNOLOGY TRANSFER ACT

Mr. PELL. Mr. President, I am introducing today the Training Technology Transfer Act of 1985, a bill to facilitate the transfer of computer software for training systems developed by Federal agencies from those agencies to the private sector and to other public agencies engaged in the training of the civilian work force.

The bill is designed to maximize the return on the public's investment in the costly process of computer programming for training systems for Government personnel, primarily in the military. These programs can be used—possibly without modification in some cases or with modification in varying degrees in others—to train the civilian workforce, so it stands to reason that the public interest would be well served by promoting their widest use. Particularly at this time of concern about massive trade deficits, declining industries and dislocated workers, it makes sense to get the most mileage possible out of existing Government-sponsored techniques for training and retraining workers.

Computer-based training systems are promising innovations in the field of manpower training and they are enjoying increasingly wide acceptance as technology becomes more sophisticated. One of the most familiar configurations combines video disc technology with microcomputers, providing visual representations of training problems while permitting a high degree of interactivity between the trainee and the system. The trainee can request more explanation and elaboration, and the system can test the trainee before proceeding from one stage to another of the program.

The Department of Defense has developed such programs to teach trainees how to read a map, fix a Jeep, trouble shoot a radar system, and, through more sophisticated simulation programs, fly a jet aircraft. There are also more broadly based instructional programs covering such areas as basic literacy and vocabulary development. Programming the software for such systems is a high-cost, labor intensive task that can cost between $100,000 and $1 million for a major system. They are only cost effective for very large organizations approaching the scale of the Department of Defense, with its training budget of $18 billion a year and an annual influx of some 300,000 trainees.

Once such a high initial investment has been made in the public sector, the taxpayer benefits when the high cost can be spread over other large groups of trainees. That is precisely what this bill would do. It would stretch tax dollars already spent for defense and other purposes into unexpected dividends for the private sector.

I hasten to add that while the Department of Defense is the dominant producer of computer based training systems, there are many other Government agencies with substantial involvement in the field. The informal Interagency Group on Computer Based Training brings together representatives from some 24 Federal departments or agencies, all of whom either have an interest in utilizing the technology or are already doing so on their own systems. A secondary feature of my bill extends to each of them equal standing to share in the transfer of training software between Government agencies.

The bill I am introducing today contains many provisions carried over from an earlier version of the legislation, S. 2561 which I introduced in the 98th Congress. Hearings were held on that bill before the Subcommittee on Education, Arts and Humanities on June 28, 1984, and as a result of those hearings several important revisions were made.

A central feature which remains unchanged is the creation of a small Office of Training Technology Transfer to act as the central broker between prospective users and all the arms of the Federal Government. One of its primary functions would be to compile, update and distribute a Government-wide inventory of all existing or scheduled applications of training technology, including a complete description of the purpose, content, intended competency level, computer hardware compatibility requirements and patent or copyright specifications of the program involved. The inventory would be distributed as widely as possible to job training agencies, educational institutions and related Government and professional organizations.

The administrative base of the Office of Training Technology Transfer has been changed by the new bill from the Department of Education to the Department of Commerce because Commerce has an existing mechanism in the National Technical Information Service, with its associated Federal Software Exchange Center, to handle the kind of transfer contemplated by the bill. I emphasize that this change is for administrative purposes only and that the basic thrust and purpose of the bill remains unchanged, namely to promote the education, training of the civilian work force. I might also note that the Department of Commerce has already begun extensive discussions with the Department of Defense regarding the transfer of training technology to the private sector.

The most substantial changes in the new bill occur in its provisions for financing the modification, or conversion, of training technology to meet the requirements of prospective non-Government users. In essence, the new bill shifts the burden of conversion costs from the public to the private sector, and in proposing this shift, I am indebted to the suggestions offered in testimony on S. 2561 by Dr. D. Bruce Merrifield, Assistant Secretary of Commerce for Productivity, Technology and Innovation. Dr. Merrifield reported that there is an immediate market for educational technology conservatively estimated at $2 billion, with an even greater future sales potential since the market is still in its infancy, and he suggested that the natural incentives of this substantial market could provide a mechanism for stimulating further development.

The new bill attempts to accommodate that idea by providing, in place of the program of Federal conversion grants originally provided in S. 2561, a plan to harness market place incentives to finance the public purposes of the bill. Central to this change is the creation of a statutory distinction between two categories of prospective users of Government training technology: For-profit commercial users, which would include all corporations and businesses, and nonprofit public interest users, which would include schools, colleges, vocational education facilities and all agencies of the Job Training Partnership Act.

Under the scheme of the bill, commercial users may acquire training technology through purchase or lease, including exclusive or nonexclusive rights in copyrights or patents, upon payment of a price or fee which reflects a reasonable return to the Government. Public interest users may obtain training technology at no cost upon application to the Office of Technology Transfer. If a public interest user requires modification or conversion of a program, it can enter into a cooperative agreement with a commercial user to provide the conversion, and if the Office of Technology Transfer approves the agreement, the price or fee to the commercial user may be waived or reduced, or other terms beneficial to the commercial user such as exclusive sale or lease, may be negotiated. Hopefully, through the use of these market incentives, the purposes of the act will be fully served.

As a result of these changes, the bill I am introducing today is much leaner than S. 2561. It is simpler in concept, with no provision for Government funding of conversion grants, and it provides for a more modest Office of Technology Transfer, with reduced staff and lower director's rank, that integrates more coherently into the existing Federal structure. It provides for first year authorization of $3 million as opposed to $15 million for S. 2561.

Mr. President, this bill started out as an effort to match a perceived need with a known resource. At the outset,

it had no certain constituency, although I will be frank to say that one now seems to be emerging. Such legislation is bound to be the product of evolution, and in this era of bipartisanship and concern for containment of Government expenditure, any such effort can only succeed if it represents the fruit of considerable negotiation and give and take. This bill is offered in that spirit and hopefully it is now an improved vehicle for further action.

By Mr. WALLOP (for himself, Mr. SYMMS, Mr. DENTON, and Mr. HUMPHREY);

S. 1665. A bill to provide economic support and fund assistance or military assistance for the noncommunist resistance forces in Mozambique; to the Committee on Foreign Relations.

ASSISTANCE FOR RESISTANCE FORCES IN MOZAMBIQUE

● Mr. WALLOP. Mr. President, today along with Senator SYMMS, Senator DENTON, and Senator HUMPHREY, I am introducing a bill in the U.S. Senate to authorize the President to make available to the nonCommunist resistance forces in Mozambique up to $5 million for fiscal year 1986 and up to $5 million for fiscal year 1987. This aid may be given to Renamo, the resistance movement fighting against the Communist Machel government of Mozambique.

Mozambique's President Samora Machel today is visiting the United States officially and at this very moment is at the White House eagerly trying to improve the image of his Marxist-Leninist state. His pro-Soviet Communist government was established in 1975 and has ruled Mozambique by repression and the application of communist economics. This has led to severe economic depression in Mozambique, including mass starvation in that country. The Machel government has participated in a massive resettlement campaign and operates so-called re-education centers which allow no outright opposition to the Machel government's policies.

Freedoms of speech and of the press are tightly controlled. Suppression of labor, arbitrary arrest and detention, restricted religious activity, controlled travel and restricted property rights are all commonplace in Marxist Mozambique. The Machel government is opposed by the pro-Western armed resistance movement, Renamo. The Marxist-Leninist Machel government has turned to the United States and other Western countries for substantial economic aid to fight against Renamo and the pro-Western freedom fighters of Mozambique. Our U.S. State Department and others at the highest levels of our foreign policy-making machinery, including the national security council, continue to insist that Marxist Mozambique is being led away from the Soviet camp through receipt of U.S. economic aid and aid from U.S.-supported institutions such as the IMF and the World Bank.

I view these policies and actions a highly questionable. Historically, no country in the world has ever succeeded in buying off a Soviet client state. The United States cannot buy off the Marxist governments of Africa or of any other part of the world. Their leaders are more than happy to take our money and to use it to their own, Soviet-backed ends. This saves the Soviet Union the foreign exchange it so badly needs and makes a mockery of U.S. foreign aid and assistance programs. I ask you, has there ever been a Communist-backed government that became democratic as a result of well-intentioned Western aid programs? Will Mozambique, by some magic formula, for which there is no historic precedent in sub-Saharan Africa, suddenly become an exception to the rule that no Western aid has ever succeeded in turning a Communist government in Africa into a democratic one? Will Michael provide freedom? No way. Will we ask him to? No way. Will we pursue a double standard in Southern Africa of supporting one repressive dictatorship while applying sanctions to other governments? You bet. The policy of the United States remains without moral principle. For all of these reasons, we must support the democratic freedom fighters of Mozambique, those who stand for Western values and governmental systems. The Mozambique resistance fighters are as close as any guerrilla movement in the world to defeating the government in power. Because of this strong possibility, and Renamo's brave dedication to pro-Western values, it richly deserves our backing and support. I urge my colleagues in the Congress to support the bill to authorize the President to give aid to the resistance fighters of Mozambique and I urge the President to use U.S. foreign assistance to come to their aid.●

By Mr. DODD (for himself, Mr. ANDREWS, Mr. HART, Mr. PELL, Mr. KENNEDY, Mr. MATSUNAGA, Mr. SIMON, Mr. KERRY, Mr. RIEGLE, Mr. SARBANES, and Mr. BURDICK):

S. 1666. A bill to provide assistance to States for educational excellence and for assuring access for underserved populations to the benefits of general State educational reforms; to the Committee on Labor and Human Resources.

SCHOOL EXCELLENCE AND REFORM ACT

● Mr. DODD. Mr. President, I rise today to introduce the School Excellence and Reform Act [SERA], legislation that I believe will enhance and expand the educational excellence movement currently taking place throughout our Nation. At this time, I would also like to express my deep appreciation to the cosponsors of SERA, Senators ANDREWS, PELL, HART, KENNEDY, MATSUNAGA, SIMON, KERRY, SARBANES, RIEGLE, and BURDICK, for their guidance and assistance in the development of this critical legislation.

I need not remind my colleagues of the alarming conclusion reached by the National Commission on Excellence in Education just 2 short years ago. In its final report, "A Nation at Risk: The Imperative for Educational Reform," the Commission stated:

> The educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a Nation and a people.

In response to this and other equally disturbing national assessments, virtually every State in the Union has taken steps to improve the quality of education at the elementary and secondary level. New competency tests, increased graduation requirements, tougher curricular standards, and an increase in instructional time together form the foundation for what we like to call "the excellence in education movement." Unfortunately, as these reforms take hold, two difficult problems are emerging.

First, it is becoming increasing apparent that State and local funding sources cannot alone meet the need for educational reform. For example, it has been estimated that to fully implement the recommendations of "A Nation at Risk," expenditures totaling $14 to $20 billion would be necessary. States and localities are doing what they can, but providing a quality education for all students demands the commitment and financial support of all levels of government, including the Federal Government. This holds especially true for those subject areas most important to our national security and economic prosperity, including mathematics, the sciences, communications, technology, and foreign languages. In these area, Federal funds to promote quality education represent not wasteful spending but sound investment in the future of our Nation.

While Members of Congress and administration officials like to praise the excellence in education movement, the fact remains that the Federal Government has become a worse partner in education, not a better one. In academic year 1980–81, the Federal share of national educational expenditures was 10.6 percent. By academic year 1984–85, the Federal share had dropped to 8.3 percent. The School Excellence and Reform Act provides us with the opportunity to reverse this trend and shoulder a fair share in the effort to promote excellence in education.

Second, the emphasis on tougher curricular standards and competency testing has revealed that many stu-

dents with special needs simply are not benefiting from the current educational reforms. These are the students with low expectations that date back to their preschool years, and those who lack the rudimentary skills necessary to pass even the most basic competency tests. They are the teenage parents who must stay home to care for their children, and the disadvantaged youth who must work part time in order to help support their families.

Recent statistics provide ample evidence that we are failing to reach these youngsters at risk. Approximately 28 percent of American 17- and 18-year-olds never graduate from high school. In some urban areas of the country, the dropout rate exceeds 50 percent. The dropout rate for black youth is 40 percent and for Hispanic youth, almost 50 percent.

According to Jonathan Kozol's recent book, "Illiterate America," 13 percent of all 17-year-olds and a full one-third of all adults in this Nation are functionally illiterate. Among minority youth, the functional illiteracy rate may be as high as 40 percent. All told, 1 million teenage Americans cannot read above the third-grade level.

No State, no matter how affluent or committed to educational reform, is exempt from these disturbing trends. My own State of Connecticut, with the highest median income in the Nation, has 600,000 adults without high school diplomas. The current high school completion rate in our State is less than 78 percent, and 12 percent of high school students in urban areas of Connecticut drop out each year.

I am most concerned about what I call the "five high costs" we bear for our failure to address the needs of these youngsters. We see the human cost in the lost hopes and aspirations of young people without the skills to think and prosper in a complex and changing society. Without an adequate education, these kids simply cannot reach their fullest potential. If we do not act quickly, we are in danger of creating a permanent underclass of citizens who lack meaningful opportunities in society.

The political cost is heavy because uneducated young people cannot be full participants in our democratic system. Without a firm commitment to educate all of our children equally, we may soon find large numbers of youth completely alienated from the American political process. Perhaps Thomas Jefferson assessed the risk best when he wrote, "If a nation expects to be ignorant and free * * * it expects what never was and never will be."

By the same token, when our educational system fails to meet a child's needs, he or she is more likely to become a burden to society later in life. What we fail to invest in education, we will eventually be forced to pay many times over in social costs. These costs include the heavy price of increased crime and overcrowded prisons, increased unemployment and public assistance, and a sharp loss in productivity and generated taxes.

We will also bear a tremendous economic cost if we fail to extend the benefits of education and all young Americans. Our economy is changing rapidly, becoming one of words, information, and technology. Without a pool of young citizens with the skills necessary to participate in this changing economy, our industrial competitiveness will be severely threatened. The $40 billion business and industry spent last year on remedial education for employees is just a drop in the bucket compared to the price we will be forced to pay later if we fail to change our educational course.

Perhaps most troublesome are the national security costs we face by excluding these disadvantaged youngsters from our educational system. Real national security means more than building missiles and bombers; a well-trained and educated citizenry is just as important to our country's defense as the development and procurement of advanced military hardware.

We need more and more Armed Forces personnel who can operate and maintain that sophisticated network of military equipment. For example, in order to maintain our standard Navy fighter plane during World War II, a technician only needed to master a 36-page manual; today, the manual for the Navy's most advanced aircraft is 36,000 pages. The cruel irony is that while the technological sophistication of defense hardware increases, the military has had to turn many training manuals into virtual comic books in order to have them understood by new recruits. It should come as no surprise then that the Department of Defense annually spends more for education and training than the entire budget of the Department of Education—some $18 billion.

Mr. President, equity for students with special needs has always been—and must continue to be—the philosophical hallmark of the Federal role in education. Through statutes like the Elementary and Secondary Education Act, the Civil Rights Act, the Higher Education Act, and the Education of the Handicapped Act, we have consistently sought to ensure that no child is denied a quality education based on race, creed, economic status, or physical disability. Now that many young people are threatened with exclusion from the excellence in education movement, it is more important than ever that we maintain and expand that historic Federal commitment. As the National Coalition of Advocates for Students concluded in its report, "Barriers to Excellence: Our Children at Risk":

> We reject the implication raised in current public debate that excellence in education for some children can be made available only at the expense of other children. Indeed, it is our deepest belief that excellence without equity is both impractical and incompatible with the goals of a democratic society.

Through a two-pronged system of grants, the School Excellence and Reform Act would reinforce the current educational excellence movement being undertaken by State and local governments, while ensuring that these reforms do not exclude children who are historically underserved. To address the problem of underfinancing of school reform, one-half of the funds appropriated under SERA would help local school districts pursue general educational reform and instructional improvement in mathematics, the sciences, communications, technology, foreign languages, and, where necessary, guidance and counseling. These funds would be apportioned to the districts through a formula based on school-age population, with a heavier weighting for poor children.

To improve access to excellence for children with special needs, the other half of the funds appropriated under SERA would flow to local school districts with the highest concentrations of poor children. These "reform and equity" funds would support special categorical projects like early childhood education, school day care, inservice teacher training, dropout prevention, the development of "effective school" programs, and the improvement of secondary school basic skills instruction.

To implement these two grant programs, SERA would authorize $2 billion for fiscal year 1987 and such sums as may be necessary for the 4 succeeding fiscal years. However, because the Federal deficit is, and must continue to be, our paramount concern, I would fully support efforts to base actual appropriations for SERA on what my colleagues believe we can afford at the time funding decisions are made. It may be that we will only be able to support specific components of this legislation. However, at the outset, I think it is important to approach the problems of excellence and equity comprehensively, rather than in a piecemeal fashion.

On a related note, I have included in this legislation a limitation on appropriations such that no funds would be provided for SERA in any fiscal year that appropriations substantially decline for chapter I, chapter II, the Education of the Handicapped Act, or other existing statutes. This language would help to prevent competition for funding between SERA and current education programs with similar goals and target populations.

While the cost of implementing SERA would be high, we would not simply be throwing money at a problem with this legislation; we would be asking for results. In order to receive funds for more than 3 years, a local educational agency would have to demonstrate progress in the areas for which funds have been spent and evidence of general educational improvements. Improvements such as reductions in absenteeism, discipline problems, and dropout rates as well as more instructional time and smaller class sizes are specifically listed in SERA. Local school districts would have to consult with parents and teachers in the design of SERA-funded programs and maintain existing levels of local education funding while receiving SERA assistance.

Mr. President, SERA would provide local school districts with the flexibility necessary to target funds where they are most needed, while advancing Federal priorities in the educational reform movement. SERA is our opportunity to institutionalize a Federal educational excellence policy with equity at its core. For our national security, productivity, and ability to compete in the international marketplace, the need to advance educational reform throughout the country is imperative. And that requires both a Federal commitment and an investment toward the future.

I would like to take this opportunity to list the various educational organizations and associations that have endorsed SERA. These groups include: The National Education Association, the American Federation of Teachers, the Council of Great City Schools, the American Association of School Administators, the Council of Chief State School Officers, the Children's Defense Fund, the American Association for Counseling and Development, the National Council of Teachers of Mathematics, the National Association of Elementary School Principals, the International Reading Association, the National School Boards Association, and the National Parent-Teacher Association.

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. 1666

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "School Excellence and Reform Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that it is in the national interest—

(1) to reinforce the current educational excellence movement; and

(2) to ensure that reform and equity extend to children historically unserved by such local and State efforts.

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

(1) to promote and enhance educational excellence and reform in the Nation's schools; and

(2) to improve access to that education for our Nation's poor and minority youth.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT AUTHORIZED.—There are authorized to be appropriated $2,000,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years for the purpose of making payments under sections 4 and 5.

(b) LIMITATION ON AUTHORIZATION.—No funds are authorized to be appropriated to carry out this Act for any fiscal year if the amount appropriated to carry out—

(1) chapter 1 of the Education Consolidation and Improvement Act of 1981;

(2) chapter 2 of the Education Consolidation and Improvement Act of 1981;

(3) title VII of the Elementary and Secondary Education Act of 1965, relating to bilingual education;

(4) the Carl D. Perkins Vocational Education Act; and

(5) the Education of the Handicapped Act,

for such fiscal year does not equal or exceed the amount appropriated to carry out each such provision of law specified in paragraphs (1) through (5) of this subsection for the fiscal year preceding the fiscal year for which the determination is made.

SEC. 4. PAYMENTS FOR GENERAL IMPROVEMENT AND EXCELLENCE.

(a) STATE ALLOCATION FORMULA.—From one-half of the amount appropriated pursuant to section 3 for a fiscal year, the Secretary shall reserve 1 percent thereof for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs. From the remainder of one-half of such amount, the Secretary shall allocate to each State that has an approved application under section 7(a) an amount which bears the same ratio to such remainder as the total number of children aged 5 to 17, inclusive, in the State bears to the total number of such children in all the States, except that no State shall receive less than an amount equal to 0.5 percent of such remainder.

(b) LOCAL ALLOCATION FORMULA.—(1) A State educational agency may reserve 1 percent of the amount allocated to that State under subsection (a) for the costs of administering general improvement and excellence programs and projects under this Act.

(2) From the remainder of the amount allocated to the State pursuant to subsection (a), the State educational agency shall allocate to each local educational agency applying for an allocation under this section and having an approved application (or renewal thereof) under section 7 an amount which bears the same ratio to such remainder as the sum of—

(A) 2.25 percent of the payment rate established under subsection (c) for such local educational agency multiplied by the number of children aged 5 to 17, inclusive, in the area served by such agency who are eligible to be counted under section 111(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711(c)); and

(B) 2 percent of such payment rate multiplied by the number of children aged 5 to 17, inclusive, in the State who are not eligible to be so counted;

bears to the sum of such products for all such local educational agencies.

(3) If the amount allocated under paragraph (2) to any local educational agency or consortium of such agencies is less than $1,000, the State educational agency shall reallocate such amount among the other local educational agencies in such State receiving allocations under such paragraph of $1,000 or more by ratably increasing such allocations.

(c) PAYMENT RATE.—(1) The payment rate for any local educational agency in any State for any fiscal year shall be equal to the average per pupil expenditure for that State, except that the payment rate for any agency shall not be less than the average per pupil expenditure in the United States.

(2) For the purposes of paragraph (1), the term "average per pupil expenditure" has the meaning provided by section 198(a)(2) of the Elementary and Secondary Education Act of 1965.

SEC. 5. PAYMENTS FOR REFORM AND EQUITY.

(a) STATE ALLOCATION FORMULA.—From one-half of the amount appropriated pursuant to section 3 for a fiscal year, the Secretary shall reserve 1 percent thereof for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allocated in accordance with their respective needs. The Secretary shall reserve an additional 1 percent thereof to carry out the purposes of section 9 of this Act. From the remainder of one-half of the amount appropriated pursuant to section 3 for a fiscal year, the Secretary shall allocate to each State that has an approved application under section 7(a) an amount which bears the same ratio to such remainder as the total number of children aged 5 to 17, inclusive, in the State who are eligible to be counted under section 111(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711(c)) bears to the total number of such children in all the States.

(b) LOCAL ALLOCATION FORMULA.—(1) A State educational agency may reserve 15 percent of the amount allocated to that State under subsection (a) for the cost of operating and administering categorical programs and projects under this Act.

(2) From the remainder of the amount allocated to the State pursuant to subsection (a), the State educational agency shall allocate to each local educational agency applying for an allocation under this section and having an approved application (or renewal thereof) under section 7 an amount determined under a formula—

(A) composed of only the following factors:

(i) the number of children aged 5 to 17, inclusive, who are eligible to be counted under section 111(c) of the Elementary and Secondary Education Act of 1965;

(ii) the graduation rate;

(iii) the absentee rate; and

(iv) the number of low-achieving students; and

(B) under which the relative weights of such factors are established by the State educational agency.

SEC. 6. AUTHORIZED ACTIVITIES.

(a) PERMISSIBLE USES OF GENERAL IMPROVEMENT AND EXCELLENCE FUNDS.—Funds allocated to any local educational agency pursuant to section 4 may be used—

(1) to pursue general educational excellence and to improve instruction in mathe-

matics, the sciences, communications skills, foreign languages, and technology; and

(2) where necessary, for guidance and counseling.

(b) PERMISSIBLE USES OF REFORM AND EQUITY FUNDS.—(1) Funds retained by a State pursuant to section 5(b)(1) may be used to administer and carry out categorical programs and projects.

(2) Funds allocated to any local educational agency pursuant to section 5(b)(2) may be used for the development, expansion, or improvement of any of the following categorical programs and projects:

(A) early childhood education;

(B) school day care;

(C) in-service teacher training;

(D) dropout prevention;

(E) effective schools; and

(F) improvement of secondary schools basic skills instruction.

SEC. 7. APPLICATION REQUIREMENTS.

(a) STATE APPLICATION.—In order to receive an allocation under section 4 or 5 for any fiscal year, each State shall submit an application to the Secretary that—

(1) meets the requirements of paragraphs (1), (2), (3), (5), (6), and (8) of section 435(b) of the General Education Provisions Act (20 U.S.C. 1232d(b)); and

(2) describes the intended use of funds to be retained by the State under section 5 to enhance State reform efforts.

(b) SUBMISSION OF LOCAL APPLICATIONS FOR GENERAL EXCELLENCE AND REFORM AND EQUITY FUNDS.—(1) For any fiscal year, a local educational agency may submit a single application for an allocation under section 4 or an allocation under section 5, or both. Two or more local educational agencies that propose to conduct joint programs and projects from funds provided under section 4 may file such application as a consortium or other combination.

(2) A local educational agency may not apply for an allocation under section 5 unless the total number of children aged 5 to 17, inclusive, in the schools of such agency who are eligible to be counted under section 111(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711(c)) exceeds the lesser of 5,000 or 20 percent of the total enrollment of such schools.

(c) CONTENTS OF LOCAL APPLICATIONS.—(1) In order to receive an allocation under section 4(b)(2) or under section 5(b)(2) for any fiscal year, a local educational agency shall have on file with the State educational agency an application which describes the programs and projects to be conducted with such allocation and which includes a plan for the improvement of the selected educational areas covered by such programs and projects.

(2) An application by a local educational agency or consortium thereof, or renewal of such an application, shall also contain assurances that—

(A) the programs and projects are designed and implemented in consultation with parents and classroom teachers of the children to be served;

(B) the funds received under this Act will be used only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of funds received under this Act, be available from non-Federal sources for the education of pupils participating in programs and projects assisted under this Act, and in no case used so as to supplant funds from such non-Federal sources; and

(C) the local educational agency will comply with the requirements of subsection (d), relating to maintenance of effort.

(d) MAINTENANCE OF EFFORT.—(1) Except as provided in paragraph (2), a local educational agency may receive funds under this Act for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(2) The State educational agency shall reduce the amount of the allocation of funds under this Act in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The State educational agency may waive, for one fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

SEC. 8. EDUCATIONAL ACCOUNTABILITY.

(a) ACCOUNTABILITY FOR USE OF FUNDS.—(1) Each local educational agency receiving an allocation under this Act for any fiscal year shall submit to the State educational agency—

(A) evidence of progress in particular areas for which funds were expended; or

(B) evidence of general improvement in the educational system, such as—

(i) reductions in, or the maintenance of acceptable levels of, absenteeism, discipline problems (such as suspension and expulsion), and dropouts at the secondary level;

(ii) more instructional time; and

(iii) smaller class size.

(2) At the State's discretion, the State educational agency may conduct audits on a sampling basis to verify the accuracy of the local educational agency submissions under this subsection.

(b) CONTINUED FUNDING CONTINGENT ON PROGRESS DEMONSTRATION.—No local educational agency shall be eligible to obtain an allocation under this Act for more than three fiscal years unless the evidence submitted under subsection (a) demonstrates progress as verified by the State.

SEC. 9. BUSINESS INVOLVEMENT MATCHING GRANTS.

From the amount reserved for purposes of this section pursuant to the second sentence of section 5(a), the Secretary is authorized to make grants to local educational agencies in an amount equal to not more than 50 percent of the fair market value of any donations made to such agency by local business concerns for the conduct of programs and projects under this Act. Such donations may be in cash or in kind, and may consist of equipment, the services of business personnel, or training provided to such agency.

SEC. 10. DEFINITIONS.

As used in this Act, the term—

(1) "Secretary" means the Secretary of Education;

(2) "State" means the several States, the District of Columbia, and Puerto Rico, and, except for purposes of sections 4(a) and 5(a), includes Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(3) "State educational agency" has the meaning provided by section 595(a)(3) of the Education Consolidation and Improvement Act of 1981;

(4) "local educational agency" has the meaning provided by section 595(a)(4) of such Act;

(5) "parent" has the meaning provided by section 595(a)(5) of such Act; and

(6) "elementary school" and "secondary school" have the meaning provided by section 595(a)(7) of such Act.●

By Mr. LEAHY (for himself and Mr. MATHIAS):

S. 1667. A bill to amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes; to the Committee on the Judiciary.

ELECTRONIC COMMUNICATIONS PRIVACY ACT

Mr. LEAHY. Mr. President, for years this body has talked about the potential loss of personal privacy which could result from the electronic revolution. Today, I am introducing the Electronic Communications Privacy Act of 1985 which aims at ending the talk and beginning the process of ensuring the privacy of communications of individual Americans and American businesses. I am very pleased to be joined in this effort by my distinguished colleague from Maryland, Senator MATHIAS.

Let me describe a problem that grows as we sit here.

At this moment phones are ringing, and when they are answered, the message that comes out is a stream of sounds denoting one's and zero's. Nothing more. I am talking about the stream of information transmitted in digitized form, and my description covers everything from interbank orders to private electronic mail hookups.

By now this technology is nothing remarkable. What is remarkable is the fact that none of these transmissions are protected from illegal wiretaps, because our primary law, passed back in 1968, failed to cover data communications, of which computer-to-computer transmissions are a good example.

When Congress enacted that law, title III of the Omnibus Crime Control and Safe Streets Act of 1968, it had in mind a particular kind of communication—voice—and a particular way of transmitting that communication—via a common carrier analog telephone network. Congress chose to cover only the "aural acquisition" of the contents of a common carrier wire communication. The Supreme Court has interpreted that language to mean that to be covered by title III, a communica-

tion must be capable of being overheard. The statute simply fails to cover the unauthorized interception of data transmissions.

Similarly, there is no adequate Federal legal protection against the unauthorized access of electronic communications system computers to obtain or alter the communications contained in those computers.

Problems also exist with regard to the legal protection afforded to cellular radio telephones, electronic pagers, and the private transmissions of video signals such as that used in teleconferencing.

There may have been a day when good locks on the door and physical control of your own papers guaranteed a certain degree of privacy.

But the new information technologies have changed all that.

Hearings in the last Congress held by Senator MATHIAS and myself in the Senate Judiciary Committee and by Congressman ROBERT KASTENMEIER in the House Judiciary Committee clearly demonstrate the scope of these problems and the need to act.

Congressman KASTENMEIER, Senator MATHIAS, and I have been working for over a year with the Justice Department and many individuals, businesses, and industry groups who are concerned with updating the law to better protect communications privacy.

The product of that effort is the bill which Senator MATHIAS and I are introducing today. Congressman KASTENMEIER and Congressman MOORHEAD are introducing identical legislation in the House.

The Electronic Communications Privacy Act of 1985 contains a number of important changes:

The act amends title III of the Omnibus Crime Control and Safe Streets, Act of 1968—the Federal wiretap law.

Definitions contained in title III are amended to broaden protection from only voice transmissions to all electronic communications including data and video carried on nonpublic systems. The requirement that to fall within the coverage of title III an interception has to be by "aural acquisition," is dropped.

Protection of only common carrier telephone systems is broadened to include all electronic communications systems unless designed to be accessible by the public.

The bill contains criminal penalties for unauthorized access to the computers of an electronic communication system, if messages contained therein are obtained or altered. If done for commercial gain or for malicious reasons, the crime could be prosecuted as a felony offense.

To obtain communications contained in the computers of an electronic communication system, such as an electronic mail service, the Government would be required to obtain a warrant based on a probable cause standard.

An operator of an electronic communications system is restricted from disclosing the contents of an electronic message except in specified circumstances or unless authorized by the person sending the message.

An electronic communications system and the users of the system are granted a Federal cause of action to seek civil damages for violation of any of the rights contained in the act.

Finally, the bill provides that law enforcement agencies must obtain a court order based on a reasonable suspicion standard before installing a pen register or being permitted access to records of an electronic communications system which concern specific communications.

The bill does not affect the carefully balanced provisions governing foreign intelligence surveillance contained in the Foreign Intelligence Surveillance Act of 1978.

These changes will go a long way toward providing the legal protections of privacy and security which the new communications technologies need to flourish.

As I said earlier, we have worked hard over the past year to listen to all affected interests and to accommodate the legitimate needs of law enforcement while securing the privacy rights of users and operators of electronic communications systems.

A number of tough questions remain to be answered. Chief amongst these is whether electronic communications systems which are not designed to protect the privacy of the communications being carried should be afforded legal protection.

But raising this question should in no way suggest that communications privacy is just an industry problem.

It is no solution to say that anybody concerned about the privacy of these communications can pay for security by paying for encryption.

Encryption can be broken. But more importantly, the law must protect private communications from interception by an eavesdropper, whether the eavesdropper is a corporate spy, a police officer without probable cause, or just a plain snoop.

Unauthorized acquisition of information is not just a theoretical problem, or one confined to harmless teenage hackers. Communications companies have been faced with Government demands, unaccompanied by a warrant for access to the message contained in electronic mail systems. And the unwanted private intruder, whether a competitor or a malicious teenager, can do a great deal of damage before being, or without being, discovered.

From the beginning of our history, first-class mail has had the reputation for preserving privacy, while at the same time promoting commerce.

Both of these important interests must continue into our new information age. We cannot let any American feel less confident in putting information into an electronic mail network than he or she would in putting it into an envelope and dropping it off at the Post Office.

Thomas Jefferson once observed that—

> Laws and institutions must go hand-in-hand with the progress of the human mind. . . . As new discoveries are made . . . institutions must advance also, and keep pace with the times.

American businesses have produced a marvelous array of possibilities for better and faster communication worldwide. Now is the time for our legal institutions to also advance and keep pace with the times.

The protection of communications privacy can go hand-in-hand with progress. Our job is to make both a reality. Now is the time to act.

I ask unanimous consent that a summary of the bill and its text be printed in the RECORD at this point.

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

S. 1667

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Electronic Communications Privacy Act of 1985".

TITLE I—TITLE 18 AND RELATED MATTERS

SEC. 101. FEDERAL PENALTIES FOR THE INTERCEPTION OF ELECTRONIC COMMUNICATIONS.

(a) DEFINITIONS.—(1) Section 2510 of title 18, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) 'electronic communication' means any transmission of signs, signals, writing, images, sounds, data, or intelligence of any nature in whole or in part by a wire, radio, electromagnetic, or photoelectric system that affects interstate or foreign commerce;".

(2) Section 2510(4) of title 18, United States Code, is amended by striking out "aural acquisition" and inserting "interception" in lieu thereof.

(3) Section 2510(8) of title 18, United States Code, is amended by striking out "existence,".

(b) EXCEPTIONS WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—Section 2511(2) of title 18, United States Code, is amended by adding at the end the following:

"(g) It shall not be unlawful under this chapter for any person—

"(i) to intercept an electronic communication made through an electronic communication system designed so that such electronic communication is readily accessible to the public.

"(ii) to intercept any electronic communication which is transmitted—

"(I) by any station for the use of the general public, which relates to ships, aircraft, vehicles, or persons in distress;

"(II) by a walkie talkie, or a police or fire communication system readily accessible to the public; or

"(III) by an amateur radio station operator or by a citizens band radio operator; or

"(iii) to engage in any conduct which—

"(I) is prohibited by section 633 of the Communication Act of 1934; or

"(II) is excepted from the application of section 705(a) of the Communication Act of 1934 by section 705(b) of that Act.

"(h) It shall not be unlawful under this chapter—

"(i) to use a pen register (as that term is defined for the purposes of chapter 206 (relating to pen registers) of this title); or

"(ii) for a provider of electronic communication service to record the placement of a telephone call in order to protect such provider, or a user of that service, from abuse of service.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Chapter 119 of title 18, United States Code, is amended by striking out "wire" each place it appears (including in any section heading) and inserting "electronic" in lieu thereof.

(2) The heading of chapter 119 of title 18, United States Code, is amended by inserting "AND OTHER ELECTRONIC COMMUNICATION" after "WIRE".

(3) The item relating to chapter 119 in the table of chapters at the beginning of part I of title 18 of the United States Code is amended by inserting "and other electronic communication" after "wire".

(4) Section 2511(2)(a)(i) of title 18, United States Code, is amended—

(A) by striking out "communication common carrier" and inserting "a provider of electronic communication service" in lieu thereof;

(B) by striking out "of the carrier" and inserting "of the provider of that service" in lieu thereof; and

(C) by striking out ": *Provided*, That said communication common carriers" and inserting ", except that a provider of electronic communication service" in lieu thereof.

(5) Section 2511(2)(a)(ii) of title 18, United States Code, is amended—

(A) by striking out "communication common carriers" and inserting "providers of electronic communication services" in lieu thereof; and

(B) by striking out "communications common carrier" each place it appears and inserting "provider of electronic communication services" in lieu thereof.

(6) Section 2512(2)(a) of title 18, United States Code, is amended—

(A) by striking out "communications common carrier" the first place it appears and inserting "a provider of an electronic communication service" in lieu thereof; and

(B) by striking out "a communications common carrier" the second place it appears and inserting "such a provider" in lieu thereof; and

(C) by striking out "communications common carrier's business" and inserting "business of providing that electronic communication service" in lieu thereof.

SEC. 102. ADDITIONAL PROHIBITIONS RELATING TO ELECTRONIC COMMUNICATIONS AND REQUIREMENTS FOR CERTAIN DISCLOSURES.

(a) ADDITIONAL PROHIBITIONS.—Section 2511 of title 18, United States Code, is amended by adding at the end the following:

"(3) Unless authorized by the person or entity providing an electronic communication service or by a user of that service, and except as otherwise authorized in section 2516 of this title, whoever willfully accesses an electronic communication system through which such service is provided or willfully exceeds an authorization to access that electronic communication service and obtains or alters that electronic communication while it is stored in such system shall—

"(A) if the offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain—

"(i) be fined not more than $250,000 or imprisoned not more than one year, or both, in the case of a first offense under this subparagraph; and

"(ii) be fined not more than $250,000 or imprisoned not more than two years, or both, for any subsequent offense under this subparagraph; and

"(B) be fined not more than $5,000 or imprisoned not more than six months, or both, in any other case.

"(4) A person or entity providing an electronic communication service shall not knowingly divulge the contents of any communication (other than one to such person or entity) carried on that service to any person or entity other than the addressee of such communication or that addressee's agent, except—

"(A) as otherwise authorized in section 2516 of this title;

"(B) with the consent of the user originating such communication;

"(C) to a person employed to forward such communication to its destination; or

"(D) for a business activity related to a service provided by the provider of the electronic communication service to a user of the electronic communication service.".

(b) REQUIREMENTS FOR CERTAIN DISCLOSURES.—(1) Section 2516 of title 18, United States Code, is amended by adding at the end the following:

"(3) a person authorized to make application under this section for an interception may also make an application for a disclosure which would otherwise be in violation of section 2511(3) or (4). Such application shall meet the requirements for an application for an interception under this section. The court shall not grant such disclosure unless the applicant demonstrates that the particular communications to be disclosed concern a particular offense enumerated in section 2516 of this title. If an order of disclosure is granted, disclosure of information under that order shall not be subject to the prohibitions contained in such section 2511(3) or (4). Such disclosure shall be treated for the purposes of this chapter as interceptions under this chapter, and shall be subject to the same requirements and procedures as apply under this chapter to interceptions under this chapter.

"(4) A provider of electronic communication service may not, upon the request of a governmental authority, disclose to that authority a record kept by that provider in the course of providing that communication service and relating to a particular communication made through that service, unless the governmental authority obtains a court order for such disclosure based on a finding that—

"(A) the governmental entity reasonably suspects the person or entity by whom or to whom such communication was made to have engaged or to be about to engage in criminal conduct; and

"(B) the record may contain information relevant to that conduct.

SEC. 103. RECOVERY OF CIVIL DAMAGES.

Section 2520 of title 18, United States Code, is amended to read as follows:

"§ 2520. Recovery of civil damages authorized

"(a) Any person whose electronic communication or oral communication is intercepted, accessed, disclosed, or used in violation of this chapter may in a civil action recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) In an action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c); and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) The court may assess as damages in an action under this section either—

"(1) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

"(2) statutory damages in an amount not less than $500 or more than $10,000.

"(d) A good faith reliance on a court warrant or order is a complete defense against a civil action under this section.

"(e) A civil action under this section may not be commenced later than two years after whichever is later of—

"(1) the date of the occurrence of the violation; or

"(2) the date upon which the claimant first has had a reasonable opportunity to discover the violation.".

SEC. 104. CERTAIN APPROVALS BY ACTING ASSISTANT ATTORNEY GENERAL.

Section 2516(1) of title 18 of the United States Code is amended by inserting "(or acting Assistant Attorney General)" after "Assistant Attorney General".

SEC. 105. ADDITION OF OFFENSES TO CRIMES FOR WHICH INTERCEPTION IS AUTHORIZED.

Section 2516(1)(c) of title 18 of the United States Code is amended—

(1) by inserting "section 751 (relating to escape)," after "wagering information)";

(2) by striking out "2314" and inserting "2312, 2313, 2314," in lieu thereof;

(3) by inserting "the second section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 32 (relating to destruction of aircraft or aircraft facilities)," after "stolen property),"; and

(4) by inserting "section 1952A (relating to use of interstate commerce facilities in the commission of murder for hire), section 1952B (relating to violent crimes in aid of racketeering activity)," after "1952 (interstate and foreign travel or transportation in aid of racketeering enterprises),".

SEC. 106. ADDITIONAL REQUIREMENTS FOR APPLICATIONS, ORDERS, AND IMPLEMENTATION OF ORDERS.

(a) INVESTIGATION OBJECTIVES.—Section 2518(1)(b) of title 18 of the United States Code is amended by inserting immediately before the semicolon at the end the following: ", and (v) the specific investigative objectives and the specific targets, if known, of the interception to which the application pertains".

(b) ALTERNATE INVESTIGATIVE TECHNIQUES.—Section 2518(1)(c) of title 18 of the United States Code is amended by inserting "(including the use of consensual monitoring, pen registers, tracking devices, contempt proceedings, perjury prosecutions, use of accomplice testimony, grand jury sub-

poena of documents, search warrants, interviewing witnesses, and obtaining documents through other legal means)" after "procedures".

(c) PLACE OF AUTHORIZED INTERCEPTION.—Section 2518(3) of title 18 of the United States Code is amended by inserting "(and outside that jurisdiction but within the United States in the case of a mobile interception device installed within such jurisdiction)" after "within the territorial jurisdiction of the court in which the judge is sitting".

(d) REIMBURSEMENT FOR ASSISTANCE; PHYSICAL ENTRY.—Section 2518(4) of title 18 of the United States Code is amended—

(1) by striking out "at the prevailing rates" and inserting in lieu thereof "for reasonable expenses incurred in providing such facilities or assistance"; and

(2) by adding at the end "An order authorizing the interception of an electronic communication under this chapter may, upon a showing by the applicant that there are no other less intrusive means reasonably available of effecting the interception, authorize physical entry by law enforcement officers to install an electronic, mechanical, or other device. No such order may require the participation of any individuals operating or employed by an electronic communications system in such physical entry.".

(e) PERIODIC REPORTS.—Subsection (6) of section 2518 of title 18 of the United States Code is amended to read as follows:

"(6) An order authorizing interception pursuant to this chapter shall require that reports be made not less often than every ten days to the judge who issued such order, showing what progress has been made toward achievement of the authorized objective, the need, if any for continued interception, and whether any evidence has been discovered through such interception of offenses other than those with respect to which such order was issued. The judge may suspend or terminate interception if any such report is deficient or evinces serious procedural irregularities. The judge shall terminate interception if the legal basis of continued interception no longer exists.".

(f) TIME LIMIT FOR THE MAKING AVAILABLE TO JUDGE OF RECORDINGS.—Section 2518(8)(a) of title 18 of the United States Code is amended by striking out "Immediately upon" and inserting "Not later than 48 hours after" in lieu thereof.

SEC. 107. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

TITLE II—PEN REGISTERS AND TRACKING DEVICES

SEC. 201. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 205 the following new chapter:

"CHAPTER 206—PEN REGISTERS AND TRACKING DEVICES

"Sec.

"§ 3121. General prohibition on pen register and tracking device use; exception

"(a) IN GENERAL.—Except as provided in this section or section 3124 of this title, no person may install or use a pen register or a tracking device without first obtaining a court order under section 3123 of this title or under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

"(b) EXCEPTION.—The prohibition of subsection (a) does not apply with respect to the use of a pen register by a provider of electronic communication services relating to the operation, maintenance, and testing of an electronic communication service.

"(c) PENALTY.—Whoever knowingly violates subsection (a) shall be fined not more than $100,000 or imprisoned not more than one year, or both.

"§ 3122. Application for an order for a pen register or tracking device

"(a) LAW ENFORCEMENT OFFICERS MAY MAKE APPLICATION.—(1) A Federal law enforcement officer having responsibility for an ongoing criminal investigation may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register or a tracking device under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction.

"(2) A State law enforcement officer having responsibility for an ongoing criminal investigation may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register or a tracking device under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction of such State.

"(b) CONTENTS OF APPLICATION.—An application under subsection (a) of this section shall include—

"(1) the identity of the law enforcement officer making the application and of any other officer or employee authorizing or directing such application, and the identity of the agency in which each such law enforcement officer and other officer or employee is employed; and

"(2) a statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that an order should be issued.

"§ 3123. Issuance of an order for a pen register or tracking device.

"(a) IN GENERAL.—Upon an application made under section 3122 of this title, the court may enter an ex parte order, as requested or as found warranted by the court, authorizing or approving the installation and use of a pen register or a tracking device within the jurisdiction of the court (and outside that jurisdiction but within the United States in the case of a mobile tracking device installed within such jurisdiction) if the court finds on the basis of the information submitted by the applicant that—

"(1) in the case of a pen register, there is reasonable cause to believe; and

"(2) in the case of a tracking device, there is probable cause to believe;

that the information likely to be obtained by such installation and use is relevant to a legitimate criminal investigation.

"(b) CONTENTS OF ORDER.—An order issued under this section—

"(1) shall specify—

"(A) the identity, if known, of the person to whom is leased, in whose name is listed, or who commonly uses the telephone line to which the pen register is to be attached or of the person to be traced by means of the tracking device;

"(B) the identity, if known, of the person who is the subject of the criminal investigation;

"(C) the number of the telephone line to which the pen register is to be attached, or the identity of the object to which the tracking device is to be attached;

"(D) a statement of the nature of the criminal investigation to which the information likely to be obtained by the pen register or tracking device relates;

"(E) the identity of the law enforcement officer authorized to install and use the pen register or tracking device; and

"(F) the period of time during which the use of the pen register or tracking device is authorized; and

"(2) shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation and use of the pen register or tracking device under section 3125 of this title.

"(c) TIME PERIOD AND EXTENSIONS.—(1) An order issued under this section may authorize or approve the installation and use of a pen register or tracking device for the period necessary to achieve the objective of the authorization, or for 30 days, whichever is less.

"(2) Extensions of such an order may be granted, but only upon an application for an order under section 3122 of this title and upon the judicial finding required by subsection (a) of this section. The extension shall include a full and complete statement of any changes in the information required by subsection (b) of this section to be set forth in the original order. The period of extension may be for the period necessary to achieve the objective for which it was granted, or for 30 days, whichever is less.

"(d) NONDISCLOSURE OF EXISTENCE OF PEN REGISTER OR TRACKING DEVICE.—An order authorizing or approving the installation and use of a pen register or tracking device shall direct that the person owning or leasing the line to which the pen register is attached, or who has been ordered by the court to provide assistance to the applicant, shall not disclose the existence of the pen register or tracking device until at least 60 days after its removal. Upon the request of the applicant, the court may order such person to postpone any disclosure of the existence of the pen register or tracking device for additional periods of not more than 60 days each, if the court finds, upon the showing of the applicant, that there is reason for the belief that disclosing the existence of the pen register or tracking device may—

"(1) endanger the life or physical safety of any person;

"(2) result in flight from prosecution;

"(3) result in destruction of, or tampering with, evidence;

"(4) result in intimidation of potential witnesses; or

"(5) otherwise seriously jeopardize an investigation or governmental proceeding.

"§ 3124. Emergency use of pen register or tracking device without prior authorization

"(a) IN GENERAL.—A law enforcement officer specially designated by the Attorney General may install and use a pen register or a tracking device without a court order, if a judge of competent jurisdiction is notified at the time the decision to make such installation and use is made, and if—

"(1) such law enforcement officer reasonably determines that—

"(A) an emergency situation exists that involves—

"(i) immediate danger of death or serious bodily injury to any person;

"(ii) conspiratorial activities threatening the national security interest; or

"(iii) conspiratorial activities characteristic of organized crime; that requires the installation and use of a pen register or a tracking device before an order authorizing the installation and use of the pen register or tracking device can, with due diligence, be obtained; and

"(B) there are grounds upon which an order could be entered under section 3123 of this title to authorize the installation and use of such pen register or tracking device; and

"(2) an application for an order approving the installation and use of the pen register or tracking device is made under section 3122 of this title as soon as practicable but not more than 48 hours after the pen register or tracking device is installed.

"(b) TERMINATION.—In the absence of an order approving the pen register or tracking device, the use of the pen register or tracking device shall terminate immediately when the information sought is obtained, or when the application for the order is denied, whichever is earlier.

"§3125. Assistance in installation and use of a pen register or tracking device

"(a) IN GENERAL.—Except as provided in subsection (b), upon the request of a law enforcement officer authorized by this chapter to install and use a pen register or tracking device, a communications common carrier, landlord, custodian, or other person shall furnish such law enforcement officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation and use of the pen register or tracking device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if—

"(1) such assistance is directed by a court order as provided in section 3123(b)(2) of this title; or

"(2) the emergency installation and use of the pen register or tracking device is authorized under section 3124 of this title.

"(b) EXCEPTION.—A law enforcement officer may not request the participation under this section of any individuals operating or employed by an electronic communications system in such physical entry.

"(c) COMPENSATION.—A communications common carrier, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be compensated for such assistance for reasonable expenses incurred in providing such facilities or assistance.

"§ 3126. Notice to affected persons

"(a) SERVICE OF INVENTORY.—Except as provided in subsection (b), within a reasonable time but not later than ninety days after the filing of an application for an order of approval required under section 3124 of this title, if such application is denied, or the termination of an order, as extended, under section 3123 of this title, the issuing or denying judge shall cause to be served on the persons named in the order or application, and such other parties to activity monitored by means of a pen register or tracking device as the judge may determine in the judge's discretion that it is in the interest of justice, an inventory which shall include notice of—

"(1) the fact of the entry of the order or the application;

"(2) the date of such entry and the period of authorized, approved, or disapproved activity under such order, or the denial of the application; and

"(3) the fact that during the period activity took place under such order.

"(b) EXCEPTION.—On an ex parte showing of good cause to a judge of competent jurisdiction—

"(1) the serving of the inventory required by this subsection may be postponed; and

"(2) the serving of such inventory may be dispensed with if notice under this section would compromise an ongoing criminal investigation or result in the disclosure of classified information harmful to the national security.

"(c) MOTION FOR INSPECTION.—The judge, upon the filing of a motion, may in the judge's discretion make available to such person or such person's counsel for inspection such portions of the results of activity under such order or referred to in such application, and such orders and applications as the judge determines to be in the interest of justice.

"§ 3127. Reports concerning pen registers and tracking devices

"(a) REPORT BY ISSUING OR DENYING JUDGE.—Within thirty days after the expiration of an order (or each extension thereof) entered under section 3123 of this title, or the denial of an order approving the use of a pen register or a tracking device, the issuing or denying judge shall report to the Administrative Office of the United States Courts—

"(1) the fact that an order or extension applied for;

"(2) the kind of order or extension applied for;

"(3) the fact that the order or extension was granted as applied for, was modified, or was denied;

"(4) the period of operation of the pen register or tracking device authorized by the order, and the number and duration of any extensions of the order;

"(5) the offense specified in the order or application, or extension of an order;

"(6) the identity of the applying law enforcement officer and agency making the application and the person authorizing the application; and

"(7) the nature of the facilities from which or the place where activity under the order was to be carried out.

"(b) REPORT BY ATTORNEY GENERAL.—In January of each year the Attorney General, an Assistant Attorney General specially designated by the Attorney General, or the principal prosecuting attorney of a State, or the principal prosecuting attorney for any political subdivision of a State, shall report to the Administrative Officer of the United States Courts—

"(1) the information required by paragraphs (1) through (7) of subsection (a) of this section with respect to each application for an order or extension made during the preceding calendar year;

"(2) a general description of the pen registers and tracking devices conducted under such order or extension, including—

"(A) the approximate nature and frequency of incriminating evidence obtained;

"(B) the approximate number of persons whose activities were monitored; and

"(C) the approximate nature, amount, and cost of the manpower and other resources used in carrying out orders under this chapter;

"(3) the number of arrests resulting from activity conducted under such order or extension, and the offenses for which arrests were made;

"(4) the number of trials resulting from such activity;

"(5) the number of motions to suppress made with respect to such activity, and the number granted or denied;

"(6) the number of convictions resulting from such activity and the offenses for which the convictions were obtained and a general assessment of the importance of such activity; and

"(7) the information required by paragraphs (2) through (6) of this subsection with respect to orders or extensions obtained in a preceding calendar year.

"(c) REPORT BY DIRECTOR OF ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—In April of each year the Director of the Administrative Office of the United States Courts shall transmit to the Congress a full and complete report concerning the number of applications for orders under this chapter and the number of orders and extensions granted or denied under this chapter during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the Administrative Office by subsections (a) and (b) of this section. The Director of the Administrative Office of the United States Courts is authorized to issue binding regulations dealing with the content and form of the reports required to be filed by subsections (a) and (b) of this section.

"§ 3128. Recovery of civil damages authorized

"(a) Any person who is harmed by a violation of this chapter may in a civil action recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) In an action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages; and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) A good faith reliance on a court warrant or order is a complete defense against a civil action under this section.

"(d) A civil action under this section may not be commenced later than two years after whichever is later of—

"(1) the date of the occurrence of the violation; or

"(2) the date upon which the claimant first has had a reasonable opportunity to discover the violation.".

"§ 3129. Definitions for chapter

"As used in this chapter—

"(1) the term 'communications common carrier' has the meaning set forth for the term 'common carrier' in section 3(h) of the Communications Act of 1934 (47 U.S.C. 153(h));

"(2) the term 'electronic communication' has the meaning set forth for such term in section 2510 of this title;

"(3) the term 'court of competent jurisdiction' means—

"(A) a district court of the United States or a United States Court of Appeals; or

"(B) a court of general criminal jurisdiction of a State authorized by a statute of that State to enter orders authorizing the use of pen registers and tracking devices in accordance with this chapter;

"(4) the term 'legitimate criminal investigation' means a lawful investigation or official proceeding inquiring into a violation of any Federal criminal law;

"(5) the term 'pen register' means a device which records and or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider of electronic communication services for billing, or recording as an incident to billing, for communications services provided by such provider;

"(6) the term 'tracking device' means an electronic or mechanical device which permits the tracking of the movement of a person or object in circumstances in which there exists a reasonable expectation of privacy with respect to such tracking; and

"(7) the term 'State' means a State, the District of Columbia, Puerto Rico, and any other possession or territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of chapters for part II of title 18 of the United States Code is amended by inserting after the item relating to chapter 205 the following new item:

206. Pen Registers and Tracking Devices 3121

SEC. 202. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

SUMMARY OF THE BILL

There are seven major features of the bill:

1. The bill extends the protection against interception from voice transmissions to virtually all electronic communications. Thus, legal protection will be extended to the digitized portion of telephone calls, the transmission of data over telephone lines, the transmission of video images by microwave, or any other conceivable mix of medium and message. The bill also provides several clear exceptions to the bar on interception so as to leave unaffected electronic communication made through an electronic communication system designed so that such communication is readily available to the public (e.g., walkie talkies, police or fire communications systems, ship-to-shore radio, ham radio operators or CB operators are not affected by the bill).

2. The bill eliminates the distinction between common carriers and private carriers, because they each perform so many of the same functions. The size of many of the private carriers makes them appropriate for inclusion within the protection of federal laws.

3. The bill creates criminal and civil penalties for persons who—without judicial authorization—obtain access to an electronic communication system and obtain or alter information. This provision parallels that dealing with interception (see #1, above). It would be inconsistent to prohibit the interception of digitized information while in transit and leave unprotected the accessing of such information while it is being stored. This part of the bill assures consistency in this regard.

4. The bill protects against the unauthorized disclosure of third party records being held by an electronic communication system. Without such protection the carriers of such messages would be free to disclose records of private communications to the government without a court order. Thus, the bill provides that a governmental entity must obtain a court order under appropriate standards before it is permitted to obtain access to these records. This requirement, while protecting the government's legitimate law enforcement needs, will serve to minimize intrusiveness for both system users and service providers. This provision also assures that users of a system will have the right to contest allegedly unlawful government actions. The approach taken in the bill is similar to the Congressional reaction to the Supreme Court decision in *United States* v. *Miller*, 425 U.S. 435 (1976), when we enacted the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq.

5. The interests of law enforcement are enhanced by updating the provisions of Federal law relating to wiretapping and bugging. Under current law an Assistant Attorney General must personally approve each interception application. The bill permits an Acting Assistant Attorney General to approve such applications. The bill also expands the list of crimes for which a tap or bug order may be obtained to include the crimes of escape, chop shop operation, murder for hire, and violent crimes in aid of racketeering.

6. The basic provisions of the Federal wiretapping law are updated to: (1) require that the application for a court-ordered tap or bug disclose to the court the investigative objective to be achieved; (2) the application must indicate the viability of alternative investigative techniques; (3) authorizes the placement of certain mobile interception devices; (4) authorizes physical entry into the premises to install the bug or tap conistent with *Dalia* v. *United States*, 441 U.S. 238 (1979); and (5) rationalizes the government's reporting obligations after a tap or bug has been obtained.

7. The bill regulates the government use of pen registers and tracking devices. Pen registers are devices used for recording which phone numbers have been dialed from a particular phone. Tracking devices are devices which permit the tracking of the movement of a person or object in circumstances where there exists reasonable expectation of privacy. Tracking devices, therefore, include "beepers" and other nonphone surveillance devices.

The bill requires the government to obtain a court order based upon "reasonable cause" before it can use a "pen register." This standard resembles current administrative practice. *Compare United States* v. *New York Telephone Co.*, 434 U.S. 159 (1977) (a title III order is not required for pen registers); *Smith* v. *Maryland*, 442 U.S. 735 (1979) (pen registers not regulated by the Fourth Amendment). The bill requires that the government show probable cause to obtain a court order for a tracking device. This showing is consistent with the current law. *United States* v. *Karo*, 104 S. Ct. 3296 (1984).

Mr. MATHIAS. Mr. President, I am pleased to join today with the distinguished junior Senator from Vermont [Mr. LEAHY] to introduce the Electronic Communications Privacy Act of 1985. With the drafting of this legislation, we take an important step in the process of bringing our laws up to date with modern technology. This bill addresses itself to forms of electronic communication that are new and unusual to many Americans. But the goal of the legislation is a familiar and enduring one: To protect the privacy of Americans against unwanted and unwarranted intrusion.

The stimulus for this legislation was a hearing held in the Subcommittee on Patents, Copyrights and Trademarks last year, on the topic of communications privacy. But its genesis really goes back much further in our history. More than half a century ago, Justice Louis Brandeis sounded an eloquent warning about the challenge to privacy posed by technological advances. In his famous dissent in the wiretapping case of Olmstead versus United States, Brandeis emphasized that if the right to privacy is to be meaningful, it must be strong enough to meet this challenge. As he put it:

> The progress of science in furnishing the government with means of espionage is not likely to stop with wiretapping. Ways may someday be developed by which the government, without removing papers from secret drawers, can reproduce them in court, and by which it will be enabled to expose to a jury the most intimate occurrences of the home.

That prospect must have appeared fanciful to most of Brandeis' contemporaries. But we know better. Brandeis' "someday" has arrived, and the law must respond.

Technological wizardry offers a variety of new communications media: electronic mail, the cellular telephone, local area networks, computer-to-computer data transmissions, and many more. Individuals and businesses are taking advantage of these new ways to share information of every kind and description.

Some of the messages that these new media carry are highly sensitive. A translation of the digital bits that race across our country by wire, microwave, fiber optics and other paths could reveal proprietary corporate data, or personal medical or financial information. The users of these networks—and that means more and more of us—expect and deserve legal protection against unwarranted interceptions of this data stream, whether by overzealous law enforcement officers or private snoops.

The laws on the books today may not provide that protection. The major statutory bulwark against one form of data interception—wiretapping—forbids only the unauthorized "aural acquisition" of wire communications. This definition does not fully encompass the complex web of transmission media that have become the nervous system of our economy and our society. Nor does it explicitly protect the growing volume of messages that cannot be acquired "aurally" because, even though they may be in-

tended as confidential, they never take the form of the spoken word. Clearly, Brandeis' warning must be heeded; the law must be brought up to date with the progress of science.

The Electronic Communications Privacy Act responds to that challenge in several ways. It plugs the loopholes in the 1968 wiretap statute by forbidding the unauthorized interception of private electronic communications of any description. It provides legal protection for messages in electronic communication systems, not only while they are in the stream of transmission, but even after they have come to rest, by forbidding—with certain exceptions—unauthorized access to and alteration of such messages. It clarifies the ground rules for disclosure of information about an individual's use of an electronic communications system—such as electronic mail—by requiring a court order before permitting the Government to obtain that information. The bill also seeks to codify the standards for law enforcement use of certain surveillance devices, including pen registers—which record the numbers dialed from a particular telephone—and tracking devices. Finally, the Electronic Communications Privacy Act makes other needed improvements in existing wiretap legislation to enhance judicial oversight of this essential law enforcement tool.

This is an ambitious and comprehensive piece of legislation that calls for careful examination. It is clear from the drafting process that has taken place thus far that this legislative foray into uncharted territory requires us to confront difficult legal and technical issues. The distinctions between communications media that are relatively accessible to the general public, and those as to which an expectation of privacy is justified and deserves legal recognition, must be drawn with as much precision as possible, and yet with enough flexibility to anticipate further technological developments. The relative obligations of individuals, communications service providers, law enforcement agencies, and the courts in the legal and technical protection of privacy must be carefully weighed. The need for, and the desirability of, the provisions on pen registers and tracking devices, must be critically examined. As we examine these and other aspects of the legislation, I look forward to working closely with the Justice Department, with the communications and computer experts in the private sector who have already contributed so much to the drafting of this legislation, and with my colleagues, to craft a statute that is comprehensive, clear, and appropriately responsive to the concerns of business and law enforcement.

In the months ahead, the Subcommittee on Patents, Copyrights and Trademarks, which has jurisdiction in the privacy sphere, will be examining this bill with care. Our efforts will be advanced immeasurably by the interest and initiative demonstrated by the ranking minority member of our subcommittee, Senator LEAHY, in introducing this bill today. I am also pleased to note that identical legislation is being introduced today in the House of Representatives by the chairman and ranking member of our counterpart subcommittee, Representatives ROBERT KASTENMEIER and CARLOS MOORHEAD.

I am confident that, through our cooperative efforts, we will be able to refine and improve this legislation, and thereby meet this new challenge to what Justice Brandeis referred to as "the most comprehensive of rights and the right most valued by civilized men," the right to privacy.

By Mr. CRANSTON (for himself and Mr. WILSON):

S. 1668. A bill imposing certain limitations and restrictions on leasing lands on the Outer Continental Shelf off the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

CALIFORNIA OUTER CONTINENTAL SHELF PROTECTION AND DEVELOPMENT ACT

● Mr. CRANSTON. Mr. President, today along with my distinguished Republican colleague from California [PETE WILSON] I am introducing legislation that we believe will bring to an end in a sensible and balanced way the long-ranging debate over the Outer Continental Shelf off the coast of California. Similar legislation is also being introduced in the House, by a bipartisan group of 29 original cosponsors.

When the Reagan administration came to town, it claimed a mandate from what was called the Sagebrush Rebellion, the desire of sovereign States, especially Western States, to protect their rights free of the threat to those rights by bureaucracies of the central government, especially the Department of the Interior.

Unfortunately, the administration seems to have forgotten that mandate.

The administration seems perfectly willing to try to push around the California congressional delegation, using whatever leverage it can now muster.

That effort comes after the Secretary of the Interior has walked away from an agreement he negotiated with a bipartisan group of representatives of the California delegation in what he claimed and we understood to be good faith.

Those negotiations were a serious attempt to try to end the annual warfare over Federal OCS leasing that has plagued concerned citizens and the State, coastal county, and local governments of California since this administration took office and Secretary Watt attempted to lease the entire California coastline in a fire sale to the major oil companies.

A negotiated solution makes a great deal of sense, and is a course I have always tried to pursue since I became interested in this issue in 1969, 3 weeks after taking my Senate seat, when the very severe Santa Barbara oil blowout occurred, bringing the issue forcefully to my attention.

I have discussed California offshore leasing with eight different Secretaries of the Interior, seven of them Republicans. Only during the present administration have I become convinced that a legislative solution is needed to insure balanced protection to special portions of the California coastline.

As my colleagues know, for 4 consecutive years the full Congress has approved 1-year moratoriums, which included portions of the California coastline. In the past two Congresses I have introduced legislation, referred to the Committee on Energy and Natural Resources, to settle this issue. In the present Congress, that bill is S. 734. I am now introducing this bill which represents, with only very minor adjustments contemplated by the agreement itself, the preliminary agreement reached with Interior Secretary Don Hodel.

When the conference managers on the Interior appropriations bill agreed upon the moratorium language last year, they added language to the report which conditioned future moratoriums on failure of the negotiation process with the Department of the Interior to ensure adequate protection for all resource values and Department of Defense needs in specific areas, and urged the Department to pursue negotiations with the appropriate California congressional, State, and local officials.

Under such pressure, the Secretary did engage in negotiations with the interested members of the delegation—a careful, tough process which took place over a period of 6 weeks and through numerous sessions involving about 20 hours of close negotiations. Both California Senators participated in the process, and supported its outcome, an agreement in principle, struck and announced at a press conference just before the August recess in which the Secretary fully participated.

It was clear to all who participated that some minor further work needed to be done on a "national security clause" to the agreement, to craft an exception to cover the contingency of a new national energy emergency; that adjustment of the location of five tracts off Oceanside to locations nearer Camp Pendleton was desired—if the Department of Defense would concur, as I am informed that they now do—and that adjustment of the six tracts off Newport Beach (Orange

County) to another location, if one could be agreed upon, remained possible. Otherwise, the agreement was firmly struck as to the number of tracts from which legislative protection was to be removed (150) and the location of those tracts.

At that press conference, I said:

Today's agreement in principle represents an important milestone in the efforts to devise a sensible, environmentally-sensitive, OCS leasing policy for the California coastline.

The future of this tentative agreement relies on the continued good faith of all those who have worked on it, particularly the Secretary of the Interior.

As in all such cases, there is an element of risk.

But the tenor of the negotiations to date have convinced me that that risk is worth taking.

Unfortunately, the risk which I understood was present has now materialized.

There has been considerable misinformation about both the negotiating process that was undertaken and the substance of the agreement that was reached. I believe the following points should be kept in mind:

First, the negotiations were about what tracts to remove from areas previously protected repeatedly by Congress, and often, in previous administrations, by Federal Executive Order or Secretarial deletion, from OCS leasing. Huge portions of the OCS off California are not now and never were under this moratorium. These include most of the Santa Maria basin from Morro Bay southward, where huge new deposits of oil have been found; all of the area off of Ventura County (except for a 6-mile buffer zone around each of the Channel Islands); all of the area off Long Beach, except for a 3-mile zone along the State boundary; and all of the area off both Orange and San Diego Counties, starting about 20 miles from shore. These areas, especially those in the Santa Maria basin, already make available for leasing about 80 percent of the estimated resources off the California coast.

Second, most of the 150 tracts selected to be added to the areas available for leasing came from a list of 200 which the Secretary submitted as those of high oil company interest. Literally thousands of other tracts were removed from consideration because although they were of high environmental concern, they were of no particular interest to oil companies, because of location, water depth, lack of economically recoverable resources, or other reasons. The use of percentages, resource estimates, or other arguments premised on the oft-repeated notion that the Secretary acquired "only 150 tracts out of 6,460" is pure propaganda, and those using this argument know it. The Secretary got about three-fourths of what he bargained for.

Third, arguments have been made that this agreement will deny jobs to those in the oil industry currently unemployed, or to unemployed workers from minority groups, who want to be so employed.

The facts are that relatively few jobs are at stake in those areas that might be leased if no moratorium were at issue; that unemployment in the oil industry in California is a result of shut-in production wells onshore resulting from the glutted market which will get even worse as the Saudi Government carries out its plan to break with the rest of OPEC and increase production; that drilling platforms for those California tracts which have previously been leased are being built in Korea and Japan, under recently awarded contracts; that at least one of the major oil companies presently operating rigs off the California coast is reportedly bringing in foreign undocumented nationals from Spain and the Netherlands to work the rigs illegally; and that the oil industry does not have a good record on minority hiring. In addition, the Reagan administration, over my objection, rescinded the affirmative action requirements for minority-owned businesses contracting with the Government for work on the OCS. Moreover, both the fishing and tourism industries in California, which provide 20 times as many jobs and hire 2 to 4 times the percentage of minority workers, are likely, as they will testify, to be damaged by intensified OCS leasing activities in the restricted areas and the accompanying shoreside industrialization that will inevitable result.

Fourth, two things should be known about the "new resource estimates" upon which the Secretary purported to base his abandonment of the original agreement. They are not new and were known by the Secretary before the agreement was reached; and all estimates of undiscovered resources are as admittedly uncertain as the economic, geologic and "probabilistic" data on which they are based.

Fifth, the carefully negotiated understanding with the Secretary resulted in the California delegation in the House withdrawing its request for a legislative extension of the existing moratorium on these select areas of the California coast. After the legislative request had been withdrawn in reliance on the agreement, and only a few weeks after reaching and announcing that agreement, the Secretary announced his abandonment of the agreement and unwillingness to specify changes that would make the agreement acceptable. Such behavior has serious implications for the whole relationship between Congress and the executive branch, which depends on faith in mutual integrity. Today's legislation has become necessary because there is no evidence that Secretary Hodel will adhere to the agreement we negotiated with him, or any subsequent agreement which we may reach with him, without the assurance of legislative enforcement.

Finally, this is a California issue, on which the California delegation in the U.S. Senate, representing both political parties, and an overwhelming bipartisan majority of the 45-Member House delegation is in complete accord. The issue is not whether California should contribute to the national energy supply or help lessen dependence on foreign oil. California has not attempted to withhold its entire coastline from OCS leasing; in fact it has recently offered major new offshore areas for development, and it continues to be the fourth leading oil-producing State in the Nation and leads every other State in the Union by far in energy conservation, and production of energy from alternative and renewable resources. Moreover, the bill I'm introducing today will make 150 additional tracts available for leasing consideration.

But, Mr. President, the State has the right to decide how and where it will make its contribution to the national energy supply. Federal offshore activity is required to be consistent with the State's federally approved coastal zone management plan, under Federal law. This legislation will help us carry out that legislative mandate against an administration that is unwilling to carry it out on its own, or abide by its negotiated agreements with the State's congressional delegation.

This bill reflects the agreement struck with the Secretary, modified by the adjustments noted off of Orange County and Oceanside, and protecting the areas reserved from leasing for the balance of the century, subject to reconsideration in the event of a national energy emergency.

The delegation has not abandoned its hope of reaching final accord with the Secretary, and formal negotiating teams, representing each party and all points of view within the delegation, have been structured for that purpose. But given what has befallen the previously negotiated agreement, the delegation believes that we need legislative protection including an extension of the previous moratorium throughout any period covered by the negotiations as well as pursuing a legislative remedy until a final agreement is reached.

Mr. President, while the Secretary would have you believe that national issues are at stake, such as our energy independence, the facts are that Interior has consistently overestimated the importance of OCS leasing. Of the 1562 tracts Interior has offered for

sale off Southern California, only 13—1 percent—have production platforms on them.

Eighty percent of those Interior insisted on putting up for lease were never leased, and only about a third of those leased have had even exploratory drilling. These statistics do not yet include the new leases in the oil-rich Santa Maria basin.

To offer too many tracts for lease drives down the price that the public receives for its lands. GAO has estimated that we have lost $7 billion—$3.1 million per tract on every tract it leased—from the administration's fire sale policies, which have included two recent lease sales, one off the California coast, to which nobody came. If it is important to explore all areas of the coastline for oil, shouldn't we at least start in those areas that have already been leased or made available for lease to oil companies?

I ask that a letter I recently handed to the Secretary of the Interior after he had abandoned our agreement, a letter from the head of the Minerals Management Service to me spelling out the uncertainty of resource estimates, a letter to President Reagan re repeal of affirmative action rules on the OCS, a letter received from the District Council of Carpenters, Brotherhood of Carpenters and Joiners of America, Los Angeles County re hiring of undocumented foreign nationals on OCS rigs, and a letter to then U.S. Trade Representative William Brock re manufacture of offshore drilling rigs in Japan and Korea be included in the RECORD along with a copy of the bill.

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

U.S. SENATE,
Washington, DC, September 10, 1985.

HON. DONALD PAUL HODEL,
Secretary of the Interior, Washington, DC.

DEAR DON, thank you very much for your letter of September 4 soliciting my current thinking about the agreement you previously reached with me and other members of the California Congressional delegation about California offshore areas to be protected from future OCS oil and gas lease sales.

I continue to be very appreciative of the amount of time you've taken to become more familiar with the complex issues involved and to work with the delegation. But the good will you've generated will be lastingly destroyed if that agreement is now jettisoned.

I've been closely involved on the federal level with these issues since I took my Senate seat in 1969. The Santa Barbara oil blowout occurred three weeks later. You are the eighth Secretary of the Interior (seven Republicans) I've worked with on these issues. With the exception of Secretary Watt—who persisted in the view that just about everything should be exploited for energy potential—all eventually came to the understanding reflected by our July 16th agreement. Namely, that certain areas of the California coastline deserve special protection and provide other important values that outweight any need to search for energy in those areas. Our July 16 agreement reflects a joint definition of those areas.

Nothing I've heard since—and I've spent the entire period in California—would require any major modification of the agreement. Two minor adjustments—one already cleared wth you—are suggested by the public response to the July 16 agreement. But these are the kind of fine tuning contemplated by the original agreement, not a basis for opening up the whole agreement for renegotiation. Neither is a precondition for my continued support of the agreement, and pursuit of these adjustments can be productive only with a firm commitment by you to stand by the agreement which we thought had been negotiated in good faith.

While I'm quite willing to hear firsthand your impressions based on your California consultations, both the structure of the meeting and the views expressed in your ten-page letter to Senator McClure make the proposed meeting appear more aimed at public relations than a sincere attempt to finalize this agreement. Without a convincing indication from you that you remain wedded to the outcome of our previous negotiations, going on with this process would seem to be a waste of another precious resource—time.

I am very troubled by conclusions you seem to have drawn from purported new information you received while in California. While you no doubt increased your information, it's my impression that much of what was new to you was neither new nor information. Some of it was disinformation, and some of it was just plain noise. What is troublesome is that you are now repeating it as though it were fact.

It was never realistic to assume that a negotiated compromise would win the support of extremists on either side of this issue—those who would ban energy development everywhere or those who believe that reserving any portion of the public's undersea lands from oil company drills is a "giveaway" to the public, as one press release issued during your Ventura County visit indicated. The hope that your prior negotiations with the delegation engendered was that we might, at last, conclude an agreement to preserve some of the state's precious coastal areas from the annual battle this Administration has waged to lease it to oil companies. The discussion was, after all, limited to those areas which Congress had chosen for special protection four times previously, not the entire coastline of the state, whereas the areas not under moratorium probably contain 80% of the known resources off the California coast.

When this resource estimate was first cited to you during our early discussions, you indicated it was based on old resource estimates. My staff asked for, and received Interior's latest resource estimates on June 20, 1985, more than three weeks before you reached agreement with the California delegation. They are included in a 1985 publication by the Department, based on data collected through July of 1984. The Director of the Minerals Management Service, who transmitted this data to us, staffed you throughout the negotiations. Yet you now argue that you depended on old data, and that you received new resource estimates from the oil companies during your California rounds.

Even more telling than the estimates sent to me, however, is the transmittal letter from the Director of the Minerals Management Service, in which he states, "These estimates are of undiscovered resources and are by necessity highly uncertain." He goes on to explain that the uncertainty is "inherent", and that the resource estimates are based on "probabilistic techniques" based on combining geological knowledge with economic forecasts and technology considerations.

Such numbers, or any new ones that replace them, undoubtedly have their usefulness, but they are not a credible basis for abandoning a carefully negotiated agreement with the California Congressional delegation.

Your second area of recited new concern is for lost employment opportunities, especially for minority workers in California, which you have stated could result from the agreement. I'm very appreciative that you are concerned about high unemployment among Black and Hispanic workers. It is certainly a concern I share. Regrettably, you were not Secretary of the Interior when Secretary Watt abolished, over my objection, the affirmative action rules re minority owned businesses for federal OCS activities. Perhaps you would consider restoring those rules, as one way to alleviate this concern.

But, again, any potential job loss here is highly debatable. You reject potential losses of jobs in the existing tourism or fishing industries, although representatives of those industries have repeatedly testified about the job losses that could result from OCS leasing in certain areas. You mention in passing the complaints that drilling platforms for existing OCS leases are being constructed in Korea and Japan, but don't mention the complaints we have received from the labor union covering the skilled trades involved in existing OCS activities that at least one major oil company operating on the California OCS is bringing in undocumented foreign nationals from Spain and elsewhere to work illegally on their oil rigs; or the findings of the Civil Rights Commission a few years ago that the major oil industry has one of the worst records for hiring minorities. You mention concern for jobs in the oil industry in Ventura County, but don't mention the world oil glut that has caused the shutting-in of many onshore production wells in California, or that the moratorium area does not directly affect Ventura County.

We, as reasonable people, may draw differing conclusions from this data. We did before the negotiations, and we still do. But despite these differences, we negotiated an agreement. As elected Controller of the State of California, I was responsible for all State-owned oil production. It does not surprise me that people in Ventura County, in Long Beach, or near the southern end of the Santa Maria basin, and near the industrialized areas of Eureka (as well as oilmen in distinctly non-coastal Bakersfield) favor oil development. I also support oil development in these areas. But it is no coincidence that the state, in its coastal zone management plans, has chosen not to develop some of its potential resources in other areas that it has chosen to use for recreational beaches, for preservation of natural habitat, or otherwise, and it is no coincidence that Congress wrote the CZMA to require consistency between federal and state activities off a state's coastal zone. These are the areas we have sought to protect in our agreement with you.

Senator Wilson and I are the only Members of Congress who represent all the affected districts covered by this agreement, and we both believe that the negotiated agreement should stand. While no agreement on this subject can ever be crafted that will satisfy everyone, the agreement you reached has the full support of the vast bi-partisan majority of the delegation, and the overwhelminig support of nearly all who represent the affected coastal districts, as our telegram to you indicates.

It is most disappointing that you would use a numbers game you know is misleading to attempt to justify walking away from our agreement. You know as well as we do that of the 6460 tracts in the moratorium area, more than 6000 are not of any interest to the oil companies because they are in water too deep to drill in economically, or otherwise unsuitable. It was you who proposed settlement on a list of 200 high oil company interest tracts to the delegation, at least half of which are included in the final package of 150. Yet your resource estimates and job loss estimates are all premised on the full 6450 tracts, 85 percent of which would never be leased whether or not offered.

In another context, you provide a fascinating statistic. Of the 1562 tracts Interior has offered for lease off Southern California, only 13 (1 percent) have production platforms on them. 80 percent of those Interior insisted on offering were never leased, and only about a third of those leased have had even exploratory drilling. The oil-rich Santa Maria basin has recently been leased, and our agreement adds substantially to the tracts available for leasing there. Our agreement is a reasonable balance of the competing considerations.

Failure to honor it will certainly betray the terms under which it was negotiated, and will put your honor and credibility at stake with the California delegation, if not the entire Congress. That is my present thinking.

Cordially,

ALAN CRANSTON.

DEPARTMENT OF THE INTERIOR,
MINERALS MANAGEMENT SERVICE,
Washington, DC, June 20, 1985.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRANSTON: As a follow up to our June 12, 1985, meeting with Mr. Harold Gross of your staff, I'd like to provide you with a copy of our report, "Estimates of Undiscovered Economically Recoverable Oil and Gas Resources for the Outer Continental Shelf as of July 1984", and to offer further comments concerning the use of resource estimates. These estimates are of undiscovered resources and are by necessity highly uncertain. They incorporate our current knowledge concerning the geology of the area in conjunction with economic forecasts and technology considerations. To reflect this inherent uncertainty, the estimates are developed using probabilistic techniques and presented as a probabilistic distribution or range of estimates.

Table 4 of the report contains our estimates of the hydrocarbon potential of the California planning areas. The conditional estimates are the amounts we estimate exist given that commercial quantities are present in the area. For instance, in Central California if commercial hydrocarbons are present we believe that there's a 95 percent chance that at least 180 million barrels of oil and 290 billion cubic feet of gas will be present, a 5 percent chance that more than 1.01 billion barrels of oil and 1.38 trillion cubic feet of gas will be found, and an average of the amount found will be 560 million barrels of oil and 790 billion cubic feet of gas. As you can see, there is a wide range of possibilities.

In the Central California planning area, however, we estimate that there is a 65 percent chance of commercial hydrocarbons being present or a 35 percent chance that the area will be dry. A statistical tool often used in economic analysis is the risked mean. This represents a statistical average of all possible outcomes including the 35 percent of the time the area is estimated to have no commercial hydrocarbons. However, this is not the amount we expect to find if hydrocarbons are present.

In closing, these estimates are just that—estimates. They incorporate in as objective a manner as possible our current imperfect knowledge about the state of nature. As additional information becomes available these estimates are by necessity revised to reflect that new knowledge.

I hope this information is useful. Please contact this office if you need additional information.

Sincerely,

JOHN B. RIGG,
Director.

U.S. SENATE,
Washington, DC, July 17, 1981.

Hon. RONALD REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On June 4, in the Federal Register, Secretary Watt published his intention to eliminate the rule prohibiting discrimination against minority and women-owned businesses engaged in OCS leasing activities.

Coming at a time when your Administration is pressing for a substantial expansion of OCS drilling, which will mean more federal involvement and more offshore contracting and jobs, the repeal of a regulation barring sex and race discrimination in hiring or contracting seems particularly ill-advised and seems to reflect an insensitivity by Secretary Watt to the firmly established, long-standing federal policy of providing equal employment opportunities in activities operated by, or under the control of, the federal government.

The regulation was adopted in response to a concern expressed by the Congress during debate on the OCS Lands Act Amendments of 1978 that existing federal equal employment and procurement programs might not apply to OCS activities. Congress required DOI to take any action deemed necessary to prohibit unlawful employment practices and assure that no person is excluded from participating in federally-sponsored OCS activities on the basis of unlawful discrimination.

Secretary Watt argues that the oil "industry has a history of voluntary commitments and programs for the socially and economically disadvantaged." I do not dispute this contention. I'm not even sure what it includes. But it is completely beside the point. Even if the oil industry had an "socially and economically disadvantaged" and with respect to hiring practices—which it clearly doesn't—that would not mean that there should not be a federal law preventing individual companies from engaging in discrimination.

The Secretary informs us that information supplied by the industry verifying its record is held by other federal agencies and "would be available to the (Interior) Department if needed." It is obvious from this statement that the Secretary did not bother to check that record. By determining his action was not major, Secretary Watt has managed to avoid making any analysis of the regulatory impact of his decision; and by concluding his action "will not have a significant economic impact on a substantial number of small entities," he has avoided any analysis of the effect on small entities. Decisiveness may be a virtue, but recklessness is not. The wisdom of making a decision without input from anyone except the regulated industry is questionable.

The latest available data—supplied by the Equal Employment Opportunity Commission—indicates that while the oil industry is not necessarily the worst industry in America with respect to its record of hiring women and minorities, its record is below average for all U.S. private industry in 29 of 30 categories, and well below the average in many.

The record of the industry in correcting this situation is mixed. Some companies have affirmative action programs operating and have made a conscious attempt to recruit minorities. Others have not done as well. But between 1975 and 1979 there is a record reflecting only slight industry-wide improvement. However, the data collected under federal law also points up areas in which improvement has not occurred—sales and service positions. By collecting this data, the efforts of companies to understand the situation and improve their record is assisted. Even if there were no identifiable discrimination in hiring, we would still need a regulation barring racial or sexual discrimination in contracting. While many companies have made efforts to improve their hiring and contracting policies, repeal of this regulation rewards those companies that have done nothing.

I urge you to remove the doubt which Secretary Watt's action creates as to your Administration's commitment to equal employment opportunity by promptly reversing the Secretary's ill-advised proposal to repeal this regulation.

Sincerely,

ALAN CRANSTON.

DISTRICT COUNCIL OF CARPENTERS,
UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,
A.F.L-C.I.O.,
Los Angeles, CA, July 22, 1985.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRANSTON: I am writing to request your assistance in redressing a serious problem affecting the jobs of American workers on the Outer Continental Shelf. The specific problem which we are concerned with the is the hiring of a foreign firm, Heerema Marine Construction S.A., by Texaco to construct oil drilling platforms off Point Conception, California. The company is a Dutch firm employing workers from Spain and the Netherlands.

Beginning in 1953 with the passage of SB 1901 [83rd Cong., 1st sess.] Congress has consistently taken legislative action to protect the jobs of American workers in relation to the Outer Continental Shelf. Again in 1977/78 the Outer Continental Shelf Lands Act was amended to expand the scope of protections from "fixed structures" to include "all installation and other devices permanently or temporarily attached to the seabed." Rather than go into a detailed narration in this letter of how the intent of this

legislation has been subverted by the current Administration's interpretation of the administrative provisions I am enclosing a detailed outline.

The point is that qualified American workers are unemployed as a result of a refusal by the federal government to enforce the legislation passed by Congress for this very reason. I am sure that you share our commitment to the protection of American workers and I look forward to hearing from you in the near future.

Sincerely,

PAUL MILLER,
Secretary Treasurer.

U.S. SENATE,
Washington, DC, March 13, 1985.

Hon. WILLIAM E. BROCK,
U.S. Trade Representative,
Washington, DC.

DEAR BILL: I share the concerns raised by many of my colleagues in the House of Representatives in a recent letter to you that the current steel negotiations being conducted with Japan and the Republic of Korea may exempt offshore drilling platforms and component parts from the fabricated steel quotas.

I did not favor restrictions on steel imports because of the injury import restrictions would cause to the California economy. But since President Reagan has imposed voluntary export restraints on steel, I believe every effort should be made to insure the restraints are fairly applied. Some of my constitutents believe an exemption for offshore drilling rigs would disporportionately affect the West Coast, wiping out this market for California and Gulf Coast suppliers.

I urge your inclusion of restraints on the shipment of offshore oil platforms and their component parts in the finalized voluntary restraint agreements with Japan and the Republic of Korea. I would appreciate knowing your views on this matter before negotiations have concluded.

With best regards,

Sincerely,

ALAN CRANSTON.

S. 1668

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "California Outer Continental Shelf Protection and Development Act".

SEC. 2. CALIFORNIA OUTER CONTINENTAL SHELF LEASING.

(a) APPLICATION.—The provisions of this Act shall apply to submerged lands of the California Outer Continental Shelf described in subsection (b).

(b) DESCRIPTION OF LANDS.—Lands to which this Act applies shall be tracts within the following areas:

(1) the lands within the Department of the Interior Central and Northern California Planning Area which lie north of the line between the row of blocks numbered N816 and the row of blocks numbered N817 of the Universal Transverse Mercator Grid System,

(2) An area of the Department of the Interior Southern California Planning Area bounded by the following line on the California (Lambert) Plane Coordinate System: From the point of intersection of the international boundary line between the United States and Mexico and the seaward boundary of the California State Tidelands west along said international boundary line to the point of intersection with the line between the row of blocks numbered 28 west and the row of blocks numbered 27 west; thence north to the northeast corner of block 20 north, 28 west; thence northwest to the southwest corner of block 29 north, 35 west; thence north along the line between the row of blocks numbered 36 west and the row of blocks numbered 35 west to its intersection with the seaward boundary of the California State Tidelands; thence easterly along the seaward boundary of the California State Tidelands to the point of beginning;

(3) a portion of the Department of the Interior Southern California Planning Area which lies both: (A) east of the line between the row of blocks numbered 53 west and the row of blocks numbered 52 west, and (B) north of the line between the row of blocks numbered 34 north and the row of blocks numbered 35 north, on the California (Lambert) Plane Coordinate System;

(4) the boundaries of the Channel Island National Marine Sanctuary, as defined by title 15, part 935.3 of the Code of Federal Regulations; and

(5) the boundaries of Santa Barbara Channel Ecological Preserve and Buffer Zone, as defined by the Department of the Interior, Bureau of Land Management Public Land Order numbered 4587 (vol. 34, page 5655 Federal Register March 26, 1969).

SEC. 3. AREAS AVAILABLE FOR LEASING.

(a) AUTHORITY.—Of the lands described in section 2(b), oil and gas leasing may be carried out under the Outer Continental Shelf Lands Act as provided in this section with respect to lands described in subsection (b).

(b) DESCRIPTION OF LANDS.—The lands referred to in subsection (a) are as follows:

(1) In the Eel River Basin area those tracts described, using the Universal Transverse Mercator Grid System, by the following coordinates:

Row N939, E71, E74, E75.
Row N940, E71-E72, E74-E76.
Row N941, E71-E76.
Row N942, E71-E76.
Row N943, E71-E76.
Row N944, E71-E76.
Row N945, E71-E76.
Row N946, E71-E74.
Row N947, E71-E74.
Row N948, E71-E74.
Row N949, E71-E74.
Row N950, E70-E74.
Row N951, E69-E74.
Row N952, E69-E74.
Row N953, E69-E74.
Row N954, E69-E74.
Row N955, E69-E74.
Row N956, E69-E74.
Row N957, E69-E74.

(2) In the Santa Maria Basin area, those tracts described, using the Universal Transverse Mercator Grid System, by the following coordinates:

Row N817, E125-E132.
Row N818, E126-E132.
Row N819, E129-E130.

(3)(A) In the Santa Monica Bay area, those tracts described, using the California (Lambert) Plane Coordinate System Zone 6, by the following coordinates:

Row N41, W½ of W52.
Row N40, W52.
Row N39, W52.
Row N38, W52.
Row N36, W41-W42.
Row N35, W36-W43, S½ of W44, S½ of W45.

(B) Those tracts, or portions of tracts, lying within the following described area, using the California (Lambert) Plane Coordinate System Zone 6: Beginning at the northwest corner of that tract described as Row N37, W52; thence south to the southwest corner of that tract described as Row N35, W52; thence east to the southeast corner of that tract described as Row N35, W46; thence northwest to the northeast corner of that tract described as Row N37, W52; thence west to the point of beginning.

(40 In the Camp Pendleton area, those tracts described, using the California (Lambert) Plane Coordinate System Zone 6, by the following coordinates:

Row N25, W27.
Row N26, W25-W27.
Row N27, W26.

(c) CONDITIONS.—

(1) LEASING SUBJECT TO APPLICABLE LAW.—Leasing and all post-lease activities permitted under this Act shall be carried out in accordance with the Outer Continental Shelf Lands Act and other applicable Federal, State, and local law.

(2) MINIMIZE IMPACT.—Leasing and all post-lease activities permitted under this Act shall be carried out in a manner so as to minimize the environmental, economic, and social impacts of activities related to such leasing.

SEC. 4. AREAS AVAILABLE FOR EXPLORATION.

(1) AUTHORIZATION.—Notwithstanding any other provision of this Act, one Continental Off-Structure Stratigraphic Test well may be authorized under applicable law in each of the following three areas:

(1) in the Point Arena area on those lands which lie between, but do not include, the row of blocks numbered N890 and the row of blocks numbered N922 of the Universal Transverse Mercator Grid System;

(2) in the Bodega Bay area on those lands which lie between, but do not include, the row of blocks numbered N869 and the row of blocks numbered N891 of the Universal Transverse Mercator Grid System; and

(3) in the Santa Cruz area on those lands which lie between, but do not include, the row of blocks numbered N851 and the row of blocks numbered N870 of the Universal Transverse Mercator Grid System.

(b) RESTRICTION.—No well may be authorized pursuant to subsection (a) which is closer than 18 miles from the shoreline.

SEC. 5. AREAS AVAILABLE FOR EMERGENCY LEASING ONLY.

(a) NECESSARY CONDITIONS.—Exploration, development or production activities, and drilling shall be allowed by lease or permit or otherwise under the Outer Continental Shelf Lands Act with respect to submerged lands described in section 2(b), but not described in section 3(b), only if the President—

(1) finds under section 161(d) of the Energy Policy and Conservation Act (42

bution from the Strategic Petroleum Reserve is required by a severe energy supply interruption;

(2) finds that such a drawdown and distribution would be insufficient to meet such severe energy supply interruption; and

(3) finds that issuing such specific leases or allowing such specific activities would contribute significantly to the alleviation of the energy emergency resulting from such severe supply interruption.

(b) FOREIGN ENERGY CRISIS.—Leasing shall not be permitted under this section if the severe energy supply interruption referred

to in subsection (a)(1) is attributable to treaty obligations of the United States to assist foreign countries in the event of their energy emergency.

(c) TERMINATION OF LEASING ACTIVITIES.—

(1) TERMINATION.—Leasing activities permitted under this section shall terminate unless—

(A) during the drawdown and distribution described in subsection (a)(1), the President renews his findings under subsection (a) at least once every 6 months; and

(B) when such drawdown and distribution terminates, and at least once every 6 months thereafter, the President renews his finding under subsection (a)(3).

(2) DISPOSITION.—When leasing activities are terminated under paragraph (1)—

(A) tracts which have been leased pursuant to this section, and with respect to which the Secretary of the Interior has determined that substantial development and production expenditures have been made after such lease was issued, may remain leased under the terms of the original lease, and such lease may be renewed under the Outer Continental Shelf Lands Act, but if the original lessee abandons leasing activities, such tracts may not be re-offered for lease until the necessary conditions described in subsection (a) exist again; and

(B) all other tracts shall be subject to the provisions of this Act, and any lease previously issued with respect to such tracts shall be cancelled under section 5(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)).

SEC. 6. EXPIRATION OF EFFECTIVENESS.

This Act shall cease to be effective as of January 1, 2000.●

By Mr. BRADLEY:

S. 1669. A bill to provide an efficient method of taking actions against unfair foreign trade practices and to promote industrial partnerships for adjustment to import competition; to the Committee on Finance.

TRADE PARTNERSHIP ACT

Mr. BRADLEY. Mr. President, Americans in every State and nearly every industry are afraid that international trade is turning this country into a producer of low-value, unprofitable goods in the world marketplace. The main reason for this fear is that they see country after country adopting unfair trade practices that stop our most competitive exports. Whether it is agricultural subsidies for European farmers, Japanese refusal to accept United States FDA approval for our pharmaceutical exports, Taiwan's unwillingness to protect United States intellectual property, or restrictions on United States participation in Korean industrial fairs, or Brazil's attempt to lock out United States computers, Americans see their best exports stopped at the docks by foreign governments' trade barriers. Those barriers keep their people from buying American products that represent the best value on world markets.

We seem to be entering a new period of international competition which increasingly pits our cumbersome, many-voiced government against the lean, mean, governments of rapidly industrializing countries. Our out-dated policy for dealing with unfair foreign trade practices is not nearly vigorous enough to meet the challenges of this new competitive environment. Between January 1975 and December 1984, our Government retaliated only once against unfair foreign trade practices in all of the 34 cases brought formally before the U.S. Trade Representative under our unfair foreign trade law. After years of frustration from U.S. Government inaction against unfair foreign trade practices, U.S. exporters have given up asking our Government to enforce our rights in international trade any more. And this only encourages foreign governments in their efforts to block American exports. To reverse this dangerous decline in our ability to compete for foreign markets, I am introducing a bill that would let U.S. industries team up to fight unfair foreign trade practices and bypass the bureaucratic process that has slowed our unfair foreign trade policy to a standstill.

This bill, called the Trade Partnership Act of 1985, would harness all the muscle of American industry to take action against unfair foreign trade practices. It authorizes the U.S. Trade Representative to implement packages of retaliatory tariffs or quotas proposed by certain industrial trade partnerships. Each partnership would include one U.S. company or industry seeking removal of unfair foreign barriers against its exports, and one U.S. industry seeking relief from imports causing injury or market disruption. The purpose of the partnership is to propose a package of tariffs or quotas to be imposed on imports from a country denying us fair access to its domestic market. The tariffs or quotas would be designed to restrict imports causing injury or market disruption to the relief-seeking industry in the partnership. The tariffs or quotas would be comparable in size to the barriers restricting exports of the market-seeking industry in the partnership, and would remain in place until the U.S. Trade Representative certified that the target country had removed its barriers. If 3 years elapse with no action on the part of the target country, the U.S. Trade Representative would remove the tariffs or quotas, allowing the market-seeking industry to design a more effective partnership to accomplish its goals.

In order to streamline action taken to obtain the elimination of unfair foreign trade practices, this act imposes only three requirements on the trade partnership proposals. First, the relief-seeking industry in the partnership must qualify for relief from injurious increased import competition under section 201 of the Trade Act of 1974. Second, the market-seeking industry in the partnership must undertake a commitment to provide adjustment assistance to the relief-seeking industry upon removal of the proposed tariffs or quotas. The commitment could take the form of job search, relocation and retraining support, or specific job opportunities, for workers in the relief-seeking industry. The size of the commitment depends on the size of the proposed tariffs or quotas set by the International Trade Commission. Specifically, the size of the commitment depends on the number of jobs that the proposed tariffs or quotas would protect. This assures that the market-seeking industry will not propose needlessly high quotas or tariffs. The commitment is also fair in the sense of assuring a flow of resources sufficient to meet adjustment needs in the relief-seeking industry once the tariffs or quotas are removed. Third, the allegations about unfair foreign trade practices must be determined to be true by the International Trade Commission. All determinations by the Commission must be made within 3 months of the filing of a petition under this act, and all petitions accepted by the Commission must be implemented by the U.S. Trade Representative within 6 months of filing. In short, the Trade Partnership Act replaces slow bureaucratic processing and intricate political handling of market opening petitions with an adjustment fee proportional to the size of measures proposed.

The Trade Partnership Act revolutionizes our policy toward unfair foreign trade practices by removing unnecessary obstacles to industries seeking fair access to foreign markets. It empowers exporters to exploit their specific knowledge of foreign business conditions and lets them move quickly to promote justifiable goals. As an important byproduct, this act creates industrial partnerships for easing economic adjustment. The need for economic adjustment increases with the expansion of export sectors that we would see in a fairer international trading system. This bill moves boldly to unleash the natural competitive potential of U.S. industries and to share the benefits of international trade throughout the economy.

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. 1669

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trade Partnership Act".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) The term "Commission" means the United States International Trade Commission.

(2) The term "market-access petitioner" means any person, or group of persons, who allege in the petition filed under section 3(a) that the foreign country denies the products or services of such person or group exported from the United States access to the markets of such foreign country.

(3) The term "import-relief petitioner" means any group of persons representative of a domestic industry who allege in the petition filed under section 3(a) that products of the foregin country imported into the United States are causing substantial injury to such domestic industry.

(4)(A) The term "adjustment costs" means, with respect to each worker for the calendar year in which the determination under section 9(a)(1) is made, an amount equal to the greater of—

(1) the aggregate value of benefits paid under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271, et seq.) during the calendar year preceding such calendar year to the average worker who is totally separated from adversely affected employment, or

(ii) the amount determined by multiplying—

(I) $6,000, by

(II) the inflation adjustment for such calendar year.

(B) The term "inflation adjustment" means, with respect to any calendar year, the percentage determined by dividing—

(i) the Consumer Price Index for such calendar year (as determined by the Secretary of Labor), by

(ii) the Consumer Price Index for all urban consumers for 1985.

SEC. 3. PETITIONS.

(a) Any market-access petitioner and any import-relief petitioner may jointly submit to the commission a petition for relief under this Act. The Commission shall transmit a copy of any petition filed under this subsection to the Secretary of Labor and to the United States Trade Representative.

(b) Any petition filed under subsection (a) shall—

(1) allege specific acts or policies of a foreign country that—

(A) unreasonably, unjustifiably, or discriminatorily, or

(B) in a manner inconsistent with existing trade agreements.

deny the products or services of the market-access petitioner that are produced in the United States access to the markets of such foreign country.

(2) estimate the increase in the aggregate value of such products or services that would have been exported from the United States to such foreign country during the previous year but for such acts or policies of such foreign country.

(3) allege that specific products of such foreign country imported into the United States are a substantial cause of serious injury (within the meaning of section 201 of the Trade Act of 1974 (19 U.S.C. 2251)), or threat thereof, to the industry of the import-relief petitioner,

(4) set forth a specific import relief proposal to—

(A) impose a quota on such products of such foreign country,

(B) increase or impose duties on such products of such foreign country, or

(C) impose any combination of subparagraph (A) or (B), and

(5) set forth the agreement described in subsection (c).

(c)(1) The agreement referred to in subsection (b)(5) is a written contract entered into by the market-access petitioner and the import-relief petitioner under which the market-access petitioner agrees to provide to workers in the domestic industry of the import-relief petitioner, if the import relief proposal described in subsection (b)(4) is implemented, specific import adjustment assistance in an aggregate amount equal to the amount that the Commission estimates under section 6(a)(1) to be the aggregate value of the adjustment costs for all workers in such domestic industry who will be totally separated from employment in such domestic industry by reason of the termination of such import relief. Such contract shall specifically provide that the United States, the import-relief petitioner, or any union or group representing workers in such domestic industry may enforce the terms of such contract.

(2) For purposes of this subsection, the term "import adjustment assistance" means the provision of—

(A) job opportunities,

(B) job training,

(C) funds for job search, or

(D) funds for relocation.

(3) The value of a job opportunity provided by the market-access petitioner to a worker which is taken into account in determining the obligations of the market-access petitioner under the agreement described in subsection (c) shall not exceed the adjustment costs for the worker.

(d) The Commission shall dismiss the petition filed under this section if—

(1) the market-access petitioner and the import-relief petitioner are representatives of the same industry,

(2) the market-access petitioner and the import-relief petitioner are the same person, or

(3) the employees of the market-access petitioner and the employees of the import-relief petitioner would be treated as employed by a single employer by section 52 of the Internal Revenue Code of 1954.

(e) Upon request, the Commission shall assist any person or group of persons that desires to file a petition under this section against a foreign country in contacting any other person, or group of persons, that desires to file such a petition.

SEC. 4. INVESTIGATION.

(a) Upon receipt of a petition filed under section 3(a), the Commission shall, in consultation with the United States Trade Representative, initiate an investigation to determine—

(1) whether any of the allegations of such petition described in section 3(b)(1) are true,

(2) whether the allegations of the petition described in section 3(b)(3) are true,

(3) whether the amount of the reduction in the aggregate value of the products of the foreign country imported into the United States during a 1-year period that the Commission estimates would result from implementation of the import relief proposal of the petition described in section 3(b)(4) is equal to, or less than, the amount of the increase in the aggregate value of the products or services of the market-access petitioner that the Commission estimates would be exported from the United States to such foreign country during such period if the acts or policies of such foreign country with respect to which the Commission has made an affirmative determination under paragraph (1) did not exist,

(4) whether the agreement set forth in the petition meets the requirements of section 3(c), and

(5) whether the market-access petitioner is financially capable of meeting the requirements of such agreement.

(b) The Commission shall make the determinations required under subsection (a), and shall publish such determinations in the Federal Register, by no later than the date that is 90 days after the date on which the petition is filed under section 3(a). A copy of such determinations shall be transmitted to the United States Trade Representative.

(c) If any of the determinations of the Commission under subsection (a) is negative, the petition shall be dismissed.

SEC. 5. ACTIONS TO PROVIDE RELIEF.

(a) If all of the determinations of the Commission under section 4(a) with respect to a petition are affirmative, the United States Trade Representative shall—

(1) notify the foreign country that is the subject of the petition that actions are required to be taken against such country under this section,

(2) take action to initiate negotiations for—

(A) the elimination of the acts or policies of such foreign country with respect to which the Commission has made an affirmative determination under section 4(a)(1), or

(B) if negotiations under subparagraph (A) are unsuccessful and the implementation of the import relief proposal described in section 3(b)(4) that is set forth in the petition is determined to violate the General Agreement on Tariffs and Trade, a compensation agreement under section 123 of the Trade Act of 1974 (19 U.S.C. 2133), and

(3) notwithstanding any other provision of law (other than subsection (b)(2)), issue an administrative order implementing the import relief proposal described in section 3(b)(4) that is set forth in the petition by no later than the date that is 90 days after the date of the publication of the determinations of the Commission made under section 4(a).

(b)(1) Any administrative order issued under subsection (a)(3) with respect to a petition shall apply to articles entered, or withdrawn from warehouse for consumption—

(A) after the date on which such order is issued, and

(B) on or before the earlier of—

(i) the date on which the United States Trade Representative makes the certification described in subsection (c) with respect to such petition, or

(ii) the date that is 3 years after the date on which such order is issued.

(2) No order shall be issued under subsection (a)(3) with respect to a petition if the certification described in subsection (c) has been made with respect to such petition.

(c) If at any time—

(1) after the date on which the determinations of the Commission made under section 4(a) with respect to a petition are published, and

(2) before the date described in subsection (b)(1)(B)(ii),

the United States Trade Representative determines that all the acts or policies which were alleged in such petition and with respect to which an affirmative determination was made under section 4(a)(1) have been eliminated, the United States Trade Representative shall submit to the Congress a written statement certifying such determination.

(d) Section 123 of the Trade Act of 1974 (19 U.S.C. 2133) is amended—

(1) by inserting ", or an order is issued under section 5(a)(3) of the Trade Partnership Act," after "section 203" in subsection (a), and

(2) by inserting "or to the order issued under section 5(a)(3) of the Trade Partnership Act" after "section 203(h)" in subsection (b)(4).

SEC. 6. IMPORT ADJUSTMENT ASSISTANCE AFTER TERMINATION OF IMPORT RELIEF.

(a)(1) By no later than the date that is 30 days after the date on which any order issued under section 5(a)(3) with respect to a petition terminates, the Commission shall estimate the aggregate value of the adjustment costs for all workers in the domestic industry of the import-relief petitioner who will be totally separated from employment in such domestic industry by reason of the termination of such order.

(2) The Commission shall transmit a copy of the determination made under paragraph (1) to the Secretary of Labor and shall publish such determination in the Federal Register.

(b) Upon termination of any order issued under section 5(a)(3) with respect to a petition, the Secretary of Labor shall begin monitoring the compliance of the market-access petitioner with the terms of the agreement described in section 3(c) that was set forth in such petition. If the market-access petitioner fails to comply with the terms of such agreement and no other party to the agreement takes action to enforce such agreement, the Secretary of Labor shall notify the Attorney General of the United States and the Attorney General of the United States shall take all necessary action to enforce such agreement.

Mr. DOMENICI (for himself, Mr. DECONCINI, Mr. GOLDWATER, Mr. HATCH, Mr. GARN, Mr. HECHT, Mr. MELCHER, Mr. BINGAMAN, and Mr. BAUCUS):

S. 1670. A bill to establish a government-to-government International Copper Action Commission; to the Committee on Finance.

INTERNATIONAL COPPER ACTION COMMISSION

● Mr. DOMENICI. Mr. President, I am introducing a bill today that I hope will have some long-term significant impact for the U.S. copper industry. This legislation will require the President acting through the U.S. Trade Representative to create an International Copper Action Commission. This would be an international group made up of the major copper producing and consuming nations of the world. Each of these governments would be invited to participate. Each country would designate representatives to the Commission. For the United States I think it would be appropriate for representatives to come from the U.S. Trade Representative, the Secretary of State, the Secretary of Commerce, and the Secretary of the Interior. The major copper companies, their customers, consumer groups, and worker representatives would also participate on the Commission as advisers. In addition, the bill provides for congressional advisers.

The International Copper Action Commission would be a government-to-government forum. The purpose of the Commission would be to review on a regular basis the situation of the copper industry, to consider appropriate actions that individual copper-producing countries might take to support a healthier copper market and to encourage an expanded program of product research and marketing. I would hope that one benefit of the Commission would be to create a clearer understanding among governments, multilateral development agencies and financial institutions of the real circumstances and needs of the copper producers in all areas.

The Commission would meet regularly and would:

Collect, collate and endorse on a monthly basis reliable up-to-date statistics.

Develop quantitative information on end uses in each major consuming country.

Collate information on the effects of governmental policies on the world's copper industry and particularly on the international repercussions of domestic measures. These include tariffs and quotas, environmental regulations, health and safety requirements.

Enable frank and open discussion about the problems and opportunities of the copper industry between representatives of the industry and of governments from all main producing and consuming countries.

The Commission is necessary:

The copper production of many major producing areas have come increasingly under the influence of governments who are remote from the markets and the factors affecting them. For others in industry, an intergovernmental organization is the only practical and legally acceptable forum for meaningful discussion of the industry's circumstances and common problems.

This Commission is designed to promote a free market for world copper. At present, Brazil, Chile, Japan, and Korea directly support copper production through guarantee price-support systems. Other governments impose a network of import restrictions. The most flagrant example is Brazil. Still other countries direct financial aid through loan guarantees and assumptions of company debt. These are very critical issues that the Commission should seek to solve. Dealing effectively with these problems is vital for the health of the U.S. copper industry and all other producers as well.

To have an efficient world copper market, all participants need a better understanding of currency fluctuations and the impact devaulation has on production costs. The U.S. industry has suffered in part because of a currency squeeze. As the dollar gained strength, many foreign copper producers devalued, and devalued substantially. Currency devaluations, particularly among member countries of the Intergovernmental Council of Copper Exporting Countries [CIPEC], had, to varying degrees, the effect of reducing copper production costs in those countries, especially fixed costs such as labor. Since 1978, the Chilean peso, the Zambian kwacha, the Zairian zaire, the Peruvian sol, the Philippine peso have all be devalued from 100 percent to more than 600 percent. Conversely, the strength of the U.S. dollar increased the relative fixed costs for U.S. producers. While I realize that this situtation is beyond any one's control, it is important to recognize that these forces have a very dramatic impact on cost of production and competitiveness.

There is international support for this Commission.

I believe that there is significant international support for such a Commission. In Canada, this concept was readily supported by the Department of Finance, the Department of Industry and the Department of Energy, Mines and Resources.

In a recent letter I received from Hernan Felipe Errazuriz, the U.S. Ambassador from Chile, he states, "* * * the Government of Chile is interested in taking steps to strengthen the world copper market. As representatives of our Government indicated in Santiago, we would look favorably upon initiatives proposing international discussions to explore ways to improve the copper market by developing new applications for copper, discouraging the use of substitutes for copper and other means."

Chile has very serious debt problems. They are near the ceiling in terms of money they can borrow from even the very generous IMF, and World Bank. I am convinced that Chile wants to be able to meet its world financial obligations, but as long as there is chaos in the world copper market, it can't sell enough copper at any price to meet its debts.

The United States should have a viable copper industry, and this Commission could be instrumental in insuring that viability.

Copper is a strategic mineral. In view of that fact it is alarming to realize that in 1981 the United States only depended upon 7 percent imported refined copper. For the first 6 months of 1985 our import reliance is 35 percent.

During this same period of time, the U.S. industry has become more efficient. It now takes 44 percent fewer employees to produce a ton of copper. The new $280 million concentrator and conveyor system from the pit at Kennecott's Chino mine in New Mexico resulted in a reduction of operating costs by about 31 cents per pound. At Phelps Dodge's Tyrone facility they can mine copper at 33 cents

a pound because of their advanced technology.

Codelco the government-owned copper company of Chile is a very low cost producer too. It has the benefit of good ore and inexpensive labor. It is a commerical property that could borrow money in the market. Instead Chile chooses to borrow at the World Bank and the Inter-American Bank. I understand Codelco plans to finance a new $121 million expansion of a concentrator and continous cast rod mill at the Eximbank. This expenditure will primarily be used to expand production at the facility by an additional 100,000 tons of copper ore per year.

Keep in mind that 100,000 expansion for a moment.

As you all know, the U.S. copper industry has suffered greatly in the past 5 years. Increased imports of low-priced copper and the consequent increased domestic inventories and depressed prices resulted in the closure of several domestic mines. Since the middle 1970's, a total of 900,000 tons of U.S. capacity have been shut down permanently or idled. At one point, one U.S. company was losing $1 million a week.

There is an excess of world production capacity—900,000 tons per year in the United States alone. Chile wants to add to that capacity, and use the Eximbank to finance it. Since 1981 there have been five loans considered solely for copper mining by the multilateral development banks. Added capacity in the past has driven the price of copper down. Additional added capacity will only exacerbate the problem. When the price drops below 75 cents, Chile goes to the Compensatory Financing Facility at the IMF and borrows the difference between what it would have earned at 75 cents and whatever the price actually is. They just received $73 million in CFF funds 2 months ago. The way the system is right now they can't lose.

Why should U.S. Federal dollars be used to finance projects that the world already has too much of? Why should taxpayer's money be used to put Americans out of work? Those are issues that Congress should address in depth if we consider whether or not to recapitalize the World Bank and the International Finance Corporation.

Let me pose the issue another way. If Codelco intends to build a new concentrator and conveyor system, why don't they borrow the money from a commercial bank? Their competitors, Kennecott, Phelps Dodge, and Asarco have no other alternative when they seek financing. I think the rules should be the same for all the copper producers.

This Commission is a necessary step. Given the state of the U.S. copper industry much more should be done.

The impact of mine and plant closures, in addition to a reduction of the number of employees used per plant and mine in the past 10 years, has been severed. At the mine and mill level, a 60-percent drop in employment occurred in the 1974–83 period, with the most significant impact in 1981 and 1982.

I want to help the U.S. copper industry. It has been an important vertibrae in the backbone of New Mexico's economy. I think the International Copper Action Commission could address some of the issues I have outlined today, especially since other countries are interested in participating. It is my sincere hope that this legislation will be quicky enacted.●

By Mr. DECONCINI:

S.J. Res. 204. A joint resolution prohibiting the sale to Jordan or to Saudi Arabia of certain defense articles and related defense services unless certain conditions are met; to the Committee on Foreign Relations.

PROHIBITION OF DEFENSE ARTICLE SALES TO JORDAN OR TO SAUDI ARABIA

● Mr. DECONCINI. Mr. President, I am introducing today a joint resolution which, if passed, will put an end to the discussions of the possibility of United States arms sales to the nations of Jordan and Saudi Arabia. This joint resolution would prohibit such sales unless these nations recognize Israel's right to exist in peace and unless they become a part of the peace process in the Middle East. This effort is in no way meant to diminish or replace the other efforts of Senators attempting to prevent these sales. I particularly admire the efforts of the senior Senator from California, Senator CRANSTON, who has developed his own resolution which would prevent the sale of advanced arms to Saudi Arabia if the administration proposes such a sale. In fact, I have asked to become a cosponsor of that resolution. It would be my hope that if such a sale is proposed, my resolution could be combined with that of Senator CRANSTON and his cosponsors in order to prevent the sale to both Jordan and Saudi Arabia.

Mr. President, I made a lengthy statement on this issue in late July. Since that point in time, the possibility of a U.S. sale has remained strong. Only the very recent announcement of British interest in becoming the Arabs' arms merchant has reduced that possibility. Enactment of the measure that I am introducing today will eliminate that possibility once and for all.

Some have interpreted President Reagan's interest in arming Israel's enemies in the Middle East as an indication that the President has no cohesive Middle East policy. I reject that argument. The Reagan administration has pursued an extremely consistent policy in the Middle East. That policy is based on two principles: The deemphasis of the Camp David Accords and the attempt to curry the favor of the so-called more moderate of Israel's enemies through economic aid and arms sales packages.

I have several objections to this policy. First, why does the United States need to prove itself to Jordan and Saudi Arabia? The United States' interests and intentions in the Middle East have been clear for years. It is time—long past time—for the leaders of Saudi Arabia and Jordan to shore up their courage and join the pursuit of a just and lasting peace for all nations in the Middle East. The Camp David Accords continue to provide an ideal framework for the attainment of peace.

Second, how can the Reagan administration believe that somehow you can strengthen the United States position in the Middle East by weakening Israel's military position vis-a-vis its enemies in the region? Israel is the keystone to the security of American interests in the Middle East. A strengthening of Jordan and/or Saudi Arabia will force Israel to try to recover the ground that we would cause it to lose by selling arms to its enemies. Certainly, this policy is undesirable in the best of economic times, but considering the current crisis of the Israeli economy and considering the enormous cost of trying to keep up with Arab arms advances, such a policy could be devastating to Israel.

Third, how can the Reagan administration ignore the fact that Jordan's security, and ultimately, Saudi Arabia's security, as well, depend on a strong Israel? Whatever arms the Reagan administration might want to sell to Arab nations will not change this simple fact. A weakening of Israel strengthens Syria. A strengthening of Syria weakens Jordan, Saudi Arabia, and Israel. Given these facts, the logical position of the U.S. Government should be to encourage Arab governments to realize that their nations security is inextricably and unavoidably intertwined with the security of Israel. Instead, our Government through its arms sales policy is conveying the opposite message.

Mr. President, Congress has on occasion been in the position of having to alter significantly a foreign policy course that has been set by the President. This, to me, is one of those occasions. Sense-of-the-Senate resolutions and other expressions of concern have had no effect on this administration. Perhaps the issue of United States arms sales to Saudi Arabia and Jordan has died down for now due to the interest of the British Government in making those sales. However, it could come up again at any moment. It is time for the Congress to put a stop to this issue of arms sales proposals now. I urge my colleagues to give careful consideration to the joint resolution

that I propose today, and I ask unanimous consent that it 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. 204

Whereas the security of American interests in the Middle East depends on a fair and equitable peace agreement among all nations of the region;

Whereas any significant enhancement of the military capabilities of any Middle Eastern nation which is not a participant in the process of reaching a fair and equitable peace agreement makes the reaching of such an agreement much more difficult; and

Whereas the Reagan administration is currently considering the sale of advanced American weapons to the nations of Jordan and Saudi Arabia even though those two nations have repeatedly refused to enter into direct peace negotiations with Israel and have actively opposed peace proposals supported by the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall not make or finance any sale to Jordan or Saudi Arabia of advanced aircraft, new air defense weapons systems, or other new advanced military weapons systems unless such country is publicly committed to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

ADDITIONAL COSPONSORS

S. 8

At the request of Mr. CRANSTON, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 8, a bill to grant a Federal charter to the Vietnam Veterans of America, Inc.

S. 89

At the request of Mr. INOUYE, the names of the Senator from Delaware [Mr. BIDEN], and the Senator from South Dakota [Mr. PRESSLER], were added as cosponsors of S. 89, a bill to recognize the organization known as the National Academies of Practice.

S. 925

At the request of Mr. HUMPHREY, the names of the Senator from Georgia [Mr. MATTINGLY], the Senator from Massachusetts [Mr. KERRY], the Senator from Nebraska [Mr. EXON], and the Senator from Kentucky [Mr. FORD], were added as cosponsors of S. 925, a bill to deny most-favored-nation trading status to Afghanistan.

S. 987

At the request of Mr. EXON, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 987, a bill to recognize the organization known as the Daughters of Union Veterans of the Civil War 1861-65.

S. 1084

At the request of Mr. GOLDWATER, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Rhode Island [Mr. PELL], were added as cosponsors of S. 1084, a bill to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes.

S. 1209

At the request of Mr. CHILES, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1209, a bill to establish the National Commission to Prevent Infant Mortality.

S. 1451

At the request of Mr. CHAFEE, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1451, a bill to allocate funds appropriated to carry out section 103 of the Foreign Assistance Act of 1961 for nutrition programs which reduce vitamin A deficiency.

S. 1543

At the request of Mr. MATHIAS, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 1543, a bill to protect patent owners from importation into the United States of goods made overseas by use of a U.S. patented process.

S. 1595

At the request of Mr. WARNER, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of S. 1595, a bill to prevent the implementation of Revenue Ruling 83-3 and other similar considerations affecting the housing allowances of the military and clergy.

S. 1629

At the request of Mr. GRASSLEY, the name of the Senator from Georgia [Mr. MATTINGLY] was added as a cosponsor of S. 1629, a bill to amend the Tariff Act of 1930 to treat certain agricultural products as like products for purposes of antidumping and countervailing duty investigations.

SENATE JOINT RESOLUTION 179

At the request of Mr. KENNEDY, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of Senate Joint Resolution 179, a joint resolution requesting the President of the United States to resume negotiations with the Soviet Union for a verifiable comprehensive test ban treaty.

SENATE JOINT RESOLUTION 191

At the request of Mr. BUMPERS, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 191, a resolution to designate the month of October 1985 as "Learning Disabilities Awareness Month".

SENATE JOINT RESOLUTION 194

At the request of Mr. METZENBAUM, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Nebraska [Mr. ZORINSKY], the Senator from South Dakota [Mr. PRESSLER], the Senator from Vermont [Mr. LEAHY], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Maryland [Mr. MATHIAS] were added as cosponsors of Senate Joint Resolution 194, a joint resolution to designate the week beginning October 1, 1985, as "National Buy American Week."

SENATE JOINT RESOLUTION 197

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 197, a joint resolution to designate the week of October 6, 1985 through October 13, 1985 as "National Housing Week."

SENATE JOINT RESOLUTION 201

At the request of Mr. COHEN, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of Senate Joint Resolution 201, a joint resolution to designate the week beginning September 22, 1985, as "National Needlework Week."

SENATE RESOLUTION 29

At the request of Mr. BYRD, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Resolution 29, a resolution to improve Senate procedures.

SENATE RESOLUTION 209

At the request of Mr. HEINZ, the names of the Senator from Oklahoma [Mr. BOREN], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 209, a resolution expressing the sense of the Senate in opposition to the repeal of the Historic Rehabilitation Tax Credit.

AMENDMENT NO. 577

At the request of Mr. CRANSTON, the names of the Senator from Florida [Mrs. HAWKINS], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of amendment No. 577 intended to be proposed to S. 51, a bill to extend and amend the Comprehensive Environmental Response, Compensation and Liability Act of 1980, and for other purposes.

SENATE CONCURRENT RESOLUTION 67—RELATING TO HUMANITARIAN ASSISTANCE TO EARTHQUAKE VICTIMS IN MEXICO CITY

Mr. BYRD (for Mr. KENNEDY, for himself, Mr. LUGAR, Mr. SIMPSON, Mr. DOLE, Mr. BYRD, Mr. PELL, Mr. HATCH, Mr. WILSON, and Mr. BOREN) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 67

Whereas an earthquake of disastrous proportions has leveled parts of Mexico City today;

Whereas significant and irreparable damage has been done to "the old city";

Whereas between a third and a half of all structures have reportedly been destroyed;

Whereas millions of citizens of Mexico City may now be homeless and thousands may be killed or injured; and

Whereas the people of the United States share longstanding bonds of history and culture with the people of Mexico and, as neighbors, have deep concern for the well-being of the people of Mexico: Therefore be it

Resolved, That it is the sense of the Senate that the Government of the United States should make available to the Government of Mexico and to the people of Mexico City—on an emergency basis—humanitarian assistance and relief required to help deal with this tragedy.

AMENDMENTS SUBMITTED

SUPERFUND IMPROVEMENT ACT

GRASSLEY AMENDMENT NOS. 642 AND 643

(Ordered to lie on the table.)

Mr. GRASSLEY submitted two amendments intended to be proposed by him to the bill (S. 51) to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes; as follows:

AMENDMENT NO. 642

On page 5 of amendment No. , line 14, strike the semicolon after "considered", substitute a period, and insert thereafter the following: "The analysis should identify anticipated benefits of each alternative, evaluate the underlying data and information to insure that it is reliable and accurate, and as provided for under the National Contingency Plan, consider the extent to which the benefits of a proposed plan can be achieved through alternative means, and evaluate, in accordance with the National Contingency Plan, the costs associated with the use of such alternative means including potential adverse effects on public health or the environment;"

AMENDMENT NO. 643

On page 5, line 24, strike "The administrative record" through "subsection". on page 6, line 1, and insert in lieu thereof the following: "If the President decides to make substantial changes in the proposed action, he shall provide a notice describing these changes and provide the necessary supporting information and analysis.

"The President shall maintain a file for each response action and shall maintain a current index. The file shall constitute the record for purposes of judicial review.

"Any remedial action file shall include, but is not limited to—

"(A) the notice of proposed action and any notice describing changes in the proposed action;

"(B) copies of all comments, criticisms, and new data submitted in written or oral form in connection with the proposed action;

"(C) copies of all verified data, which shall be included in the file once they are available;

"(D) a description of any remedial alternatives, which shall be included in the file as soon as practicable;

"(E) a description of all response action alternatives selected for evaluation in any feasibility study, which shall be included in the file once such alternatives have been selected;

"(F) the President's response to each of the significant comments, criticisms, and new data submitted in written or oral presentations;

"(G) the President's careful and full articulation of the basis and purpose of the selected action grounded upon the remedial action file as constituted on the date of final selection of the remedial action, including the reasons behind the selection, the factual and policy determinations which support it, identification of factors considered, an explanation of how information received by the President was developed and evaluated, and citation to the credible and reliable evidence in the record which support his determinations;

"During the interim period while such regulations are being promulgated, where major deficiencies are shown to exist in the administrative record that has been assembled, judicial review of the response in an enforcement or cost recovery action may be de novo."

IMMIGRATION CONTROL ACT

RIEGLE AMENDMENT NO. 644

Mr. RIEGLE proposed an amendment to the motion of Mr. CRANSTON to commit, with instructions, the bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes; as follows:

Strike out all after "alterations" and insert in lieu thereof the following: will not be made in Social Security benefits for the purpose of reducing the federal deficit; and

(b) The placement and means of considering the Social Security program in relation to the Congressional budget will be such that be ineffective to seek to achieve reduction of the overall federal deficit by means of proposing reductions in Social Security benefits; and

S. 1200 shall be reported back to the Senate with all present amendments agreed to in status quo; and

It is the Sense of the Senate that the legislation so reported from the Budget Committee should be sequentially referred to the Committee on Finance and that it shall report the legislation on or before November 2, 1985.

CRANSTON AMENDMENT NO. 645

Mr. CRANSTON proposed an amendment to amendment No. 644 proposed by Mr. RIEGLE to the motion to commit with instructions the bill S.1200, supra; as follows:

In the pending amendment strike out all after "alterations" and insert the following: will not be made in Social Security benefits for the purpose of reducing the federal deficit; and

(b) The placement and means of considering the Social Security program in relation to the Congressional budget will be such that it will be ineffective to seek to achieve reduction of the overall federal deficit by means of proposing reductions in Social Security benefits; and

S. 1200 shall be reported back to the Senate forthwith with all present amendments agreed to in status quo; and

It is the Sense of the Senate that the legislation so reported from the Budget Committee should be sequentially referred to the Committee on Finance and that it shall report the legislation on or before November 3, 1985.

SIMPSON AMENDMENT NO. 646

Mr. SIMPSON proposed an amendment to the bill S. 1200, supra; as follows:

On page 80, line 10, insert before the period the following: "by an alien other than an alien who is eligible for benefits under title XVI of the Social Security Act or section 212 of Public Law 93-66 for the month in which such alien is granted lawful temporary residence status under subsection (a)."

Page 85, lines 9 through 10, strike out "(other than a special Cuban and Haitian entrant, as defined in subsection (a)(2)(D))."

Page 85, line 24, strike out "and."

Page 85, after line 24, insert the following: except that the following disqualification shall not apply in the case of—

(D) any assistance described in subparagraph (A), (B), or (C) if the alien is a special Cuban or Haitian entrant, as defined in subsection (a)(2)(D), or

(E) the program of supplemental security income benefits authorized by title XVI of the Social Security Act or medical assistance under a State plan approved under title XIX of the Social Security Act, if the alien is determined by the Secretary of Health and Human Services, based on an application for benefits under title XVI of the Social Security Act or section 212 of Public Law 93-66 filed prior to the date designated by the Attorney General in accordance with subsection (a)(1)(A), to be permanently residing in the United States under color of law as provided in section 1614(a)(1)(B)(ii) of the Social Security Act and to be eligible to receive such benefits for the month prior to the month in which such date occurs, for such time as such alien continues without interruption to be eligible to receive such benefits in accordance with the provisions of title XVI of the Social Security Act or section 212 of Public Law 93-66, as appropriate; and

EXPLANATION OF AMENDMENT

The amendment is a "grandfather" provision intended to permit the continuation of supplemental security income (SSI) and medicaid benefits to those aliens who are eligible for SSI benefits under current law prior to being granted lawful temporary resident status under S. 1200. The possible loss of these benefits could act as a deterrent to affected aliens applying for legalization.

On page 2, in the table of contents of the bill, insert after the item relating to section 124 the following new item:

SEC. 125. SEASONAL AGRICULTURAL WORKER PROGRAM.

On page 37, line 12, insert ", 101(a)(15)(O)," after "101(a)(15)(N)".

On page 60, line 1, insert "or 217" after "section 216".

On page 60, line 3, strike out "such section" and insert in lieu thereof "section 126 or subsection (b)(4) of section 217, as the case may be,".

On page 63, line 6, insert "and section 217" after "section 216".

On page 64, between lines 14 and 15, insert the following:

"(3) The Commission shall specifically review the following with respect to the seasonal agricultural worker program under section 217 of the Immigration and Nationality Act:

"(A) The standards described in subsections (b)(2), (3), and (4) of that section for the certification respecting seasonal agricultural workers.

"(B) What is the proper length of time and proper mechanism for the recruitment of domestic workers before importation of such foreign workers.

"(C) Whether current labor standards offer adequate protection for domestic and foreign agricultural workers.

"(D) The availability of sufficient able, willing, and qualified domestic workers to meet the needs of agricultural employers.

"(E) The appropriate limit on the number of seasonal agricultural workers who may be imported into all agricultural regions in the United States at any given time, taking into consideration all relevant data, including that resulting from the experience of the Agricultural Labor Transition Program.".

On page 64, line 16, strike out "two years" and insert in lieu thereof "three years".

On page 64, line 19, insert "and seasonal" after "temporary".

On page 64, line 20, strike out "program under section 216" and insert in lieu thereof "programs under sections 216 and 217".

On page 64, line 24, strike out "subsection (b)(2)" and insert in lieu thereof "subsections (b)(2) and (3)".

On page 65, line 2, insert "and seasonal" after "temporary".

On page 65, between lines 12 and 13, insert the following:

"(5) on the appropriate limit on the number of seasonal workers who may be imported into all agricultural regions in the United States at any given time under section 217.

"(6) on the need to continue, improve, or eliminate the seasonal agricultural worker program established under section 217.

On page 66, on lines 11 and 12, strike out "in consultation with the Vice Chairman" and inserting in lieu thereof "in accordance with rules agreed upon by the Commission".

On page 68, line 4, strike out "27 months" and insert in lieu thereof "39 months".

On page 104, lines 20 and 21, strike out "216 (added by section 122(c)" and insert in lieu thereof "217 (added by section 125(b)".

On page 104, line 24, strike out "SEC. 217." and insert in lieu thereof "Sec. 218".

On page 112, line 22, strike out "section 217" and insert in lieu thereof "section 218".

On page 113, line 7, strike out "section 217" and insert in lieu thereof "section 218".

On page 113, line 15, strike out "section 217" and insert in lieu thereof "section 218".

On page 113, line 18, strike out "section 216 (added by section 122(f)" and insert in lieu thereof "section 217 (added by section 125(i)".

On page 113, between lines 19 and 20, strike out "Sec. 217." and insert in lieu thereof "Sec. 218".

On page 114, line 9, strike out "paragraph (15)(C)" and insert in lieu thereof "paragraph (15)(P)".

On page 114, lines 22 and 23, strike out "paragraph (15)(O)" and insert in lieu thereof "paragraph (15)(P)".

On page 116, line 6, strike out "section 122(a)" and insert in lieu thereof "sections 122(a) and 125(b)".

On page 116, line 7, strike out "subparagraph (M)" and insert in lieu thereof "subparagraph (N)".

On page 116, line 8, strike out "subparagraph (N)" and insert in lieu thereof "subparagraph (O)".

On page 116, line 11, strike out "subparagraph "(O)(i)" and insert in lieu thereof "(P)(i)".

On page 121, line 10, strike out "section 217" and insert in lieu thereof "section 218".

SUPERFUND IMPROVEMENT ACT

BRADLEY (AND LAUTENBERG) AMENDMENT NO. 647

Mr. BRADLEY (for himself and Mr. LAUTENBERG) proposed an amendment to the bill (S. 51) to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes; as follows:

At the end of Title I insert the following new section:

"SEC. . RADON PROTECTION AT CURRENT NPL SITES.—It is the sense of the Congress that the President, in selecting response action for facilities included on the National Priorities List published under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 because of the presence of radon, is not required by statute or regulations to use fully demonstrated methods, particularly those involving the offsite transport and disposition of contaminated material, but may use innovative or alternative methods which protect human health and the environment in a more cost-effective manner."

STAFFORD (AND OTHERS) AMENDMENT NO. 648

Mr. STAFFORD (for himself, Mr. BENTSEN, and Mr. LAUTENBERG) proposed an amendment to the bill S. 51, supra; as follows:

Delete the text from page 54, line 4, through page 58, line 20, and insert in lieu thereof a new section as follows:

"SEC. 106. (a) Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by this Act, is further amended by adding after "Notice, Penalties" in the title to section 103:", Inventory, and Emergency Response". Section 103 is further amended by adding at the end thereof the following new subsection:

"(h)(1) The requirements of this subsection shall apply to owners and operators of facilities that have ten or more full-time employees and that are in Standard Industrial Classification Codes 20 through 39 (as in effect on July 1, 1985) that manufacture or process more than 200,000 pounds per year of a chemical substance listed pursuant to paragraph (2) or that use more than 2,000 pounds per year of a substance listed pursuant to paragraph (2). For purposes of this subsection,

"(A) The term "manufacture" means to produce, prepare or compound a chemical substance.

"(B) The term "process" means the preparation of a chemical substance, after its manufacture, for distribution in commerce—

"(i) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance,

"(ii) as part of an article containing the chemical substance.

"(C) The term "use" means to use for purposes other than processing.

"(2)(A) Not later than July 1, 1986 the President shall publish a list of toxic chemical substances which, on the basis of available information and in the judgment of the President, are manufactured in or imported into the United States in aggregate quantities that exceed 500,000 pounds per year and, (i) based on epidemiological or other population studies, generally accepted laboratory tests, or structural analysis are known to cause or are suspected of causing in humans adverse acute health effects, cancer, birth defects, heritable genetic mutations, or other health effects such as reproductive dysfunction, neurological disorder, or behavioral abnormalities, or (ii) because of toxicity, persistence, or tendency to bioaccumulate in the environment, may cause adverse environmental effects. Unless and until such list is published, those specific chemical substances identified in section 101(14) of this Act shall constitute such list.

"(B) The President shall, as necessary, but no less often than every two years, review and revise the list required by this paragraph. Any person may petition the President to add a chemical substance to the list or to remove a chemical substance from the list.

"(C) The President may establish a quantity different from that established in paragraphs (1), (2), or (3) for particular chemical substances, based on their toxicity, extent of usage and such other factors as the President deems appropriate. The President, on his own motion or at the request of a Governor of a State (with regard to facilities located in that State), may apply the requirements of this subsection to the owners and operators of any particular facility that manufactures, processes, or uses a chemical substance listed under subparagraph (A) if the President determines that such action is warranted on the basis of toxicity of the substance, proximity to other facilities that release the substance or to population centers, the history of releases of such substances at such facility, or such other factors as the President deems appropriate.

"(3) The owners or operator of a facility subject to this subsection shall complete a Toxic Chemical Release Inventory Form as published under paragraph (4) for each chemical substance listed under paragraph (2) that was manufactured, processed, or used in quantities exceeding those established under paragraph (1) or, where applicable, subparagraph (2)(C), during the preceding calendar year at such facility. Such form shall be submitted on or before June 30, 1987, June 30, 1990, and June 30, 1993, and shall contain data reflecting releases during the preceding calendar year. If the President has not published the form required by paragraph (4) on or before December 31, 1986, owners and operator required to submit information under this subsection shall do so by letter to the Administrator of the Environmental Protec-

tion Agency postmarked on or before June 30, 1987.

"(4)(A) Not later than June 1, 1986, the President shall publish a Toxic Chemicals Release Inventory Form. Such form shall provide for the name and location of and principal business activities at the facility and shall provide for submission of the following information for each listed substance known to be present at the facility—

"(i) the use or uses of the chemical substance at the facility;

"(ii) the annual quantity of the chemical substance transported to the facility, produced at the facility, consumed at the facility, and transported from the facility as waste or as a commercial product or byproduct or component or constituent of a commercial product or byproduct;

"(iii) the annual quantity of the chemical substance entering each environmental wastestream, including air, surface water, land, subsurface injection, and discharge to publicly owned treatment works; and

"(iv) for each wastestream, and waste treatment methods employed and the annual quantity of the chemical substance remaining in the wastestream after treatment.

"(B) For purposes of this paragraph, facility owners and operators may utilize readily available data collected pursuant to other State and Federal environmental laws, or, where such data are not readily available, reasonable estimates. Nothing in this subsection shall require the monitoring or actual measurement of quantities of substances or releases beyond that required under other authorities. In order to assure consistency, the President shall require that data be expressed in common units.

"(5) The Governor of each State shall designate an official or officials of the State to receive Toxic Chemical Release Inventory Forms. The facility owner or operator shall submit the Form to such official or officials and to the President.

"(6) Subject to the provisions of paragraph (8), the President and the Governor shall make the information submitted pursuant to this subsection available to the public. The President and the Governor may charge reasonable fees to recover the cost of reproduction and mailing of data.

"(7) The President shall establish and maintain in a computer database a National Toxic Chemical Release Inventory based on data submitted under this section. EPA shall make these data accessible by computer telecommunication to any person on a cost-reimbursable user fee basis.

"(8)(A) The President may verify the data contained in the Toxic Chemicals Release Inventory Form using the authority of section 104(e) of this Act.

"(B) Information submitted under this subsection shall be treated as information submitted under section 104(e) and (other than data on the quantity and nature of any release and the identity of the chemical substance released) shall be subject to the provisions of section 104(e).

"(9) Any person who knowingly omits material information or makes any false material statement or representation in the Toxic Chemicals Release Inventory Form, shall, upon conviction, be fined not more than $25,000 or imprisoned for not more than one year, or both.

"(10) Nothing in this subsection shall be construed to limit the ability of any State or locality to require submission of information related to hazardous substances, toxic chemical substances, pollutants or contaminants or other materials.

"(11) Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by this Act, if further amended by inserting "and section 103" after "under this section" in the first sentence."

STAFFORD (AND BENTSEN) AMENDMENT NO. 649

Mr. STAFFORD (for himself and Mr. BENTSEN) proposed an amendment to the bill S. 51, supra; as follows:

On page 48, after line 3, insert the following new section and renumber subsequent sections accordingly:

METHANE RECOVERY

SEC. . (a) Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subparagraph:

"(D) in the case of a facility at which equipment for the recovery or processing (including recirculation of condensate) of methane has been installed (i) the term "owner or operator" shall not include the owner or operator of such equipment, unless such owner or operator is also the owner or operator of the facility at which such equipment has been installed, and (ii) the owner or operator or manufacturer of such equipment (other than the owner or operator of the facility at which such equipment has been installed) shall not be considered to have arranged for disposal or treatment of any hazardous substance at such facility pursuant to section 107 of this Act, except to the extent that there is a release of a hazardous substance from such facility which was primarily caused by activities of the owner or operator of such equipment other than the recirculation of condensate or other waste material which is not a waste meeting any of the characteristics identified under section 3001 of the Solid Waste Disposal Act."

(b) Unless the Administrator promulgates regulations under Subtitle C of the Solid Waste Disposal Act addressing the extraction of wastes from landfills as part of the process of recovering methane from such landfills, the owner and operator of equipment used to recover methane from a landfill shall not be deemed to be managing, generating, transporting, treating, storing, or disposing of hazardous or liquid wastes within the meaning of that subtitle; provided, however, that if the aqueous or hydrocarbon phase of the condensate or any other waste material removed from the gas recovered from the landfill meets any of the characteristics identified under section 3001 of that subtitle, then such condensate phase or other waste material shall be deemed a hazardous waste under that subtitle; and shall be regulated accordingly.

DURENBERGER AMENDMENT NO. 650

Mr. DURENBERGER proposed an amendment to the bill S. 51, supra; as follows:

At the end thereof add the following new Sec.

"Not later than October 9, 1985, the Director of the Office of Management and Budget shall complete his review and make available for publication in the Federal Register all of the proposed recommended maximum contaminant levels for those organic and inorganic chemicals published by the Administrator of the Environmental Protection Agency in volume 48, Federal Register, page 45502 and submitted by the Administrator to the Director prior to April 30, 1985."

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, September 19, to hold an oversight hearing in review of the Federal Energy Regulatory Commission's notice of proposed rulemaking on regulation of natural gas pipelines after partial wellhead decontrol.

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

COMMITTEE ON FINANCE

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, September 19, 1985, in executive session to consider legislation to reduce the Federal deficit, for the fiscal years of 1986, 1987, and 1988.

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

COMMITTEE ON ARMED SERVICES

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, September 19, in order to conduct a hearing on H.R. 664, amending the Panama Canal Act of 1979, regarding the payment of interest on the U.S. investment in the Panama Canal, and H.R. 1784, the Panama Canal Authorization Act for fiscal year 1986. Armed Services Committee, will also consider and vote on the nomination of Robert Dawson to be Assistant Secretary of the Army for Civil Works, and routine military nominations.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, September 19, to hold a meeting on record labeling.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. STAFFORD. 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,

September 19, between the hours of 12 a.m. and 12:30 p.m. and 3 p.m.-6 p.m., in order to mark up S. 616, the farm bill.

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

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts, and Humanities, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, September 19, 1985, in order to conduct a hearing on the reauthorization of the Higher Education Act of 1985.

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

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, September 19, in open session to be followed by a closed session, to hold a hearing on wartime medical readiness.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 19, in closed session, to receive a briefing on intelligence matters.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. SIMPSON. 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, September 19, 1985, beginning at 3 p.m. and continuing until the hour of 6:40 p.m. for purposes of marking up the farm bill.

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

ADDITIONAL STATEMENTS

THE VISIT OF MOZAMBICAN PRESIDENT SAMORA MACHEL

● Mr. HUMPHREY. Mr. President, Mozambican ruler Samora Machel is scheduled to meet with President Reagan today at the White House. I believe that this meeting casts grave doubts about United States commitment to democratic freedom movements in Africa. Despite the administration's stated support for democratic freedom movements throughout the world, the State Department is lobbying to give military and economic assistance to the Soviet and Cuban backed government of Samora Machel. The human rights situation in Mozambique is deplorable as thousands have disappeared in Mozambican prisons and camps. Under the Machel regime, Mozambique is a committed Marxist state which houses over 20,000 Soviet bloc troops and advisers. Since the Soviets favor military assistance over economic assistance, Machel is looking to the United States for badly needed economic assistance to sustain his beleaguered economy. Totalitarian governments have always been willing to accept Western money, especially when it helps keep their regime in power. Mr. President, I suggest that we reflect upon the message that the U.S. Government is sending to democratic resistance movements throughout the world, when we welcomed an avowed opponent of freedom and fundamental human rights. Mr. President, a Backgrounder issued today by Heritage Foundation succinctly highlights the confusing signals that the administration is projecting. I ask that this paper be printed in the RECORD.

The material follows:

[From the Backgrounder, Sept. 19, 1985]

THE WHITE HOUSE'S CONFUSING SIGNALS ON MOZAMBIQUE

INTRODUCTION

This week's visit of Mozambique ruler Samora Machel, a pro-Soviet Marxist, to the White House symbolizes the Reagan Administration's pursuit of a highly questionable policy. The policy is a high-stakes gamble with thus far little evidence of success, and it is inconsistent with the Administration's self-proclaimed doctrine supporting anti-Marxist insurgencies.

The State Department and the White House seem to be hoping to "wean away" Machel from his close ties to the Soviet bloc and his disastrous Marxist economic policies. But there is as yet no sign of fundamental change, or indeed any change beyond that which a desperate leader might make to hang on to power. While Machel has observed the requirement of the so-called Nkomati Accord between South Africa and Mozambique by ending his aid to the radical African National Congress in South Africa, the Accord has not led to any fundamental shift in Mozambique's foreign or domestic policies.

As important, the State Department request for military aid to Machel is not only wrong on its merits, it raises questions about the overall coherence of U.S. foreign policy. Both the President and the Secretary of State have proclaimed the so-called "Reagan Doctrine" of U.S. sympathy and support for anti-Marxist insurgencies. Yet the Administration is seeking to prop up Marxist Mozambique with its dismal human rights record at a time when it is being threatened by a militarily effective insurgency.

The possibility of fundamental change in any nation can never be totally excluded. President Anwar Sadat, after all, expelled the Soviets from Egypt. But as yet there is no indication that Machel's actions are anything more than a pause and a holding action, while retaining close ties to Moscow. Despite State Department enthusiasm, there is nothing new about Marxist regimes taking Western economic assistance. But they use it to reinforce their own control, not to make fundamental changes. Given these realities, Samora Machel should be received with formal correctness, and his statements and actions carefully scrutinized, but no assistance should be offered.

THE NKOMATI PACT AND RECENT DEVELOPMENTS

The Nkomati pact, signed by Mozambican President Somora Machel and South African President P. W. Botha on March 15, 1984, pledged both sides to prevent "armed bands" from organizing within their respective territories. South Africa promised to cut off RENAMO, the Mozambique National Resistance rebels, who have made crippling strikes against a variety of economic targets in their country. Mozambique, which borders South Africa, pledged itself to remove the African National Congress (ANC) guerrillas from its territory and has done so.

South Africa remains very supportive of the Nkomati Pact and views it as a way to stabilize the teetering government of a strategic neighbor: 17 percent of all South African foreign trade passes through Mozambique's capital, Maputo, and 12 percent of its total electricity is provided by Mozambique's Cabora Bassa hydroelectric plant. For South Africa, the stability of Mozambique has been more important than its ideology. For Mozambique, Nkomati was a way to lessen RENAMO guerrilla activity against the Machel government's already shattered economy.

The U.S. State Department, which played a very modest role in brokering it, has gambled on Nkomati, seeing it as the cornerstone of a new twist to southern Africa policy designed to dismantle Soviet influence in the Marxist states ringing South Africa. Meanwhile, critics have disparaged Nkomati as incomprehensible assistance for a despotic, failing Marxist regime.

Now, more than a year after Nkomati, anti-government guerrilla activity has increased in Mozambique. The situation for the regime of Samora Machel is deteriorating. Foreign debt has ballooned to unmanageable levels, the local currency is worthless, a savage drought has claimed 100,000 lives and reduced agricultural production to a trickle, and the black market has surpassed its state-sanctioned counterpart. And Mozambique has turned to Zimbabwe's Marxist regime for military assistance to put down the rebels. The treaty has had little impact on Mozambique.

RENAMO: THE ANTI-MACHEL INSURGENCY

Mozambique became independent in 1975 after 500 years of Portuguese colonial rule. Portugal's 1974 leftist coup and a ten-year armed struggle by the Front for the Liberation of Mozambique (FRELIMO) against the colonial government brought in Samora Machel's Marxist reign of terror. Thousands of Portuguese settlers fled across the border into South Africa with most heading for Portugal. FRELIMO's leader Samora Machel, became President of Mozambique and methodically began turning his country into a Marxist dictatorship. He purged FRELIMO of anti-Marxist elements, imposed communist doctrine, herded thousands into reeducation camps and other prisons, and nationalized industry and agriculture. Machel renamed Maputo streets for Lenin, Marx, Fidel Castro, and Ho Chi Minh. He also fomented revolution in the region. Example: He allowed Robert Mugabe's ZANU party to establish bases inside Mozambique, from which armed units would raid what then was Rhodesia.

RENAMO, formerly MNR, the Mozambique National Resistance, was stitched together primarily by the Rhodesian Central Intelligence Organization in cooperation with some Portuguese and anti-Marxist former FRELIMO members. The CIO wanted a counterweight to Machel's support of Rhodesia's ZANU terrorist activities. Yet, some top RENAMO leaders, such as Alfonso Dhlakama, are ex-FRELIMO members. RENAMO's origin as a mere countermeasure to ZANU often prompts Western leaders, including those in the State Department, to dismiss it as a band of armed disrupters inherently incapable of governing Mozambique.[1] There is some truth to this assessment, but that fact argues for more and better training.

South Africa's military, known as the South African Defense Force (SADF), along with a substantial number of former Portuguese Mozambique settlers, helped RENAMO relocate its base of operations and provided funding after Mugabe gained power and Rhodesia became Zimbabwe. RENAMO's station, Radio Free Africa, was moved inside South Africa, and rebel training took place on "farms" a few miles outside Pretoria.[2] The SADF used RENAMO as a counterweight to Mozambique's support of ANC territories using Maputo as a safe haven. The SADF supplemented this thinly veiled covert activity with overt strikes against ANC strongholds inside Mozambique, often in immediate response to ANC terrorism in Pretoria. South African planes bombed suspected ANC hideouts near Maputo in May 1983.

RENAMO flourished under South African tutelage. The rebel force, the majority of which is located inside Mozambique, has grown to an estimated 20,000 members. Although Mozambique's economic problems are fundamentally caused by its Marxist collectivization and nationalization policies; RENAMO's campaign makes the problems worse.

By attacking carefully selected ecomomic targets, RENAMO has denied the Machel government leading foreign exchange sources and undermined foreign investor confidence. These targets include railroad links with Zimbabwe, Malawi and South Africa; the Beira-Maputo coastal highway; the Beira-Zimbabwe oil pipeline; and agricultural sites. RENAMO attacks reduced tea exports in Eastern Zambezia province by 50 percent in 1984. RENAMO has wreaked similar havoc in Mozambique's other main agricultural provinces, Cabo Delgado and Nampula. Total 1985 agricultural production is down 50 percent, due to the reluctance of commercial farmers to plant in the face of growing insurgency.[3]

The State Department, in its annual evaluation of the Mozambican economy, concludes: "The insurgents have had a severe negative impact on the country's economic development. . . . Insurgent activities have created a climate of insecurity which, in some cases, has blocked internationally-sponsored development projects."[4]

A bleak economic outlook confronts Mozambique. Of its 12.9 million inhabitants, 85 percent are subsistence farmers. Food production has plunged 80 percent since 1980. Last year the southern region's cereal crop was only 10 percent of the normal level. Per capita Gross National Product dropped 14.1 percent between 1980 and 1982 (the last year for which figures are available), reaching a level equivalent to $159 per person. Foreign Western debt exceeds $2 billion; debt owed the Eastern bloc states could be three times as much. According to the State Department, ". . . three years of drought, an armed insurgency . . . as well as a shortage of skilled workers and questionable policies have disrupted the economic development."[5] While the drought has ended, the *New York Times* reported Mozambique "is confronted with a paralysis caused by the spreading rebellion."[6]

The local currency, the *metical*, has collapsed. Many Maputo merchants will accept payment only in dollars or South African rands.[7] Official exchange rates are meaningless. In late 1984, a dollar officially was worth 44 *meticals* but could only buy 1,400 on the black market. In a futile attempt to curb the black market, the Machel government temporarily instituted public floggings, prison sentences, and executions for "economic crimes."[8] Mozambique rescheduled $300 million worth of its Western debt in 1984. Unable to muster adequate foreign exchange, the government cannot import machinery, spare parts, or raw materials necessary for the most basic production.

THE SOVIET BLOC AND MOZAMBIQUE

Mozambique has many characteristics of a Soviet client state. Despite State Department hopes and Machel's interest in a Western economic bailout, there has been no significant move away from the Soviet bloc. Mozambique relies, for example, on a large number of Soviet and Soviet bloc personnel. Earlier this year, some 20,000 Soviet bloc personnel provided defense, internal security, information management, and engineering services. This included several thousand Cubans, as well as East Germans, Soviets, Zimbabweans, and North Korean "military specialists."

The chief of Mozambique's air force, Major General Hama Thai, is North Vietnamese. Mozambican air force planes, some 35 MiG-17s and 50 MiG-21s, are flown by East Germans, although East Germans also established the state secret police, SNASP, which runs Mozambique's prisons and re-education camps, home to an estimated 300,000 captives. There is no free press; the East Germans run AIM, the state information service. East Germany provides technical assistance at the maatice coal mine, which has an estimated 400 million metric ton reserve. Approximately 12,000 Mozambican children work in forced labor factories in East Germany. President Machel has signed a 25-year friendship and cooperation treaty with East Germany that includes provisions for military defense.

Machel also has signed treaties with the USSR. A "friendship" agreement with Moscow pledges Mozambique to deny harbor to Western ships. A "fishing" treaty with the Soviets will provide facilities at Nacala, which could endanger free passage through the Mozambique channel on the Cape oil route. Unable to develop its own oil and natural gas reserves, Mozambique relies on Libya, Algeria, and the Soviet Union for petroleum. The USSR, Czechoslovakia and Yugoslavia have been granted oil and mineral exploration and development rights in southern Mozambican provinces. Mozambique is also a signatory of an omnibus trade, aid, technological, and economic agreement with the Soviets.

Regular Mozambican military forces, estimated at 25,000 troops, rely almost exclusively on Soviet hardware, which includes 85 tanks, 300 armored personnel carriers, 200 armored cars, 128 artillery pieces, 14 patrol boats, 6 transport planes, and 4 Mi-8 helicopters. Much of this Soviet weaponry, however, is inoperable due to age, poor maintenance, or destruction by RENAMO.

Facing east toward the Indian Ocean and west toward Zimbabwe and South Africa, Mozambique is crucial to Soviet power projection in the region. The Soviets, in 1981, installed a dry dock at Maputo that regularly services ships from the Indian Ocean Soviet fleet. Three weeks after a 1981 SADF raid on ANC hideouts inside Mozambique, three Soviet warships arrived in Maputo harbor for a visit. The Soviet ambassador threatened to unleash them to protect Mozambique. This may have been no bluff. Soviet warships off Ethiopia's coast bombared the cities of Massava and Assab.[9]

Despite these close ties, there are limits to Moscow's interest in Mozambique. Perhaps becuase of economic overextension elsewhere, the Kremlin refused Machel's bid to join the Soviet bloc economic organization, COMECON. Zimbabwean troops have guarded the Beira-Umtali oil pipeline and now have launched a major offensive against the rebels. Zimbabwe President Mugabe has pledged to deploy 30,000 troops, 75 percent of Zimbabwe's 41,000-man standing army, inside Mozambique by year's end.[10] This would be a radical departure from Zimbabwe's previous military role, which was limited to providing 3,000 troops to guard the strategic Mutare (Zimbabwe)-Beira (Mozambique) railroad and oil and gas pipeline. Machel requested the assistance at a June 12, 1985, security conference with Mugabe and Tanzanian President Julius Nyerere.[11] Last month, Zimbabwe moved helicopter troop transports and gunships into the region.

THE UNITED STATES AND MOZAMBIQUE

According to the *New York Times* reports of last December, the American Embassy in Maputo regards President Samora M. Machel, an avowed Marxist-Leninist whose country's voting record at the United Nations is, from the American point of view, one of the worst, as a pragmatic leader with great charisma. "Relations with the United States are termed excellent as a result of 'maturing' on both sides." What accounts for this improving diplomatic climate, explains the *Times*, is "Mozambique's readiness to accept American aid in its time of despair."[12]

Mozambican ambassador to the U.S., Valeriano Ferrao, characterizes current relations between his country and the U.S. as "the best ever."[13] Frank Wisner, State De-

[1] "Look, RENAMO doesn't have the same legitimacy" as other popular anti-Marxist liberation fronts in Africa, says a State Department spokesman. Interview, March 6, 1985.
[2] The Economist, July 16, 1983.
[3] *The New York Times*, July 9, 1985.
[4] *Foreign Economic Trends—Mozambique*, U.S. Department of State, July 1984.
[5] *Ibid.*
[6] *The New York Times*, July 9, 1985.
[7] *The New York Times*, December 3, 1984.
[8] *The Economist, op. cit.*
[9] *The Christian Science Monitor*, January 30, 1978.
[10] *The Christian Science Monitor*, August 26, 1985, p. 12.
[11] *The Washington Post*, June 13, 1985.
[12] *The New York Times*, December 3, 1984.
[13] Interview, March 6, 1985.

partment Senior Deputy Assistant Secretary for Africa Affairs, expresses optimism and accomplishment. "The President [Reagan] is very pleased with the progress we've made [in Mozambique]." [14]

The "progress" of which Wisner speaks is the perception inside the State Department that Mozambique is being weaned away from Moscow. Wisner and his boss, Assistant Secretary of State Chester Crocker, expended considerable energy persuading Mozambique and South Africa to sign the Nkomati accord. "The Administration views Nkomati as the cornerstone to diplomatic success in southern Africa," says Wisner. "The Soviets are very unhappy with Mozambique for signing Nkomati. They predicted Machel would fail and Mozambique would pay a high price."

U.S.-Mozambique relations were not always so cordial. U.S. economic aid was temporarily withdrawn in early 1981, after Mozambique expelled four U.S. embassy personnel on spying charges. President Jimmy Carter assailed the Machel regime's widespread human rights violations.

The human rights violations continue today. Since 1975, an estimated 75,000 persons have perished in Mozambican prisons and "reeducation camps." At the "Moz-D" prison in Cabo Delgado province, the skulls and bones of thousands "lie bleaching in the sun." [15] Travel within the country is restricted. Arbitrary arrests and detentions of up to 180 days without charges occur frequently. Prisoners can be given open-ended sentences. In 1983, thousands of Mozambicans were forcibly relocated from urban areas to the drought-ravaged countryside. Religious persecution is commonplace.[16]

Toward the end of 1983, Washington-Maputo relations improved. Discontented with the level of Soviet economic assistance and hard pressed by a lack of foreign exchange, three years of devastating drought, and stepped-up RENAMO attacks, Machel turned to the West. The State Department saw this as an opportunity to "break the back" of Soviet-sponsored hostilities throughout the area. To achieve this, the U.S. has sought to stop the violence that creates Soviet arms clients and establish a dialogue with the Marxist Machel regime. A small but symbolic carrot of economic and food aid amounting to $16.1 million was offered Maputo. The U.S. promised to sponsor Mozambique for membership in the International Monetary Fund, the World Bank, and the so-called Paris Club, a prerequisite for renegotiating Western debt.

Mozambique was approved for IMF membership in 1984 and subsequently received a $45 million World Bank loan. Mozambique was also the largest recipient of U.S. emergency food aid in 1984, some 350,000 metric tons. State Department officials have defended their backing of Machel's Marxist regime by insisting that: "Mozambique isn't Nicaragua." [17]

The U.S. plans to increase economic and food aid to Mozambique (see table). Some U.S. officials apparently view Machel as a black African version of Anwar Sadat. Says a State Department official of U.S. aid to Mozambique: "That's a hell of a lot cheaper than it cost us in Egypt." Says Wisner, "Look, Mozambique applied for COMECON membership in 1980 [18] . . . Now, they are about to join the IMF and the World Bank. That's quite a shift." [19] A State Department proposal planned to ship Machel nonlethal military equipment: communications gear, uniform accessories, and, perhaps, a few trucks. This was blocked in Congress as inappropriate through FY 1986.

UNITED STATES AID TO MOZAMBIQUE

[In millions of dollars]

Program	1984 (actual)	1985 (estimated)	1986 (proposed)
Development assistance	1	2	2
Economic support fund	7	11	15
Public Law 480, title I	0	17	10
Public Law 480, II	8.103	23.2	0
Military assistance	0	1	3
Military training	0	.15	.15
Total	16.103	54.35	30.15

Source: U.S. Department of State.

PRECARIOUS FUTURE FOR NKOMATI

Although deprived of official South African government support by the Nkomati treaty, RENAMO rebel activity has increased. Earlier this year, the Christian Science Monitor reported that "the rebels of the RENAMO Movement have achieved remarkable advances since the signing [of Nkomati]." [20] New RENAMO support is believed to come from Malawi, the Comoro Islands, private citizens in Portugal and South Africa. When Nkomati was signed, RENAMO operated in nine of Mozambique's ten provinces; now they are active in all ten. They have surrounded Maputo and frequently cut off electricity to the capital city. Planes approaching and departing the airport must make steep turns and run without lights for fear of attack.

Last July, a despondent Machel conceded, "We are living in a war situation." Regular Mozambican army troops seem unwilling to pursue the rebels.[21] As a result of the violence, thousands of Mozambicans have fled to neighboring Zimbabwe.

The economy slides further, and Machel, fond of his gold-braided marshal's uniform and purple Rolls-Royce, faces an uncertain future. His government remains unable to quell RENAMO assaults, and he has been forced to seek outside military interdiction, primarily from Zimbabwe, a move that could forfeit U.S. aid and invite South African invasion. A leading South African official has said: "Our neighbors know if they introduce surrogate forces into the region we will go in and get them out." However, a South African spokesman said his government does not regard the current presence of Zimbabwean troops inside Mozambique as a threat to South Africa's security.[22] Conversely, Machel could solicit South African military assistance, a move that would reignite the Nkomati controversy in Pretoria and put the South African SADF in an awkward mission of neutralizing a guerrilla force it helped nurture.

Machel must make a move soon. Rumors of a coup have circulated widely, and "within the (ruling) Frelimo Party itself, the pro-Soviet faction remains strong." [23]

CONCLUSION

Given the battlefield successes of the RENAMO insurgency against Samora Machel's Marxist regime and Mozambique's precarious political and economic condition, it is puzzling that the Reagan Administration feels that it serves U.S. interests for the White House to receive Machel with the pomp of a visiting dignitary at this time. Nor is it at all apparent that the U.S., which has very strong leverage considering Machel's serious problems, is insisting on anything in return for tossing Machel this symbolic lifeline.

For Machel's visit to serve any useful purpose, the U.S. must make clear that U.S. sympathies are with those struggling to move Mozambique away from its embrace of the Soviet bloc and its Marxist ideology. The U.S. should state that it has no intention of seeking to rescue Machel from the problems that his own policies have created unless there were to be an absolute clear-cut, irreversible break with the Soviet bloc as, for example, when Egypt's Sadat expelled Soviet bloc personnel. Internationally observed free elections would also be required. In sum, Machel must be told that he cannot have the best of both worlds—receiving U.S. aid that merely enables him to maintain his tight dictatorial grip and de facto alliance with Moscow. If such changes do not occur, Machel should be advised that the U.S. will reassess its own policies and review the question of moral, political, or other support for the RENAMO forces.

U.S. policy thus far has been based primarily upon unsupported optimism about changes in the views and policies of Samora Machel. If nothing else, Machel's forthcoming visit will serve to illustrate whether these hopes have any basis in reality. Should Machel prove unwilling to move away from the Soviet bloc, reassessment of U.S. policy would be urgently needed.

Prepared for The Heritage Foundation by Jaime Pinto, a Portuguese writer on international affairs, and Mark Huber, a Washington-based free-lance writer.●

[14] *Ibid.*
[15] *The Washington Times*, February 5, 1985.
[16] *Country Reports on Human Rights Practices*, U.S. Department of State, February 1985.
[17] Interview with State Department Official.
[18] Membership proposal denied, April 1981.
[19] Interview, March 6, 1985.
[20] The Christian Science Monitor, Feb. 5, 1985.
[21] The New York Times, July 1, 1985.
[22] Interview, September 12, 1985.
[23] *The Christian Science Monitor*, Aug. 6, 1985.

BACKDOOR SPENDING AT AID

● Mr. DENTON. Mr. President, at a time when we are facing a budget deficit of monstrous proportions, even the smallest expenditure by Government officials demands close scrutiny. There is no such thing as wasting just a little money.

Yet, we all know what goes on in some Federal departments and agencies when the end of the fiscal year approaches. There is a mad rush to spend, or commit to spend, every last dollar, so that the Congress will have no justification for cutting next year's departmental allotment. That practice is perhaps the most disgraceful part of governmental waste; taxpayers' dollars are frittered away just for the sake of ending the year with a zero balance.

At the Agency for International Development [AID], Administrator Peter McPherson has sternly warned his subordinates to guard against that kind of abuse; reiterating the Office of Management and Budget's strong stand against last-minute, clear-the-decks spending. Mr. McPherson has asked agency officials to "ensure that

to the maximum extent allowed by law or regulations, disciplinary action is taken against officers and employees who waste public funds."

Perhaps, then, we should look more closely at a recent decision by certain AID officials to approve the expenditure of $6.8 million for publications in the area of population control, without submitting the grants for review by AID's Communications Review Board. Taking advantage of a loophole in AID's review process, Steven Sinding, Director of AID's Office of Population, secured approval from Raisa Scriabine; chairman of the Communications Review Board, for the multimillion dollar expenditure. The justification for evading review by the Review Board was that the money would be given to subcontractors in host countries; that is, recipients of foreign aid. What good is a Review Board that does not review a $6.8 million expenditure directly related to the Board's responsibilities.

I seriously question whether that is the way money should be handled in the Reagan administration, or any other administration. If the $6.8 million was to be given to reputable grantees, with a clean track record, for purposes within the law and the intent of Congress, then there is no reason why the Communications Review Board should not have had a few hours to study the grant before Dr. Sinding committed the public funds.

For a fuller understanding of the matter, I ask that the following documents be printed in the RECORD at the conclusion of my remarks. Mr. McPherson's notice of July 22, cracking down on wasteful year-end spending, Steven Sinding's memo of May 10, proposing that the Communications Review Board's normal process be supplanted by a futile random retrospective review, and a memo of May 24 from Raisa Scriabine, agreeing to the Sinding proposal.

Needless to say, Mr. President, the documents take on added importance in light of recent controversy concerning possible spending abuses, for personal travel, by AID officials who are responsible for this same Communications Review Board. One top-level resignation within the last few weeks may have been related to that investigation, and I would hope that other AID officials have learned by now the necessity of avoiding not only the fact but also the appearance of impropriety in their stewardship of the public purse.

The documents follow:

AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, DC, July 15, 1985.

[AID/W Notice, AA/M, Issue Date: 7-22-85]

Subject: Prevention of Wasteful Year-End Spending, OMB Memorandum 85-18, dated June 13, 1985.

As we move into the final quarter of this fiscal year, I once again want to call your attention to the need to avoid wasteful year-end spending. Special attention should be paid to areas that are particularly vulnerable to wasteful spending, e.g., travel, consulting and related services, periodicals, pamphlets and audio visual products, and others which fall under OMB's guidelines for the Federal Manager's Financial Integrity Act and OMB Circular No. 123 on Internal Controls.

Contracting officers, program managers, and policy officials who are responsible for procurement and grant actions should carry out their responsibilities to assure compliance with this guidance.

As requested in Mr. Stockman's message of June 13th, I ask that you ensure that:

To the maximum extent allowed by law or regulations, disciplinary action is taken against officers and employees who waste public funds.

Employees are reminded of appropriate standards that apply to wasteful spending and the possible sanctions and penalties, and that they are apprised of how to report waste and fraud and the protections that are available for employees making such reports.

Obligations for the fourth quarter of the fiscal year are no higher than the average for the first three quarters, except where seasonal requirements, essential program objectives, or lead times justify a higher level.

Orders for services, supplies, materials, and equipment are not more than needed to meet approved essential program objectives and are made in accordance with the attached procurement guidance by the Administrator of the Office of Federal Procurement Policy.

Grants and other forms of Federal assistance are subjected to rigorous review, meet current priorities, are funded only in justified amounts, and are not made just to keep funds from lapsing or to keep them from being reported as unobligated.

Special attention is paid to controlling the use of funds in areas that are particularly vulnerable to wasteful spending, e.g., travel and transportation, consulting and related services, periodicals, publishing and audiovisual products, motor vehicles, public affairs, and other areas identified by assessments made pursuant to OMB's guidelines for implementing the Federal Managers' Financial Integrity Act and OMB Circular No. A-123 on Internal Controls.

With a view to reducing and controlling wasteful year-end spending, notices are being issued establishing cut-off dates for processing contract and other purchasing actions. You are requested to comply with those guidelines.

I am also asking the Inspector General to conduct an assessment of a sample of the procurements awarded in the fourth quarter. This has been a valuable deterrent in the past. To the extent allowed by law and regulations, disciplinary action should be taken against executives and employees who waste public funds.

M. PETER MCPHERSON.

MEMORANDUM

To: XA/P, Roger Mahan.
Thru: S&T, N.C. Brady.
From: S&T/POP, Steven W. Sinding.
Subject: RFP for a Population Dissemination Program.

Under the newly authorized Population Policy Initiatives Project (No. 936-3035), S&T/POP has drafted an RFP for a competitive procurement of a dissemination program. The purpose of the dissemination program is to improve use of existing population information and research findings by policymakers in developing countries and the donor community. A.I.D. contributes to the policy dialogue by assisting LDC leaders to obtain the information they need to examine the effects of demographic change on their development objectives.

Drawing heavily on research funded by A.I.D. over the past 15 years, the dissemination program is intended to increase the returns on our sizable research investments. While past research projects have involved some dissemination of results, no systematic effort has been made to ensure maximum use of research findings by LDC policymakers. Underutilization of research findings is a problem not only in the population area, but more generally of the social sciences. Preparing, promoting and distributing materials appropriate for use by policymakers who have severe time constraints is a special challenge.

One major activity of the proposed program will involve supporting LDC institutions in their efforts to improve dissemination of existing population information and research results. Materials will be produced through contracts with host country institutions.

A second important activity will involve preparing and distributing materials on up to eight general population themes over the life of the five-year program. A few examples of possible themes are: 1) the impact of birthspacing on infant and child morbidity and mortality, and 2) the development and health implications of urbanization on Africa. These materials will be based primarily on existing final reports produced under various population research projects. The format for these materials will depend on the topic and audience. Possible formats include policy briefs of 1-8 pages and factsheets of 1-2 pages. The contractor will be asked to prepare a mailing list of approximately 5,000 names of key LDC policymakers who need timely and accurate information to make informed decisions about population policy.

A third important activity will involve responding, with short turnaround, to ad hoc requests for materials. Requests will usually involve preparing concise, brief materials for use at international and regional meetings as well as host-country sponsored sessions. It is anticipated that preparation time will be limited to 3-4 weeks. It is estimated that up to 25 requests will be filled per year and approximately 75 copies each of these materials will be printed.

The budget for the five-year program is $6.8 million. The actual cost of publications produced by the prime contractor (as opposed to host-country subcontractors) is estimated at $214,000 per year including printing, mailing and postage.

We request that you approve the issuance of an RFP for the dissemination program and that you agree to a random retrospective review of the materials to be published under the program. The rationale for this

request is based on the fact that materials produced under host-country contracts are subject to this type of review (Policies and Procedures of the Communications Review Board, January 17, 1985). In addition, materials to be prepared on general population themes are few in number, are based on existing research findings by LDC policymakers and are intended to greatly increase use of these findings by LDC policymakers. Finally, materials for the ad hoc requests will be prepared in a very short time and will be targeted to a specific and relatively small audience.

I would be pleased to meet with you and other members of the CRB to answer questions regarding publications proposed under the dissemination program. In order to meet deadlines for new procurement, we hope to be able to issue the RFP within the next couple of weeks and therefore appreciate your early response.

MEMORANDUM

To: S&T/POP, Steven W. Sinding.
From: Raisa Scriabine, Chairman, Communications Review Board.
Re Population Research Dissemination Proposal, May 24, 1985.

Thank you for inquiring about the application of CRB guidelines to the dissemination program of the Population Policy Initiatives Project.

After reviewing the CRB guidelines, I have made the following determination:

1) Those publications produced in the project overseas under host-country contracts are exempt from CRB consideration at the concept stage. They will be examined by the CRB following publication under random retrospective review.

2) Those publications produced in the U.S. on an ad-hoc basis in response to time-sensitive inquiries will be exempt from CRB review at the concept stage if they are produced in quantities of less than 150 copies each.

3) The eight thematic reports produced in the U.S. at an approximate annual cost of $107,000 must be submitted to the CRB for consideration at the concept stage.

If you have further questions, please feel free to contact me.●

NATIONAL DEFENSE FOUNDATION

● Mr. GLENN. Mr. President, in January of this year the Non-Commissioned Officers Association of the USA [NCOA] established the National Defense Foundation [NDF]. Like its parent, the National Defense Foundation is a people organization. It advocates "peace through strength" but recognizes that the strength of our Armed Forces is not measured primarily in the warheads we stockpile or the main battle tanks we field, but rather in our men and women in uniform.

In the months ahead, the foundation will hold a series of Capitol Hill briefings designed to stress the importance of a strong commitment to the manpower aspects of our defense posture. These quality of life issues deserve increased attention, issues such as pay, housing, medical care, and travel allowances. All of these will be briefed in depth by the NDF, along with other issues which impact on the manpower readiness of the services.

A companion program being developed by the National Defense Foundation is an intern program for college students to educate them on the people aspects of military service. Additionally, the foundation has undertaken a program to recognize those who have served, and are serving, in our Nation's Armed Forces. This past 4th of July, the association made possible the distribution of more than 6,000 appreciation cards to hospitalized veterans. A similar program will be undertaken for this coming Veterans Day in November.

But the real centerpiece of National Defense Foundation coming activities, Mr. President, is in military voter registration. The foundation will build around the prior success of the NCOA in assisting members of our military community, stationed both across this country and overseas, to register and vote. With the active assistance of the Department of Defense, the foundation will conduct a new nonpartisan voter registration drive throughout the military establishment for the 1986 elections. Last year, the NCOA assisted in registering over 200,000 military personnel and their dependents. In that year, for the first time, the number of military personnel and their dependents who registered to vote surpassed the national average. Both this year and next the foundation will continue to focus attention and resources on military voter registration programs. Operating through NCOA chapters situated on and near most major defense installations worldwide, the foundation will strive to reach a goal of 1 million new registered voters from the 5 million member military family.

To this end, the foundation has put together and published the NCOA National Defense Foundation voter registration kit. A primary goal of the foundation is to provide this kit free of charge to every base and fleet commander, voting assistance officer, and NCOA-trained volunteer worldwide. This kit vastly simplifies the procedure used by the same 7.5 million service personnel, their dependents, and other U.S. citizens overseas when they register to vote by absentee ballot.

The foundation also will continue its efforts with individual State legislatures to end the effective disenfranchisement of many service personnel, especially those stationed at sea or overseas. In March of this year, the National Defense Foundation sent out over 4,000 letters to State representatives asking them to support legislation allowing greater transit time for absentee ballots. Far too many States still effectively disenfranchise their citizens who vote absentee by mailing out these ballots less than a month before the election. This allows inadequate time for the ballots to get to many of our service community members and back to the state before the deadline.

It is very important that we, elected representatives, communicate with our military community in the same fashion as with our other constituents. A major problem faced by this community is the lack of current information about candidates and their stands. To help remedy this problem, the foundation is developing a communications system linking candidates with potential voters so that both parties come away winners.

All of these Non-Commissioned Officer Association programs center around our military constituents, especially those constituents whose duty assignments take them out of the country for extended periods of time. I would like you to join with me in supporting these organizations in these and other programs which they are pursuing on behalf of our extensive military community throughout the world.●

DR. DAN BOOKOUT SETS 29 FLYING RECORDS

● Mr. PRYOR. Mr. President, earlier this year, Dr. Dan Bookout, of Texarkana, AR, set 29 flying records on an around the U.S. flight. The National Aeronautic Association is honoring Dr. Bookout with a plaque and certificate of record for these achievements. I would like to share with my colleagues the NAA news release outlining his record flight and the text of the plaque being presented to him.

The material follows:

PILOT TOTALS 29 RECORDS ON ROUND-THE-U.S. FLIGHT

Dr. Dan Bookout, a Texarkana, Ark., chiropractor who flies for business, collected 29 city-to-city records in a series of flights around the U.S. between May 30 and June 20. He flew a Piper Lance four-seat personal plane with standard navigation equipment in the International Aeronautics Federation's [FAI] Class C-1d, which is limited to piston-engined airplanes weighing between 3,858 and 6,614 lbs, at take off.

The outstanding achievement of the flight was the non-stop leg from Honolulu to El Paso of more than 22 hours. He had sufficient fuel remaining from original 387 gallons to fly to Miami, his original destination, but was forced to land because of thunderstorms in West Texas.

Dr. Bookout's Records are:

Texarkana, Ark. to El Paso Tex.—117.3 mph (6:14:00).

Dallas, Tex. to El Paso—141.7 mph (3:54:00).

Texarkana to Abilene, Tex.—132.9 mph (2:30:00).

Texarkana to Midland, Tex.—139.7 mph (3:37:00).

El Paso to Salt Lake City, Utah—108.8 mph (6:25:00).

El Paso to Ogden, Utah—108.7 mph (6:37:30).

Gallup, N. Mex. to Salt Lake City—163.7 mph (2:29:30).

Gallup to Ogden—159.8 mph (2:41:30).
Ogden to Reno, Nev.—145.0 mph (2:53:129).
Ogden to Sacramento, Calif.—145.8 mph (3:42:39).
Ogden to Oakland, Calif.—135.9 mph (4:22:57).
Honolulu, Hawaii to San Diego, Calif.—141.9 mph (18:25:00).
Honolulu to Imperial, Calif.—143.8 mph (18:58:00).
Honolulu to Yuma, Ariz.—143.5 mph (19:15:00).
Honolulu to Tucson, Ariz.—137.9 mph (21:37:00).
Honolulu to El Paso—145.6 mph (22:15:00).
San Diego to El Paso—162.6 mph (3:55:00).
San Diego to Tucson—117.7 mph (3:12:00).
El Paso to Alexandria, La.—132.9 mph (6:10:00).
El Paso to Baton Rouge, La.—134.7 mph (6:40:00).
El Paso to New Orleans, La.—157.2 mph (6:10:00).
El Paso to Miami, Fla.—148.8 mph (10:58:00).
Alexandria to Miami—173.4 mph (4:48:00).
Baton Rouge to Miami—174.0 mph (4:17:00).
Miami to Texarkana—150.9 mph (6:29:00).
Cross City, Fla. to Texarkana—146.4 mph (4:46:00).
Marianana, Fla. to Texarkana—161.3 mph (3:35:00).
Mobile, Ala. to Texarkana—211.1 mph (1:48:00).
Talahassee, Fla. to Texarkana—158.8 mph (3:46:00).

Dr. Bookout explained that the very high speed achieved on the Mobile-Texarkana leg was due to his need to get home in time for a parade being held in his honor.

All these records were supervised and authenticated by officials of the National Aeronautic Association, since 1922 the sole U.S. representative of the FAI. They are being sent to FAI Headquarters in Paris for acceptance as world records.

The plaque reads as follows:

"The National Aeronautic Association reprsenting in the United States of America the Federation Aeronautique awards this certificate of Record to Dr. Danford Artie Bookout for Class C-1d, pistoned powered aircraft speed over a recognized course—Talahassee, Florida to Texarkana, Arkansas, Piper Lance, N8352C—Elapsed Time 3 hours 46 minutes 00 seconds on June 20, 1985, 158.84 mph, 255.64 KPH."●

THE TIME FOR THE WAR CHEST HAS COME

● Mr. HEINZ. Mr. President, over 4½ years ago I put forward a proposal that was seen at the time, by some, as being somewhat heretical. It was the idea that we should combat foreign subsidized export credits, which were edging out our exports due to very generous terms and rates, by matching those foreign credits with the use of a special export credit war chest. Several of my colleagues and I introduced the Competitive Export Financing Act, creating a $1 billion war chest to be administered by the Export-Import Bank.

The proposal was not ultimately adopted, but I believe that its consideration, which included the reporting of the bill to the full Senate by the Banking Committee, helped to achieve the important progress that has been made to bring certain official export credits within tighter limits if not eliminate them altogether.

Here we are today, 4½ years later, still without a war chest, and still with severe trade losses due to foreign government-subsidized trade credits. While predatory credit competition has all but ended in the more traditional forms of such credits, the predatory practices have shifted into an expanding use of the so-called mixed credits. Those involve the mixing of export credits with foreign aid money, resulting in absurdly low interest rates and very generous repayment terms. The foreign purchasers find it hard not to choose a French product over an American where the French product is favored by interest rates well below 10 percent and a repayment term of more than 25 years?

So I am heartened, in view of this continuing need for a war chest, to see that the administration has now taken up consideration of a war chest and is in fact reported to be preparing a proposal of its own. I applaud this. The problem is serious and needs to be addressed by strong, effective action. By matching the concessionary financing of our competitors we take the advantage away from relying on such financing and thereby create the conditions for negotiating an agreement for abandoning the practice.

The Wall Street Journal published today, on page 1, an excellent article describing the current situation in the ongoing credit war. I commend the article to my colleagues and ask that it be included in the RECORD.

The article follows:

FOREIGN NATIONS OFFER CHEAP EXPORT LOANS, RILE AMERICAN FIRMS

(By Michael R. Sesit)

In an undeclared trade war, tactical surprise can be just as effective as in any other battle. Late last May, General Electric Co. and the U.S. government were caught unaware by the Japanese.

The U.S. multinational, Fuji Electric Co. of Japan and other companies were in the final stages of assembling bids to build generators for the proposed Mae Moh power plant in Thailand. GE considered itself the leading candidate: Thai officials had called its equipment technically the best.

But on May 21, only 10 hours before the deadline for bids, Japan's export-finance agency said it was offering the Thais subsidized loans and an $8 million grant to help them pay for the project. Although Bangkok hasn't announced a decision, John J. Merry, the head of GE's international steam turbine generator department, expects the so-called mixed credit to win the $36 million contract for Fuji Electric. Moreover, GE has lost other contracts to foreign competitors offering mixed credits—official export-promotion loans combined with grants or other bargain-rate credits.

DANGEROUS FRICTION

Such skirmishing is intensifying a kind of undeclared trade war, a sophisticated battle fought with complex financing packages. The friction is increasing at a time when the U.S. and its major trading partners already are in danger of falling into a traditional trade war, which is typically fought with tariffs, import quotas and other protectionist weaponry—the sort of trade war waged world-wide in the 1930s.

"The entire world is turning into the O.K. Corral," says Jack Pierce, the treasurer of Boeing Co. "You've got barter, countertrade, private and multicurrency deals, government export credits—everything but the kitchen sink."

American executives contend that the U.S. is losing the trade-finance war because the Reagan administration isn't doing enough to promote U.S. exports through the Export-Import Bank. They also charge that foreign governments are breaking the spirit, if not the letter, of agreements designed to restrict subsidized export financing.

"American firms are losing major orders and workers are losing jobs as a direct consequence of foreign mixed-credit competition," says an internal study prepared by the U.S. Trade Representative's office. The report adds that mixed credits are hurting U.S. exports even in fields such as power generation, transportation and communications, in which U.S. companies have traditionally been strong.

ANOTHER HANDICAP

The surge in subsidized financing is particularly damaging U.S. multinationals because they are already hobbled by the strong dollar. "We're sort of getting doublewhammied" says Cordell W. Hull III, an executive vice president at Bechtel Power Corp., a unit of Bechtel Group Inc., a construction and engineering-services company based in San Francisco.

Six months ago, Bechtel lost to an Italian consortium a contract for a $150 million coal-gasification project in China. The Italians' government-subsidized financing was evidently more important than Bechtel's experience in building the only other two such plants in the world. Bechtel officials say. Similarly, Transamerica Delaval Inc. blames foreign mixed credits for its loss of a $35 million power-equipment contract in Indonesia, and Kellogg Rust Inc. in Houston says French bargain financing killed its chances of building a $160 million fertilizer plant in Thailand.

But a French official contends that "the problem of U.S. multinationals is that the value of the dollar is very, very high—not mixed credits." He says that France has used mixed credits for 20 years but that U.S. companies didn't start complaining about them until recently.

Skeptics also note the loudest complainers include many large, profitable companies already receiving, in effect, big subsidies through various tax breaks. For example, Boeing, a major advocate of increased export financing, didn't pay any income taxes from 1981 through 1984 despite more than $2 billion in profits during the period.

Until recently, soaring budget deficits and a commitment to free trade prompted the Reagan administration to propose cutting rather than increasing export subsidies. But congressional criticism about the trade deficit seems to be changing the administration's approach. Earlier this month, officials said they are planning to ask Congress for a $300 million war chest to combat export subsidies by foreign governments.

"We're seriously considering picking out a country, say, France, and saying we'll match their mixed credits in an aggressive, consistent, targeted way," says William H. Draper III, the Ex-Im Bank's chairman. "We're just fed up with their attitude."

Mixed credits were introduced by the French in the 1960s, ostensibly as a type of foreign aid to help developing countries pay for imports. Increasingly, however, countries are using mixed credits just to beat out foreign competitors and establish overseas markets.

At the same time, Third World countries, where almost all mixed credits are targeted, are building and buying much less than they used to. With fewer contracts up for bid, more mixed-credit offers are being made to win them. Reported offers by foreign countries jumped from 37 valued at $2.1 billion in 1980 to 305 valued at $6.5 billion in 1984, according to the Ex-Im Bank. In the first half of this year, 12 foreign countries offered $3.5 billion in mixed credits for 162 transactions. And bank officials say the numbers are probably understated. So far this year, the U.S. has only made three mixed-credit offers totaling $118 million.

The major industrial countries have agreed, mostly at U.S. urging, to curb the use of mixed credits. With the aim of preventing rivals from spreading their foreign-aid budgets over a lot of deals, the countries pledged not to offer mixed credits where the bargain aspect of the proposal is less than 25% of the sale price. They also agreed to promptly notify other governments of intended grants. However, Japan's 11th-hour announcement of its mixed credit on the Thai power plant is just one example of how the agreements can be bent, U.S. officials say.

Last April, for instance, a Japanese-led consortium won a Turkish contract to build a bridge over the Bosporus with a financial package that included more than $200 million in Japanese-government loans with a 5% interest rate. By calling the loans foreign aid rather than an export subsidy, Tokyo technically didn't violate the agreements, but some of the losing bidders weren't impressed by the distinction.

Other ways of fudging the rules, executives say, include quiet understandings that an export credit will be rescheduled at maturity and the concealment of subsidized financing in inflated payments for items such as leases for military bases in the host country. "There are a lot of parallel transactions that are obviously linked but never reported," says John R. Cooper, Bechtel's manager of financing services.

The U.S. also offers export credits, but it share of the action is shrinking. According to the Organization for Economic Cooperation and Development, the U.S. share of world exports supported by all types of official credits fell to 10% last year from 19% in 1980, while Japan's share rose to 24% from 17% and France's to 22% from 16%. Promoting exports, of course, is a much stronger tradition in Japan and Europe than in the U.S. Foreign officials push exports harder because they are more important to their economies.

A few years ago, says William D. Trammell, the treasurer of Fluor Corp., a personal visit to the Ivory Coast by then French President Valery Giscard d'Estaing helped persuade local officials to include a French company in a contract awarded by Fluor. By contrast, when the Irvine, Calif., engineering and construction company sought help from the U.S. ambassador, "the only way we could get to [him] was when he was on the golf course, a hole ahead of us," Mr. Trammell says.

Buyers also try to put pressure on the Ex-Im Bank. Theodore A. Chapman, the chief of the agency's business and international review section, recalls a visit by a Brazilian airline official trying to decide whether to buy jet engines from Rolls-Royce Ltd. or United Technologies Corp.'s Pratt & Whitney unit. The Brazilian boasted of how the British company had provided him with a chauffeur-driven Rolls on a recent visit to England. "We told him the best we could do was to take him back down to Vermont Avenue in an antique Otis elevator," Mr. Chapman says, referring to another United Technologies subsidiary.

INFLEXIBILITY CHARGED

Although some U.S. companies praise the Ex-Im Bank's financing efforts, many contend that the bank is too inflexible. "We get outmaneuvered every damn time. Sometimes we're fighting with not only one hand tied behind our backs, but both," says Bernhard E. Deichmann, the vice president for marketing at Transamerica Delaval.

Before considering a U.S. company's request for aid, for example, the Ex-Im Bank requires proof—which is hard to get—that a foreign competitor is offering a mixed credit. Many foreign companies, in contrast, get up-front backing for their bids. Britain goes even further, with a preemptive bid program that U.S. officials say is budgeted at about $350 million a year. Foreign buyers are approached even before they put contracts up for bid and are offered cut-rate financing totaling 25% of the value of the project.

The Ex-Im Bank sometimes requires that a foreign government guarantee an Ex-Im loan to a local concern. Because the comparable East German and British agencies didn't require such guarantees, Westinghouse Electric Corp. lost contracts to Siemens AG in Colombia and to a British competitor in Iraq, says Warren H. Hollinshead, Westinghouse's international treasurer. In addition, the U.S. agency finances only U.S.-made exports, while its foreign counterparts generally allow at least partial manufacture in another country.

Dismissing the criticism, James C. Cruse, an Ex-Im vice president, argues that the bank isn't designed to be an entitlement program for U.S. corporations. Other federal officials say quality, price and service are just as important as export finance in winning contracts. "I've seen deals go down where no amount of financing would have won it for an American company," says Lauralee M. Peters, a State Department official.

Ex-Im officials add that they have recently been stepping up their efforts to match foreign governments' offers. Last September, the U.S. won a mixed-credit battle when it helped Cincinnati Milacron Inc. beat a French competitor for a machine-tool contract in Indonesia. The bank also recently offered bargain financing to help Babcock & Wilcox Co. with a boiler-equipment bid in Thailand and Johnson & Johnson in a hospital-equipment contest in Brazil. The Thai contract still hasn't been awarded, but Johnson & Johnson and other U.S. companies won the $44 million Brazilian contract, the Ex-Im Bank said Tuesday.

In some cases, U.S. multinationals are competing by making bids through foreign subsidiaries or licensees, which often have access to subsidized export financing offered by local governments. Another approach is to offer to build part of the contracted equipment in the buyer's own country. But neither maneuver helps the U.S. balance of trade.

MANY LOSERS

"When Westinghouse shifts part of its nuclear construction to Spain, Westinghouse as a company does all right, but Pittsburgh loses out, and so do subcontractors and suppliers around there," notes Paul Freedenberg, the staff director of the Senate banking subcommittee on international finance.

Ultimately, the Reagan administration would like industrialized nations to agree not to use cut-rate financing of exports unless such financing makes up at least 50% of the contract value. Such a rule would probably restrict mixed credits to a few big contracts with developing countries most in need of aid, officials believe. However, few observers expect an agreement any time soon, and meanwhile the trade-finance war between the U.S. and foreign governments seems likely to keep heating up.

"We've got to hit them between the eyes before they do something, let them know that their use of mixed credits is up for grabs," says Michael P. Liikala, a special adviser to the Commerce Department. "We've got to match them and then some, go into their markets and in where it hurts."●

WAYNE WIDENER—POSTMASTER OF THE YEAR FOR THE SOUTHERN REGION

● Mr. PRYOR. Mr. President, earlier this year the Direct Marketing Association at its annual convention chose five U.S. postmasters for its Postmaster of the Year Award.

I am proud to represent the Postmaster of the Year for the Southern Region this year, Mr. Clovis Wayne Widener, from Blytheville, AK.

The Direct Marketing Association has been sponsoring the Postmaster of the Year contests for 23 years. One winner is chosen from each of the five U.S. Postal Service regions based on entries sent in by direct mrketers across the country. A board of judges selected the winners based on the nominees' quality of service to direct mailers and the nominees' involvement in community affairs.

Wayne Widener has been with the Postal Service since 1965. He has been the Postmaster at Blytheville since 1976. He was nominated for the award by Thomas Logan at Publishers Clearing House.

He belongs to the National Association of Postmasters and has served as the Arkansas chapter-State service representative for 7 years. He is presently serving his fourth term as the national chairman for NAPUS Services and is national vice president-elect for the three-State area of Arkansas, Louisiana, and Oklahoma. Mr. Widener is a current board member and secretary/treasurer to the Mississippi County Special Workshop for the Handicapped.

In a letter of recommendation, Mayor Thomas Little, Jr., of Blytheville stated:

I consider Wayne Widener an outstanding citizen, the type that each community would like to have more of, and one who is dedicated to his job.●

GOVERNMENT PRINTING OFFICE

● Mr. HATFIELD. Mr. President, in a year when both the administration and Congress are seeking ways to reduce the Federal deficit by lowering the cost of Government, it is a pleasant surprise to learn of a Government agency making considerable strides toward that goal: the Government Printing Office. Under the leadership of Ralph Kennickell, the Acting Public Printer of the United States, the agency has managed to eliminate the losses that had become characteristic of the Document Sales Program and to amass an $8.2 million profit, representing the surplus over the cost of producing Government documents. This amount was recently refunded by the GPO to Treasury Secretary James Baker, III.

The Documents Sales Program offers over 16,000 Government titles to the American public, primarily through mail order efforts and 24 bookstores in various parts of the country nationwide. During fiscal year 1984, more than 31.4 million documents were sold for $59.4 million. Congratulations once again Mr. Kennickell and employees of the GPO.●

NATIONAL NEEDLEWORK WEEK

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of Senate Joint Resolution 201, legislation to proclaim the week of September 22, 1985, as National Needlework Week. I am proud to speak on behalf of this fine American tradition.

Needlework has been a part of our culture since the founding of our country. During its long association with the American family, it has developed many different forms: needle point, embroidery, crewel, crochet, knitting, and petit point. Through these various forms of needlework, practitioners have made clothes, dolls, pillows, art works, and families have passed treasured pieces of needlework as family heirlooms from generation to generation.

Usually taught in the home, particularly by neighbors and other family members, needlework provides a background for the exchange of ideas, the building of friendships, and brings together individuals from different ethnic and religious heritages. This week helps perpetuate the community-oriented goals that create a better society.

Presently, we are seeing a revitalization of many heirlooms belonging to this age-old art form. It is our hope that Naitonal Needlework Week will maintain the momentum needed to continue the growing interest in this cultural and artistic endeavor.●

NATIONAL HISPANIC HERITAGE WEEK, 1985

● Mr. DOMENICI. Mr. President, the Congress, by joint resolution approved September 17, 1968 (Public Law 90-498), has authorized the President of the United States to issue an annual proclamation designating the week which includes September 15 and 16 as "National Hispanic Heritage Week." Such a proclamation has been issued each year since 1968. This year I am proud to announce to my New Mexico constituents and to my colleagues my decision to join the Congressional Hispanic Caucus. I believe that National Hispanic Heritage Week is the most appropriate time for me to formally link my long known support for Hispanic causes with the congressional forum designed to further these causes.

New Mexico is proudly unique among the 11 States with large numbers of Hispanic Americans. While our actual numbers are lower, the proportion and influence of Hispanics is greater in New Mexico than in other States. The 1980 census shows an Hispanic population of 447,000 in New Mexico; 4,544,000 in California, 441,000 in Arizona, 2,986,000 in Texas, 858,000 in Florida, 1,659,000 in New York, and 492,000 in New Jersey. Thus, our 3.3 percent of the 1980 total of 14.6 million Hispanics in the United States represents 37 percent of New Mexico's total population. It is this proportion, Mr. President, that reflects the true Hispanic influence in New Mexico. Beyond the numbers, this influence in felt throughout New Mexico where Hispanics are active in all aspects of industry, tourism, business, art, science, national defense, religion, and politics. I dare say that the blending of the anglo, Hispanic, and Indian cultures is more advanced in New Mexico than in any other State in the Union.

New Mexico is the only State to have elected Hispanics to the U.S. Senate. Senator Dennis Chavez served in this body for 27 years—1935-62—and is the only New Mexican in the National Statuary Hall in the U.S. Capitol. Senator Chavez was fourth ranking Senator at the time of his death and he was chairman of the Public Works Committee, a ranking member of the Finance Committee, and chairman of the Subcommittee on Defense Appropriations.

Senator Chavez was born in Los Chavez, Valencia County, NM. The Chavez family moved to the Barelas area of Albuquerque when Dennis Chavez was 7 years old. He quit school before the eighth grade to help support the family by working in a grocery store. In 1907 he took a job as a laborer with the city of Albuquerque and advanced to the position of assistant city engineer. After serving as an interpretor for Senator A. A. Jones' campaign, Dennis Chavez came to Washington, DC, to accept a patronage position from Senator Jones. He earned his law degree from Georgetown University at night while working during the day. After an unsuccessful run for the Senate in 1934, Dennis Chavez was appointed to the Senate to fill the vacancy created when Senator Bronson Cutting was killed in an airplane crash in 1935. Senator Chavez was reelected five times.

The second Hispanic American to be elected to the U.S. Senate from New Mexico was Senator Joseph M. Montoya. "Little Joe," as he was known to his friends, was elected to the New Mexico Legislature before he was old enough to vote. He became majority whip in the New Mexico Senate and then was elected to four terms in the U.S. House of Representatives prior to his two successful bids to the Senate in 1964 and 1970. While in the Senate, Senator Montoya was a member of the Senate Appropriations Committee, third-ranking member of the Public Works Committee, and a ranking member of the Joint Committee on Atomic Energy. Senator Montoya was the senior Senator from New Mexico when I was first elected to the Senate in 1972. In 1976, prior to his dealth in 1978, Senator Joseph M. Montoya was defeated by astronaut Harrison "Jack" Schmitt, who served one term.

Other key Hispanos who helped to shape New Mexico's colorful political history are: Miguel A. Otero, Jr., territorial Governor; Ezequiel C de Baca, Governor; Octaviano Larrazolo, Governor and U.S. Senator, 1929-30; and Benigno "B. C." Hernandez, Congressman. The role of Hispanics is widespread in today's political world as well. Congressmen MANUEL LUJAN and BILL RICHARDSON and Gov. Toney Anaya of New Mexico as well as many other State and local officials, too numerous to mention by name here, serve to show the vast influence of the Hispanic population in New Mexico. Overall, a full one-third of elected officials in New Mexico are Hispanics compared to 15 percent in Arizona, and about 6 percent each for California, Texas, and Colorado. New Mexico has bridged the political gap to Hispanic American in a manner that I believe is exemplary for the States with growing Hispanic populations.

As we look beyond our own borders to the future of relations with Latin America, we must, as a nation, cultivate one of our richest natural re-

sources—Hispanic Americans. As President Reagan says in his proclamation:

> The strong family and cultural ties which bind Hispanics in the United States with our nearest neighbors are an important element of strength, unity, and understanding in the Western Hemisphere. * * * We count on Americans of Hispanic heritage for special insight and leadership as we work together toward these goals.

I believe the world will look to the Western Hemisphere for leadership in building the future. As proud Americans, we have many opportunities to forge the proper political, economic, and cultural ties to neighbors in Mexico, Central America, and South America. I hope to be able to contribute to this exciting future in my new role as a member of the Congressional Hispanic Caucus.●

ORDERS FOR FRIDAY

RECESS UNTIL 10 A.M.

Mr. STAFFORD, Mr. President, I ask unanimous consent that once the Senate completes its business today it stand in recess until the hour of 10 a.m. on Friday, September 20, 1985.

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

RECOGNITION OF SENATORS EVANS AND PROXMIRE

Mr. STAFFORD. Mr. President, following the two leaders under the standing order, I ask unanimous consent that there be special orders in favor of the following Senators for not to exceed 15 minutes each: Senator EVANS and Senator PROXMIRE.

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

ROUTINE MORNING BUSINESS

Mr. STAFFORD. Mr. President, I further ask unanimous consent that following the special orders just identified there be a period for the transaction of routine morning business, not to extend beyond the hour of 11 a.m., with statements limited therein to 5 minutes each.

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

PROGRAM

Mr. STAFFORD. Mr. President, following the conclusion of routine morning business, the Senate will resume consideration of S. 51, the Superfund bill.

It will be the intention of the majority leader to complete action on S. 51. Rollcall votes are expected throughout Friday's session.

Also, the Senate could turn to the consideration of Senate Joint Resolution 77, Compact of Free Association.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. STAFFORD. Mr. President, I move that the Senate now recess until 10 a.m. on Friday, September 20, 1985.

The motion was agreed to, and the Senate, at 6:34 p.m., recessed until Friday, September 20, 1985, at 10 a.m.