SENATE—*Thursday, September 26, 1985*

(Legislative day of Monday, September 23, 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].

PRAYER

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

Let us pray.

Gracious Father in Heaven, these have been quiet days in the Senate and we trust it is not the calm before the storm. Infuse this place and all the people who labor here with grace and love. Let these next few days be characterized by peaceful resolution to all issues, even those which are highly controversial. May this place be adorned with the beauty of commonality of purpose, high dedication to a united nation and the welfare of its people.

May the fact that the 100 men and women who occupy this Chamber are first and foremost U.S. Senators and secondly representatives of their parties be very real throughout the remainder of this first session of the 99th Congress. May this be a place where truth and justice prevail and where compassion is not sacrificed to pragmatism. To Thy glory, we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

THE CHAPLAIN'S PRAYER

Mr. DOLE. Mr. President, I appreciate the prayer this morning. I hope it all works out that way. There are several Senators who may not have heard it.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, which I will ask be reserved for each leader.

Then Senator PROXMIRE has a special order for not to exceed 15 minutes.

There will then be routine morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak for not more than 5 minutes each.

Following routine morning business, the Senate will resume consideration of H.R. 3036, the Treasury-Postal Service appropriations bill.

At 1 p.m., the Senate will proceed to vote on passage of H.R. 2005, the Superfund legislation.

Following that vote, the distinguished minority leader, Senator BYRD, will be recognized, for debate only, for not to exceed 3 hours, to discuss Senate rules.

I assume that because of that we will be in late this evening, and we hope to complete action on the Treasury-Postal Service bill and the D.C. appropriations bill. There will be an abortion amendment, as I understand it, offered to that measure.

Other measures which we may consider are an extension of the present dairy law and the National Science Foundation.

It is hoped that tomorrow we can dispose of the HUD appropriations bill and maybe turn to the Compact of Free Association, which I am advised must be completed by September 30.

I will insert in the RECORD a letter from the Secretary of the Treasury indicating that if we do not extend the debt ceiling by October 7—we plan on starting it on October 7—but if it is not extended by October 7, it is not certain whether all Government checks can be cashed. We will then be on a cash-flow basis, and Social Security checks, price support checks, veterans' checks, students' checks, and other checks might not be honored. So I urge my colleagues that when we call up the debt ceiling measure, we dispose of it rather quickly.

I know there are a number of amendments that Members have thought about on the debt ceiling measure, but I hope they will also think about the consequences if we do not take action and have the debt ceiling bill signed by the President on October 7.

I will make a copy of the letter from the Secretary of the Treasury available to each Senator, and I ask unanimous consent that it be printed in the RECORD.

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

THE SECRETARY OF THE TREASURY,
Washington, DC, September 25, 1985.

Hon. ROBERT DOLE,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR BOB: I am writing to emphasize the need for final action by the Congress on debt limit legislation no later than October 7.

Current projections indicate that, in order to stay within the present $1,823.8 billion debt ceiling, Treasury's cash balance will be virtually exhausted by October 7, and the situation will deteriorate sharply thereafter. Obviously, changes in these projections, in either direction, can and do occur, but these are the best estimates we have at this time.

Consequently, unless a debt limit is passed by the Congress and signed into law by the President on or before October 7, 1985, the United States of America could be in the position of defaulting on its obligations. As you know, and as Treasury testified on September 10, this would mean that recipients of checks for social security, payroll, unemployment, defense contract and other payments, including principal and interest on Treasury securities, would be unable to cash these checks.

I urge you to pass legislation raising the debt ceiling at the earliest possible date but, based on present projections, no later than October 7, 1985.

I will provide you with updated projections of our cash balances by October 1, but this matter is of such importance that I wanted to alert you at this time of our probable needs.

Sincerely,

JAMES A. BAKER III.

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

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

The bill clerk proceeded to call the roll.

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

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

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 15 minutes.

NUCLEAR SCIENTISTS AND RETIRED MILITARY STRUGGLE TO STOP ARMS RACE

Mr. PROXMIRE. Mr. President, who are the most consistent and vigorous advocates of nuclear arms control? Clergymen? No. Educators? No. Elected public officials? No. TV commentators? No. Newspaper columnists or editorial writers? No. The most relentless critics of the arms race, the strongest champions of arms control, are the two groups of experts who must fully understand the terrible consequences of nuclear war: the nuclear scientists and the retired military officers.

Take the union of concerned scientists. They have represented in their number many of the most distin-

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

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guished scientific experts in our country—Nobel prize-winning physicists and those who have contributed the most to the development and refinement of our huge, and increasingly more potent nuclear arsenal. These weapons are their brain children.

The usual natural reaction of most human beings is to take pride in their own creations. Most of us view our own ideas the way we view our own children, as wonderful. Why, then, are not nuclear weapons scientists right out in front pushing the view that we speed ahead to win the nuclear arms race? They certainly have not supported the arms race. On the contrary, these scientists have steadily bucked the political tide.

Virtually every Presidential administration and every Congress in the 40 years of the nuclear age has shoved increasing billions of dollars into the nuclear arms race. Congress has done so lately at a time when Federal deficits have become the Nation's No. 1 economic problem. Meanwhile, arms control has made only halting erratic progress. Why are so many of these scientific experts so emphatically opposed to the nuclear weapons policies of our country? The answer is simple. These scientists have the deepest and surest knowledge of just how devastating a nuclear war could be. They know with far greater authority and certainty that these nuclear weapons would destroy civilization and very possibly end the existence of man on Earth.

The only nuclear arms development more startling than the revolt of nuclear weapons scientists against their own brain children is the opposition of so many distinguished retired admirals and generals to the nuclear arms race. Think of it. Here are men who have devoted their lives to the military defense of our country. No one can question their patriotism or their unstinted love of our country. From their boyhood on, they have been trained in military weapons—the use of warships, bomber planes, high firepower tanks. Death in battle does not frighten them. They have lived with that for many years. But now they see something very different. They see our military force armed with nuclear weapons that make the devastating weapons of past wars seem like snowballs in a children's snowball fight. In this nuclear age the military and especially the U.S. military now has a truly super human power and more power—much more—just the horizon, as extraordinary new lasers and antimatter bombs come on. How can these deeply patriotic, trained military experts so emphatically condemn the arms race and call for arms control negotiations that will stop the testing of nuclear arms cold and in the process stop the arms race? These retired military officers are not knee-jerk doves. They are not peaceniks. They are not pacifists. The military has been their life. They have recognized—as few other Americans have the need for a strong military to defend our country. They have devoted their lives to it from their boyhood. They have achieved distinction as admirals and generals in the process. Now they tell us in Congress to stop. They want our country to negotiate an arms control agreement that will end an international nuclear weapons competition that they believe will lead to international death. Why do these military experts like the distinguished nuclear scientists have special claim on our attention? For one reason. It is this. They know what they are talking about.

MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, today's myth of the day is the commonly held belief that the Reagan administration is tough on organized crime. The President, the Justice Department and the Attorney General have all stated on many occasions that their administration was taking a hard line on organized crime.

Is that true? Well, I wish it were but it is one of the most ironic myths circulating today. In fact we have an administration that is kissing organized crime—in the form of the Teamsters Union—on both cheeks.

No administration in recent history has cozied up to the mob-supported Teamsters more than the Reagan administration. During the last election campaign, the Reagan election officials often defended the Teamsters against charges of corruption. Just last July the Justice Department dropped a solid case against Teamster President Jackie Presser when it was determined that FBI agents had allowed him to actually commit crimes as an informant for the FBI. Think of that. An alleged criminal was allowed to go out and commit crimes and the Reagan administration Justice Department sits on its hands and declines to prosecute. What an outrage.

Tough on organized crime? Hardly. Organized crime is invited in to sit down for dinner. Organized crime is praised, defended, and supported.

Consider the following relationships between the Reagan administration and the Teamsters:

On August 26, 1980, Roy Williams, then vice president of the Teamsters Union took the fifth amendment 23 times before the Senate subcommittee when asked about his personal and financial dealings with organized crime. The next day Presidential candidate Ronald Reagan met privately with Roy Williams and Jackie Presser for a 45-minute meeting prior to his addresses before Ohio Teamsters.

Presser was honored by Secretary of Labor Raymond Donovan and senior White House officials at a Georgetown party on June 20, 1983.

Presser was a frequent White House visitor during 1983—discussing political strategy with Edward Rollins.

Presser has been invited to several White House state dinners.

According to the Wall Street Journal, Attorney General Meese "has had a long political relationship with Mr. Presser, whose 1.9 million member union gave Mr. Reagan significant support in his reelection campaign."

Presser served as cochairman of the Reagan inaugural labor committee.

According to the Washington Post Presser "has maintained close ties to the administration, and has been invited to several White House functions, at least once to meet with Edwin Meese III—now Attorney General—when he was assistant to the President."

The Washington Post has also reported that "Attorney General Edwin Meese III was a defender of the Teamsters and Presser before and after Reagan entered the White House. Apparently in return for the union's support, the administration watered down its plans for deregulating the trucking industry in Reagan's first term."

White House official Edward Rollins praised Presser and congratulated him of having the tremendous burden of the Justice Department investigation lifted from his head, in a speech before the Teamsters on August 2, 1985. He added: "With leaders like Jackie Presser, we can make America stronger and better."

The Nation magazine in 1983 said: "Despite all the allegations against, and the indictments and convictions of, top Teamster leaders, the love affair between the Reagan administration and the union continues."

Reportedly on one of his first trips to Washington, President-elect Reagan made a stop at the Teamsters headquarters where he met with Presser, Williams, and Frank Fitzsimmons and reportedly invited the Teamsters to help him select his Secretary of Labor and other officials.

Three of the last five presidents of the Teamsters received prison sentences for various felonies. As the Boston Globe editorialized, "It seems extraordinary that a President who lauds himself as a champion of law and order and a defender of moral values should covet the support of this union."

Vice President BUSH has called the Teamsters "a tremendous union."

Presser invoked the fifth amendment right against self-incrimination 15 times on April 23, 1985, during an appearance in Chicago before the President's Commission on Organized Crime.

Mr. President, the White House has a lot of explaining to do about its un-

seemly relationship with the Teamsters and organized crime. And so does the Attorney General.

There is no question in my mind that the myth of the day is truly a myth; that is, the commonly held belief that the Reagan administration is tough on organized crime.

THE TWIN HORRORS

Mr. PROXMIRE. Mr. President, in an essay in the August 2 Washington Post, Richard Cohen discusses the shattering effects of the Holocaust and the atomic bomb. He contends that the discovery of these twin horrors shocked the world because it destroyed mankind's image of itself.

The events were so troubling to people all over the world that even today many still find it difficult to think about and discuss the two events.

Cohen is not surprised that people cannot assimilate the Holocaust and the bomb. Afterall, accepting the tragedies means accepting a new view of mankind.

According to Cohen, before the end of World War II, people still believed in "the old romantic view of mankind, a vision of people as essentially good and on the path to getting better * * *," but "the smoke of Auschwitz and the smoke of Hiroshima, so different in their justifications, were nevertheless the smoke of mass murder." No wonder, then, that people find it difficult to think about, accept, and learn from these horrors.

One reason that the two events forced people to reevaluate their beliefs was that the supposedly most advanced peoples on Earth—the Germans, Japanese, Russians, we, and our allies—were the principal actors in the war.

The Holocaust and the bomb seem to prove mankind's madness. All our fears about our own evil seem real.

Mr. President, Richard Cohen is correct. It is difficult to assimilate the horrors of the Holocaust and the bomb that destroyed Hiroshima.

But, if the twin horrors at the end of World War II prove our fears about man's capacity for evil, the Genocide Convention proves that we can believe in man's capacity for good.

Mr. President, Americans take pride in this Nation's morality. Since 96 nations have already ratified the Genocide Convention, as a moral nation, we should follow their lead proving that the United States will never permit the evil of genocide in the Nation or any other.

Cohen's last sentences demonstrate why we urgently need to ratify the Convention:

One Holocaust teaches that another, even bigger, is possible—that if mid-century bureaucracy could have combined with science to produce the death of millions, think of what is possible now. Everything is improved except, of course, man himself. It is hard to look at what we have done, but it is necessary. Self-knowledge is all we have to hold back the night.

Mr. President, I ask unanimous consent that Richard Cohen's essay be printed in the RECORD.

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

. . . AND OF OURSELVES

People knew instantly. The Washington Post for Aug. 7, 1945, called the atomic bomb a "world-shaking event." It headlined a "new era of power," used the term "atomic age" and quoted from a presidential statement in which—not for the last time—a politician said atomic energy would someday be used for peace. The pope also knew instantly. "The use of atomic bombs has created an unfavorable impression on the Vatican," the statement said.

The microfilm of the old newspapers comes as a surprise. I had thought people in 1945 were unaware that a historical age had opened, that the bomb was not just a bigger, more efficient weapon, but a point of departure from which things never again could be the same. Certainly that is Richard Nixon's recollection. "We had heard about the buzz bombs in London and other new weapons . . . and I said, well, this is just another one," he told Time magazine. "I just assumed the war would go on."

Nixon's recollection is understandable. There was much to absorb—too much. Between April and August 1945, a casual newspaper reader would have learned of the Holocaust—the methodical murder of millions of noncombatants—and then, only months later, of the atomic bomb.

It took time for the world to come to grips with these twin horrors. After all, it is only relatively recently that we have faced up to the Holocaust, only recently that names such as Mengele have become widely known and then, too late, the search for them launched.

We are only now beginning to assimilate these events because we are not talking about technical break-throughs, intellectual achievements, gizmos in secret laboratories, but, instead, a new image of ourselves. Little wonder that we turned away from what we saw, from what the bomb and the Holocaust told us about ourselves. It was not a pretty picture.

Maybe our self-image is the last victim of World War II. The old romantic view of mankind, a vision of people as essentially good and on the path to getting better, has been vanquished by the data, by the number of victims and the reason for their deaths. In its place has been substituted a sickening reality. The smoke of Auschwitz and the smoke of Hiroshima, so different in their causes and their justificaitons, were nevertheless the smoke of mass murder. One speaks to the other. Once you have walked the perimeter of a death camp or even know of its existence, then you know what people are capable of. It ruins sleep to think of their weapons.

No wonder the insights and the doubts of August 1945 got buried. No wonder it took years to confront the Holocaust—to establish the memorial programs, to request the museums, to demand the capture of the escaped criminals. Think of what we had learned. Think of the killing that was done—and done, mind you, not by primtive peoples but by Germans and their allies, by Russians, by Japanese and, last, by us and our allies. These are the most advanced people on Earth and once, for reasons sometimes having to do with race hatred, they killed one another until the dead numbered some 50 million.

"Night" is the title of Elie Weisel's memoir of Auschwitz. It is a fitting title because the nuclear night and the "Night" of the Holocaust complement each other. Weisel's "night" is what makes the nuclear night so frightening. It testifies to our madness. If the people of Beethoven and Bach, of Schiller and Brecht could incinerate the people of Kafka and Heine, of Einstein and Freud . . . if Germans in Berlin could want so much to kill little Elie Weisel of Hungary, then our fears are justified.

Now, with perspective these events of 40 years ago merge to provide a moral lesson. One Holocaust teaches that another, even bigger, is possible—that if mid-century bureaucracy could have combined with science to produce the death of millions, think of what is possible now. Everything is improved except, of course, man himself. It is hard to look at what we have done, but it is necessary. Self-knowledge is all we have to hold back the night.

Mr. PROXMIRE. Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

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

WORLD IS NOT THE SAME SINCE WILL ROGERS LEFT IT

Mr. THURMOND. Mr. President, I would like to call the attention of my colleagues to an editorial printed in the August 28, 1985, issue of the Gaffney, SC, Ledger.

This commentary is a tribute to the late Will Rogers, a tremendously popular American and a man of great character, wit, and objectiveness. His public appeal stemmed from his commonsense approach to current events, whether public or political. He knew how to verbally express what most of his fellow Americans were thinking about any given subject at the moment, and his barbed comments served as a barometer of public opinion to many politically astute Government officials.

The earthy comments of the unique, perceptive Will Rogers have been sorely missed since his death 50 years ago, as our Nation probably will not see his like again. Mr. President, I ask unanimous consent that a copy of this editorial be printed in the RECORD as a tribute to the memory of Will Rogers.

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

[From the Gaffney (SC) Ledger, Aug. 28, 1985]

WORLD IS NOT THE SAME SINCE WILL ROGERS LEFT IT

Since you went away, Will Rogers, this world hasn't been the same. There just isn't anyone with us now who could put it all in perspective as you did, with a gentle remark or slight jab.

We wonder how you would have reacted to some of the events that have taken place since you died in a plane crash 50 years ago.

We're sure you would have thrilled with the rest of us over the landing on the moon. After all, you were an early proponent of flying.

And what about television? You would have been great on the tube, with your background, first as an Oklahoma cowboy and then as a star of vaudeville, motion pictures and radio.

But you didn't really need more exposure. Your column, alone, was featured in more than 400 newspapers. Your social comments were quoted by millions.

You know, people still like to quote you. Walter Mondale used one of your sayings on television during one of the Presidential debates. President Reagan read one of your books recently while he was recovering from surgery in the hospital.

That's the thing, everybody liked you. The common man, the poor man and the rich man. And you liked everyone, too. "I never met a man I didn't like," you said.

"It's a serious business, this making people laugh," you told us. Well, we need you now more than ever. We need a laugh. You made people feel better during the hardest times.

Even though your horsemanship and rope tricks got you your start in show business, it was your wit and style of speaking that made you a star.

You died at the peak of your fame. Many refused at first to believe you were gone. Then 50,000 people solemnly filed by your grave in Los Angeles at your funeral.

You came a long way from your humble beginnings. You were a great American.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1986

Mr. INOUYE. Mr. President, yesterday we cleared the continuing resolution. As the distinguished chairman of the Commerce, Justice, State Subcommittee knows, we have a peculiar situation with regard to the Japan-United States Friendship Commission. The Commerce, Justice, State Appropriations Act, as passed by the House of Representatives, does not include funding for the Commission, and under the terms of the continuing resolution, would not be authorized to draw continuing funds while we resolve the fiscal 1986 appropriation in the Committee on Appropriations.

I was prepared to offer an amendment on behalf of the Commission, but did not because I was assured by the chairman that the operations of the Commission would continue in the interim. For the record, I would appreciate the chairman's assurances that the Commission will continue during the interim.

Mr. LAXALT. I would be glad to. This is an unusual situation that would ordinarily have been remedied with an amendment except for the overall goal of not sending the bill to conference. Knowing of the deep interest and personal involvement of the distinguished Senator from Hawaii in the Commission, I certainly appreciate his forebearance on this.

We have determined that the Commission has authority to draw down 5 percent of the Japan-United States friendship trust fund. The fund has a balance of some $18 million and 5 percent would allow them to draw down $900,000. This appears ample for their operations during the period of the continuing resolution. We expect to appropriate the full $1,550,000 requested by the Commission for fiscal year 1986, so that the amount drawn from the fund during the interim can be restored.

I regret that the other body did not make the usual provision in the continuing resolution for this situation, and that we have had to resort to this expedient due to the stated desire to avoid a conference.

If I might add, we have similar problems with the Presidential Commission on Organized Crime. We have been assured by the Department of Justice that they will arrange to continue the salaries and expenses of the Commission during the interim.

Mr. INOUYE. I thank the chairman for his explanation. The Commission will be able to operate in the manner outlined, although they would have preferred the normal approach, and will be more comfortable now that the procedure has been explained.

SOUTH AFRICA

Mr. LEAHY. Mr. President, during the debate on South Africa when this body refused to support the vast majority of her citizens who seek the institution of democratic government, a letter of unusual interest was printed in a Vermont newspaper.

I say unusual for sometimes I fall to the same easy stereotypes that so conveniently classify all of us into major categories—conservative, moderate, liberal among them.

Unusual because as I read this letter, I found myself knowing a Vermonter in a very different way than I ever had before.

Bob Kinsey is the majority leader in the Vermont House of Representatives. He comes from the village of Craftsbury Common—which is a part of Craftsbury that has a population of 844 by the 1980 census count—and has not been the site of any major new development or highways that I have been aware of which would augment that total by any dramatic degree.

Mr. Kinsey is described by the Vermont press, as a conservative—and quite a dedicated conservative at that. I guess he is—I know him as a hard working Vermont farmer who feels very strongly about our State and our way of life.

And this letter to the Newport Express printed on September 5 is as honest an expression of frustration with our policies in South Africa, as anything expressed on this floor during the long debates just days ago.

I want it in the public record so that future scholars, researching this issue, will come across this honest plea from a Vermont farmer—and wonder at the simple logic of his words.

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

[From the Newport Daily Express, Sept. 5, 1985]

SPEAK OUT AGAINST DISCRIMINATION

MR. EDITOR: I detest "I told you so" themes and on this occasion I do so only out of concern of the lives being lost each day and on into the future in South Africa. The failure of Vermont to take a stand early enough to encourage others to do the same is the fault of us all.

Mine, for not speaking out loud enough, soon enough. My Party for clinging too long to the philosophies of the Jerry Falwells, and the current Vermont administration and legislative leadership, for if they had said "Go for it" H-210, the Divestiture Bill could have passed the House in twelve minutes and the Senate in six minutes last January. When I was scheduled to speak to House Committee, Chairman Lucas found it "necessary" not to be present and the bill delayed beyond passage.

My testimony was brief because many others had spoken. It included:

". . . Six months ago, my son who is in his eighth year working in Africa, changed my mind. As my son explained to me . . . 'for a thousand years the people of white, tan and yellow skin have exploited the Blacks for Gospel, Gold and Glory. And now its more fashionable for all of these non-blacks to rule Africa in the name of trying to help them help themselves.

" 'Most foreign governments and relief agencies still act like parents treating children, like management treats labor. Like Colonials treat natives. Like my mother treated me with spoon and a castor oil bottle' You should know its good for you.

"As Erwin explained, 'Children can't walk until they are allowed to fall down and get up and try again. That's what has to happen in Africa and we can only let them become their own leaders, make their own decisions.

"The Russians have been expelled from Tanzania by Tanzanians not by U.S. bullets. The Chinese are leaving, but not by U.S. bullets.

"When I was in college during the Vietnam protest era of the late 60's, I was establishment, the colonial, the parent. At the same time Erwin, two of his brothers and two of his sisters were in high school and college. They were anti-establishment. It took them a long time to educate the old man. I finally did realize that they were right but then again I was six months too late.

"After Erwin went to Africa, he told me what was going to happen in Uganda with

Idi Amin and he was right. He told what was going to happen in Rhodesia and again he was right.

"Now he tells me that 'Apartheid is going to end in South Africa in one of two ways. If the end of Apartheid has to be by bullets, the whites are going to be pushed into the sea.'

"Erwin would prefer non-violent pressure such as H-210 as the only hope left to create equality and harmony amongst all colors.

"I support H-210."

Now it's too late. The die is cast. The wounds of bitter strife can never really heal. Vermont now cannot lead, only join the crowd in protest.

What about Afghans in Afghanistan? I cry for them also. Vermont should never cease in speaking out against discrimination wherever and whenever we find it.

Sincerely,

REP. BOB KINSEY,
Craftsbury.

DEATH OF DAN J. HEALY

Mr. LEAHY, Mr. President, while the Senate was in recess, I had the sad duty to attend the funeral of an old friend who was one of the founders of the Democratic Party in the State of Vermont.

Dan J. Healy was 87 years old when he died on August 26, 1985. As I stood in St. Peter's Church in Rutland with his children, grandchildren, and great-grandchildren, I wondered to myself whether I would have ever had the opportunity to serve my State in the U.S. Senate—had it not been for dedicated public servants like Dan Healy.

The son of railroad locomotive engineer, and a railroad worker himself as a youth, Dan Healy first operated a small store and later an insurance and real estate agency in Rutland.

He served as the city's mayor from 1949-57 and again from 1959-61.

He was Mr. Democrat—not just in Rutland—but throughout the State where his advice was sought by Governors and senators, Democrats and Republicans. His life was full. His council was wise.

I was privileged to be with his family when Dan left St. Peter's Church for the last time to the strains of "Danny Boy."

Mr. President, I would like to have printed in the RECORD the obituary printed in the Rutland Daily Herald, and the accompanying editorial in that same paper.

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

FORMER MAYOR, DAN HEALY, DIES

(By Yvonne Daley)

"The Lion of Forest Street," former Rutland Mayor Daniel J. Healy, died Monday morning. He was 87.

Healy, one of the most colorful and beloved of Rutland's mayors, was given the nickname for two reasons. Like a lion, he was kingly—even dapper—with his homburg hat, his suit with a carnation pinned to its lapel, and his munificent manner.

Yet he lived in the working-class section of Rutland most of his life, first on Forest Street, and, later, on South Street. He was considered a champion of the poor, a man who never forgot his humble roots and did much to improve this section of the city.

Healy was the first of the Irish Catholic Democrats—living in the area of Rutland commonly referred to as "Nebraska," "Happy Valley" or "The Gut"—to wrest power away from the more well-established Republicans. He was mayor from 1949 to 1957 and from 1959 to 1961. Four of the five mayors succeeding Healy have been Irish Catholics.

As mayor, he was never too proud to lend a hand, shoveling out after a big blizzard, for example, or jumping into a ditch to show "the boys" how to do the job right.

Healy was known for his eloquence. When he roared, people listened. His St. Patrick's Day speech, for example, is traditionally played on a local Rutland radio station each March 17.

Fate played a cruel trick on him 10 years ago after a stroke left him mentally alert, yet unable to speak clearly. However, when interviewed about a month ago, he still had his famous wit, somehow making jokes and showing subtlety of humor despite some difficulty with speech.

He came from the old school of Irish politics. He was extremely active in national politics, a good friend of the notorious Boston Mayor James Michael Curley, and friends also with former Democratic presidential candidate Adlai Stevenson and the late President John F. Kennedy.

People loved him because he was real. His eloquence wasn't based on big words, but big feelings. He helped his friends, his neighborhood and his party. But, most of all, he helped his city.

Thus, even when he was caught being a little bit naughty, it seemed to add to his popularity, rather than harm him.

Rutland was a railroad town when Healy was a young man. His father was a locomotive maker and Healy worked on the railroad in his youth.

He was president of the local Railway Carmen Union until, unhappy with the settlement of a strike in 1922, he left the railroad rather than accept what he considered an untenable agreement.

He ran a store on Forest Street and, later, was owner and operator of Dan Healy Insurance Agency and Dan Healy Real Estate Agency.

In his first election, Healy defeated the late Wayne N. Temple by 920 votes. He was re-elected easily two years later, polling more votes than his two opponents combined. He was also a longtime city representative to the Legislature, and for a time filled the offices of both representative and mayor.

Healy was responsible for the reconstruction of the West, State and Crescent Street bridges over the East Creek and numerous road improvements after the 1947 flood ravaged the city, doing particular damage in "The Gut."

He was also responsible for the expansion of the city's recreation program, acquisition of additional parking space in the business section, improvement of the Rutland airport and street lighting, planting of shade trees throughout the city and attempts to protect the city drinking water supply.

When Healy's longtime opponent, then alderman Francis Waterman, ran against him in 1957, Healy barely campaigned, thinking he could win on "the record of his administration." Waterman ran against him attacking the $436,000 deficit incurred from 1949 to 1956—mostly bonds for bridge and street repairs—and charging that the Healy administration was run by and for the benefit of his political and business cronies.

The night Healy lost the election "was the only time I ever saw him cry," said a longtime political and personal friend.

He came back with a roar, winning the next election overwhelmingly.

One of his most controversial moments brought him more popularity than criticism. In 1959, he and former Mayor James E. Fitzpatrick of Burlington flew to Panama City, Fla., to inspect an Air Force base. National media focused on their trip when they left early, publicly claiming they were "disgusted" with the Air Force and terming the trip a useless junket.

The Air Force retorted with accusations that the mayors had been drinking and acting boisterously with bathing beauties on the plane to Florida. Time magazine carried a rather lurid description of the trip, though Newsweek was sympathetic to the charges levied by the mayors.

At home, the story kept the city buzzing with glee for months.

Healy finished his career in a lifetime job as Vermont director of the Federal Housing Administration in Burlington.

In Rutland and across the state, he will be missed. R. Clarke Smith, a prominent city lawyer who was city attorney under Healy for two years, said Monday Healy's election marked the "turning point of Irish Catholic Democrats in Rutland."

Smith, a Republican, supported Healy because he believed partisan politics wasn't necessarily appropriate for Rutland, but mostly because "I admired his political acumen."

"He was a good politician and a good mayor," Smith said.

J. Walter Herlihy, a general manager of General Electric for years and a close friend of Healy's, "always regarded him as a guy who was typecast as mayor. He was a great public speaker and administrator. I always thought he was tops."

Former Gov. Deane C. Davis worked with Healy in 1957 on the so-called Little Hoover Commission, which was assigned the job of assessing Vermont state government, and ultimately recommended establishing various state "super" agencies.

"I just came to admire and love him, really. He had such a powerful personality," Davis said. He spoke of occasions when, after a long meeting and some "evening entertainment," Healy would introduce his own brand of entertainment. Healy knew a trick whereby, with just a few fingers of either hand, he could lift a person—chair and all—several inches into the air.

"How did he do it? You tell me. It was one of those tricks known among magicians," Davis said.

On a more serious note, he said, Healy "was one of the greatest friends I ever had. I admired not only his ability, but his personality. He was an outgoing individual who loved people and made them love him."

William Ryan, a former Democratic National Committee member and state Democratic Committee chairman who knew Healy for nearly 50 years, said, "He had a talent for politics and a great deal of vision and force. At times we had great differences, but we got over them. He had a real heart."

Of Healy, Rep. Alexander "Bud" Keefe, D-Rutland, said: "He was the greatest guy. Mr. Democrat. If anyone had more fun

living life, I'd like to know. He lost his lifeline, his lovely wife, Ki (Katherine), in 1976, and never got over it. His love was helping the elderly and the poor.

"He was so proud of his neighborhood and his heritage—'Nebraska.' An eloquent speaker. No one could touch him," Keefe added.

Former Rutland Mayor William Foley talked at length about Healy's great oratorical abilities and his love of his family, his wife and his city. "I loved Dan. He was the greatest," Foley said simply.

Maybe the best tribute is words Healy used to describe himself during one election. "Perhaps some will say, 'Well, he loves it.' Well, It's true, I do. I love meeting people, talking to them, doing things for them."

He died early Monday morning at the Berlin Convalescent Center near Montpelier following a short illness. He had been in a coma for the past week, but was not in pain, relatives said.

He was born in Burlington on Oct. 26, 1897, the son of Dennis and Johanna (Murphy) Healy.

He was a member of St. Peter's Church and Rutland Lodge of Elks.

His wife, Katherine E. (O'Loughlin) Healy, died Sept. 15, 1976.

Survivors include a daughter, Mrs. Ann H. Thetford of Montpelier; four sons, Frank C. Healy of San Diego, Calif., Robert D. Healy of Morongo Valley, Calif., Charles E. (Mike) Healy and Joseph M. Healy, both of Montpelier; and 21 grandchildren.

A funeral service will be held on Wednesday at 10 a.m. in St. Peter's Church. Burial will follow in Calvary Cemetery.

Friends may call on Tuesday from 2 to 4 and 7 to 9 p.m. in the Clifford Funeral Home.

Memorial contributions may be made to Mount St. Joseph's Development Fund in care of Mount St. Joseph's Academy.

DAN J. HEALY

Former Mayor Dan. J. Healy became a legend in his own time. His physiognomy was such that the saying about the map of Ireland being written on a person's face might have been devised for his benefit. Local politics in Rutland has always been nominally nonpartisan meaning that candidates for mayor and other offices were not identified by party nor were they nominated by party caucuses. The fact remained, however, that all Rutland mayors up to the election of Mayor Healy, except one, were Republicans.

The exception was Major Arthur W. Perkins who served during the period 1927-34.

Once Dan Healy was elected in 1949, however, Rutland had only one other Republican mayor when Mayor Healy's record-breaking tenure was interrupted by Francis Waterman.

When elected in 1949, Dan Healy came from what in other communities is often referred to as the other side of the tracks but in Rutland was formerly called "Nebraska" or "the Gut," meaning the section of the city west of Rutland Railroad yards.

It was terrain that suffered severely in the flood of 1947 when the East Pittsford dam gave way creating one of the major national disasters of that year according to the American Red Cross. Dan Healy was recognized as the champion of voters in that part of Rutland.

For years he had done fruitless battle with Democratic National Committeeman Frank H. Duffy, long-time friend of President Franklin D. Roosevelt and senior in point of service on the national committee. As long as the president lived, no one succeeded in getting anywhere opposing Frank Duffy.

As Rutland's newly elected mayor in 1949, Dan Healy faced a discouraging Rutland situation. World War II ended with the city facing a staggering backlog of public improvement project delayed by the war as well as the Great Depression of the 1930's. Damage to the city inflicted by the 1974 flood added to the atmosphere of discouragement about the future.

It seemed impossible to obtain a favorable vote on any improvement project whether it was much needed new schools, modernization of the city water system or any other postwar betterment proposal. Only after the mayor stopped feuding with the Herald and a revitalized Chamber of Commerce, and the business community began working with the mayor, did the city shake off its malaise.

The city's reputation for negativism had become so bad that a magazine called "Town Meeting," published in Woodstock, printed an article entitled "What's the Matter with Rutland?"

Once sentiment changed, voters approved a succession of bond issues for Northeast School, Southeast School, Northwest School, a new Junior High, new water system reservoir and offstreet parking lots on Cottage Street and where the railroad passenger station has been located on Merchants Row.

Never before had so many improvement projects been approved and carried out in so short a time in a city that had been noted for conservative financial policies. Voters were told that improvements were essential if the city expected to obtain a large number of new manufacturing jobs that were sorely needed to make up for employment losses on the railroad, in the stoneworking industry and other long-established Rutland firms.

Mayor Healy played a prominent role in the industrial development activity that brought General Electric to Rutland and resulted in construction of a new manufacturing plant for Tampax Incorporated. He could be depended upon to perform effectively whenever a visiting industrial delegation visited the city. A highlight was when he greeted President Eisenhower at the Rutland Airport in 1955.

As a public speaker, he had a talent for eloquence in the oratorical style of an earlier era that carried over to a singing voice and repertoire long familiar to Rutlanders.

A powerfully built man, he had great endurance physically. He was a colorful figure who will be long remembered in City Hall and by others who became acquainted with him during his long career in business and public life.

SECURITY AT OUR MOSCOW EMBASSY

Mr. DIXON. Mr. President, a recent editorial in the Washington Times on security at our Embassy in Moscow caught my eye, so I thought I would share its contents with the Senate.

The Times zeroes in on American hiring practices at our diplomatic missions in the Soviet Union, pointing out that hiring Soviet nationals is an easy invitation to espionage. I could not agree more!

For that reason, I introduced S. 1630 to require the Secretary of State to replace Soviet citizens with Americans at the earliest opportunity, unless certain conditions are met. We must adopt effective measures to increase the security of our diplomatic missions in Eastern Europe.

Mr. President, I ask unanimous consent that S. 1630 and relevant portions of the Washington Times editorial be included in the RECORD following these remarks.

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

S. 1630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Foreign Missions Security Improvement Act of 1985".

SEC. 2. The Secretary of State shall, at the earliest opportunity, replace Soviet nationals who are employed by the United States diplomatic mission or by United States consular posts in the Soviet Union with American citizens unless the Secretary determines and so certifies to the Congress every twelve months from the date of enactment of this Act for each such Soviet national whose employment is continued that—

(1) such Soviet national does not pose a significant threat to the security of the United States;

(2) the employment of such Soviet national is necessary to provide usual and customary services to United States nationals, and the employment of a United States national as a replacement for such Soviet national would reduce to a significant extent the efficiency of operations at a United States diplomatic mission or consular post; or

(3) such Soviet national is employed in an occupation which precludes entry into the facilities of a United States diplomatic mission or consular post in the Soviet Union.

SEC. 3. There are authorized to be appropriated to the Secretary of State for the purpose of carrying out section 2 and for studying and implementing ways to improve security at United States diplomatic missions and consular posts in Eastern European countries $12,000,000 for the fiscal year 1986 and $33,000,000 for the fiscal year 1987.

[From the Washington Times, Sept. 25, 1985]

WHO DOES THE DUSTING?

With American diplomats walking around Moscow inside clouds of spy dust, perhaps the time has come to say a word for a bill introduced by Rep. Jim Courter, with 32 cosponsors, to eliminate the curious practice of hiring Soviet citizens to work inside our embassy in Moscow.

Mr. Courter's bill was attached to the House's 1986 State Department authorization, but then the House-Senate conference committee rendered it optional, which reduced it to nothing more than a drop in the suggestion box. As matters now stand, the State Department can do what it was planning to do all along, which was next to nothing. It wants to reduce, not eliminate, the employment of Soviet citizens—i.e., spies—in our Moscow embassy, and even then to dawdle until 1988—which would mean three more years of unencumbered spying, for the love of Pete.

Given the sophistication of modern espionage, hiring Soviet nationals for jobs that bring them into daily contact with our embassy typewriters, trash baskets, telex machines, etc.—not to mention our diplomats—amounts to sheer lunacy. At their embassy in Washington, by way of contrast the Soviets are so circumspect that an American visitor is lucky to get as far as the vestibule. Every employee of the embassy, down to the humblest cleaning lady, is a Soviet national who has been thoroughly screened.

ARMS TO JORDAN

Mr. LEAHY. Mr. President, it has been reported that in a matter of days, the President will submit a massive request for the sale of sophisticated arms to Jordan. Such a request at this time would fail to enhance the prospects of peace in the Middle East and would endanger the security of Israel. It would further ignore the repeated position voiced by a decisive majority of the Senate in opposition to the sale of sophisticated weapons to Jordan, until King Hussein has entered into direct negotiations with Israel.

On June 4, 1985, I joined Senators KENNEDY, HEINZ, and 70 of our colleagues in the introduction of Senate Resolution 177. Our resolution made it clear that the United States, rather than selling arms to Jordan, a state which rejected the Camp David accords and has consistently purchased arms from the Soviet Union, should focus its efforts on bringing Jordan into direct negotiations with Israel.

The message of our resolution is simple. What we need now in the Middle East is lasting peace, not a new escalation in the arms race and an increased military threat to Israel.

The Congress further reaffirmed that the intent of our resolution in passing the conference report accompanying the International Security and Development Cooperation Act of 1985.

Section 130 of the report specifically states that:

No notification may be made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of U.S. advanced aircraft, new air defense systems or other new advanced military weapons systems unless Jordan 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 Resolution 242 and 338.

Sadly Mr. President, King Hussein has taken no action which would justify rewarding him with sophisticated U.S. military equipment. Yet the administration remains committed to taking such unwarranted action.

We remember all too well that Jordan's King Hussein and the West Bank leaders of the Palestinian people committed an historic blunder when they failed to enter the Camp David peace process in 1979. Never in the agonized history of the Middle East was true peace so close as in the months after the Israeli-Egypt Peace Treaty and the Camp David accords relating to the future of the West Bank and Gaza. Israel offered the hand of negotiation to Jordan in ending their decades long enmity. Israel's leaders courageously stated their readiness to seek a just solution to the legitimate rights of the Palestinian people.

It was a tragedy when through lack of courage and will to advance the cause of peace, King Hussein and West Bank leaders allowed themselves to be frightened away from this one real hope which had been offered to the Palestinian people. Instead, the PLO turned toward confrontation in Lebanon and King Hussein retreated into opposition to the peace treaty and the entire Camp David process.

Today, Mr. President, we are told of some sort of an arrangement between Yassir Arafat and King Hussein for a Jordanian-Palestinian delegation to enter into peace negotiations. But negotiations with whom? With Israel, the most directly interested party? No, with the United States, the nation with the F-20's, F-16's, Sidewinders, Stingers, and mobile I-Hawk batteries that the Jordanian Armed Forces so dearly want.

The fact is, King Hussein has entered into a partnership with a man who remains dedicated to the destruction of the State of Israel, and who at every opportunity has denied the validity of the basic principles of U.N. Security Council Resolutions 242 and 338. The reality is that Yassir Arafat will never allow King Hussein to enter into direct negotiations with Israel. The administration understands this, but continues to perpetuate the myth that Hussein has taken steps to significantly aid the cause of peace.

Mr. President, the United States must not continue to reward Jordan for holding aloof from its fundamental responsibility for creating the conditions for peace in the Middle East. To allow this latest sale of sophisticated, vastly expensive aircraft and missiles to Jordan without any serious movement by King Hussein to the negotiating table simply must not be allowed.

There should be no misunderstanding among the Arab parties to the Middle East conflict about the U.S. position. The United States has a fundamental interest in the security of Israel and its survival as a democratic state. The United States must be guided in its actions by this unwavering interest. The Saudis, Jordanians, Iraqis, and the others must understand that all the oil in the world, all the flirting with the Soviets, all the anti-Western Islamic fundamentalism is not going to change that commitment.

Mr. President, I call on President Reagan to reconsider. Let him refrain from sending up this arms sales request. Let him instead seek Congress' support for a strong stand for peace in the Middle East. That, he will have. Support for arms sales to Israel's enemies who refuse to talk directly to Israel he will not have.

SPECIAL CHILDREN ARE PRIVILEGED

Mr. JOHNSTON. Mr. President, today I would like to take this opportunity to pay tribute to one of my constituents who has received a Presidential Citation for his outstanding work with the physical and mentally handicapped of the New Orleans metropolitan area.

He is Al Andry, the founder and executive president of the Special Children Are Privileged Program [SCAP]. Recently, I had the honor of presenting to Mr. Andry a specially designed "C Flag" symbolizing the theme of the citation program "We Can" and "We Care."

I am very proud of Al Andry and the many volunteers who have made SCAP a success—the dedication and love they have invested in these very special constituents of our State is truly commendable and deserving of this honor.

Mr. President, I ask unanimous consent that an article from the New Orleans Times Picayune be inserted in the RECORD following my statement.

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

SCAP TREATS ALL CHILDREN LIKE ROYALTY

(By Ed Fricke)

"Just give me 15 minutes to go to your organization and talk about these kids or give us just 15 minutes of your life to come with us and see what we are doing and I can sell you on helping us—believe me," said Al Andry, executive director of SCAP, the acronym for Special Children are Privileged.

"It's a real life situation you won't ever forget."

He is willing to talk to anyone who is willing to listen or to take an hour or two off in the mornings to see SCAP at work.

SCAP is an all-volunteer group headquartered in Metairie that works all over the metropolitan area. SCAP attempts to make life a little more fulfilling "for these special kids," Andry says, then adds hesitatingly, "for these kids who have don't have much of a chance." He simply couldn't muster up enough emotion to say much of a chance to live, at least live normal lives.

Andry, himself handicapped at 52 and retired after 30-plus years of service at American Can, is devoting his life to these special youngsters. So is his wife, Elaine, who is secretary of the group.

And so are people like Ed Tweedy of American Legion Post No. 396. Tweedy, his post and nearly 100 volunteers are involved in this special program which recently lost $10,000 of state funding.

Andry, who has had 20 operations in the past 12 years, works a lot with the Lakeside Lions, who recently gave the group a new van.

"But we don't have enough organizations willing to help us," says Tweedy. "Every time you look around there is a telethon or something for various organizations. That's all well and good and I'm glad for them. But what happens after—after these children are in wheelchairs or in braces or just out of the hospital?

"They don't have anything," Tweedy continues. "That's when we try to do our part. We take them, Al Andry, my wife and the very special people we have in SCAP—and we do help them as much as we can," he said with a great deal of emotion.

Andry formed SCAP with the help of Mervin Pinel, no longer with the group. "I've been with SCAP now for nine years and I want this known: the basic purpose of our group is to make special children happy.

"And I am talking about special children from 3 to 60, primarily in Jefferson, but also in New Orleans.

"We don't walk away from any child no matter where he lives. They come from everywhere, believe me," he said.

Andry said with pride that "we are the official children of the New Orleans Breakers and we have been on nationally TV at some of their games.

"This permits us to bring around 100 children and chaperons to every home game. We have all kinds of special children in SCAP—mongoloid youngsters, those with muscular dystrophy, cerebral children, crippled children and those with cancer. We help all we can," he said.

Anders was honored as being the first person in Jefferson Parish to receive the Jefferson Award. That was in 1981. Last year he was nominated again, but could not accept it because of his initial award.

"If you want to visit and see the work we do, take time out some morning when you're feeling sorry for yourself and visit with us at Rudolph Matas school out here. And when you see these little 3- and 4-year-olds that are in wheelchairs or have to be carried into the school you won't feel so bad off anymore, I can assure you," he said.

Some of these kids will never walk; some have other problems that are worse than that.

"There are about 160 special kids at Matas and the nuns need all the help; they can get. We try to make life a little more enjoyable for these youngsters. They want love and that's why we're over there every morning," he said.

A lot of children in special schools don't go home for the holidays. "We try to bring a little joy into their lives each year by bringing them gifts, toys, candy and other treats. I have been playing Santa every year at Magnolia and it's really something for me," he said.

Percy Julian school in Marrero is another school close to Andy's heart.

"Many of our children go home after school, then just sit in a corner, stay in their wheelchair or just do what they can in braces.

"That's when we come in—we try to get them out to see things. So far we have been successful in getting these special kids to the Breakers' games, to the former Elmwood Amusement Park, and to places like the Landmark Hotel to see the fights there. Hindwall Wall of Tulane is also good to us with tickets to the Tulane games.

"I wish they had a nice amusement park in the area. Elmwood is gone, but I remember that before it was we took over a 1,000 children there over two nights. It was wonderful.

"Recently we took over 2,000 kids to a pizza/show parlor and they had a great time. Then we took 486 children, plus 28 chaperons, to the Saenger to see the Barnum.

"But we don't have enough of this, nor enough money or enough volunteers," he said pointedly.

SCAP is trying to raise funds now a camp for these youngsters.

Andry has another project on target too in Kenner. "We are in the process of dedicating the only wheelchair park there is in Louisiana. It's on Baron Street, off Chateau and W. Espanade—called Miguez Park for Tommy Miguez who used to work for us and died at the age of 52.

"This will be a fine park for these special kids because the equipment there is for them—like special obstance courses, swings and about a quarter mile track," he said.

"We're nine years old and just getting started. If we only had more money, more backing from companies and corporations and more volunteers, well then we could do so much more," he said—almost with tears in his eyes.

Al Andry is dedicated, to say the least.

CRITICAL ROLE OF LOCAL GOVERNMENTS IN NATURAL RESOURCE CONSERVATION

Mr. JOHNSTON. Mr. President, those of us who serve in Congress deal with a variety of issues affecting development and preservation of our Nation's natural resources. As we do so we must keep in mind the fact that State and local governments have an important role to play. In fact, local land use issues are frequently the most significant factors influencing the daily lives of our citizens.

A great deal of innovative work on land and resource management problems is being done by local governments. One such program has just been started by the Fairfax County, VA, Park Authority. Called the Making of the Fairfax County Landscape, it is intended to "Foster greater citizen awareness of the processes responsible for landscape transformation and to provide an informed basis for environmental decisionmaking." In effect it is seeking to develop a land ethic.

The keynote speaker at the September 21 inauguration for the program was Mike Harvey, chief counsel for the minority, of the Energy and Natural Resources Committee. Mike served as chairman and member of the park authority in the 1970's and is a nationally recognized authority on land use and management policy. His remarks provide a cogent analysis of the problems and opportunities in land use decisionmaking. Among other things, Mike points out: "The frequently fierce debate over the choice between development and preservation ignores the central issue—our survival does not depend simply on preservation or development—it depends on both."

I commend his speech to all Senators and others interested in land use questions and ask unanimous consent that it be printed in the RECORD.

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

THE MAKING OF THE FAIRFAX COUNTY LANDSCAPE

(Remarks of Mike Harvey)

I am delighted to be here in these familiar surroundings with so many old friends and colleagues. I am honored to be asked to say a few words about the need for the new program you are about to begin. I must confess that I am sorely tempted to reminisce about events in the past that I am proud to have been a part of.

But my assignment today is to help explain why the Park Authority's exciting and innovative community program "The Making of the Fairfax County Landscape" is important, indeed vital, to the future well-being of the people of Fairfax County.

The program is intended to "foster greater citizen awareness of the processes responsible for landscape transformation and to provide an informed basis for environmental decision making." In effect it is seeking to develop a land ethic.

As Aldo Leopold put it, "We abuse land because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use to with love and respect. There is no other way for land to survive the impact of mechanized man."

An annoymous 16th Century Englishman described the problem even more pungently:

"The law locks up both man and woman
Who steals the goose from off the common
But lets the greater felon loose
Who steals the common from the goose."

The history of America is, more than that of most nations, the history of man confronted by nature. Our story has been peculiarly the story of man and the land, man and the forests, man and the plains, man and water, man and resources. It has been the story of a rich and varied natural heritage shaping American institutions and American values; and it has been equally the story of Americans seizing, using, squandering and, belatedly, protecting and developing that heritage.

From the beginning, Americans had a lively awareness of the land and the wilderness. The Jeffersonian faith in the independent farmer laid the foundation for American democracy; and the ever-beckoning, ever-receding frontier left an indelible imprint on American society and the American character.

Yet, at the same time that Americans saluted the noble bounty of nature, they also abused and abandoned it. For the first century after independence, we regarded the natural environment as indestructible—and proceeded vigorously to destroy it. Not till the late 19th Century did we begin to understand that our resources were not inexhaustible. Only in the 20th century have we acted in a systematic way to defend and enrich our natural heritage.

The modern American record in conservation has been outstanding. It has inspired comparable efforts all around the earth. But it came just in time in our own land. And the race between education and erosion, between wisdom and waste, has not run its course. George Perkins Marsh pointed out a century ago that greed and shortsightedness were the natural enemies of a prudent resources policy. Each generation

must deal anew with the "raiders," with the scramble to use public resources for private profit, and with the tendency to prefer short-run profits to long-run necessities. The nation's battle to preserve the common estate is far from won.

New times give this battle new form. On the one hand, science has opened up great new sources of energy and great new means of control. On the other hand, new technical processes and devices litter the countryside with waste and refuse, contaminate water and air, imperil wildlife and man and endanger the balance of nature itself. Our economic standard of living rises, but our environmental standard of living—our access to nature and respect for it—deteriorates. And the long-run effect will be not only to degrade the quality of the national life but to weaken the foundations of national power.

We must do in our own day what Theodore Roosevelt did 80 years ago and Franklin Roosevelt 50 years ago: we must expand the concept of conservation to meet the problems of the new age. We must develop new instruments of planning and protection in order to recover the relationship between man and nature and to make sure that the national estate we pass on to our descendants is green and flourishing.

My dictionary defines "landscape" as "the aspect of the land characteristic of a particular region." I have been observing the landscape of Fairfax County since I moved here in the late 1950's. It has changed.

During all that time and on into the future, land use questions and decisions have been and will be the most significant factors influencing the lives of the people who live here. While public attention to environmental issues most often is focused at the national level, the fact remains that the character of the American landscape is largely determined at the local government level. While the federal government manages areas like Great Falls Park and the Mason's Neck Wildlife Refuge, and State and regional agencies protect other open space areas, most of the decisions that have the greatest impact on the daily lives of the individual citizen are taken at the local government level.

The growth of our cities, the development of our industries, the expansion of our transportation systems—all manifestations of our vigorous and expanding society—preempt irreplaceable lands of natural beauty and unique recreation value. All too slowly we have come to realize that in addition to the enhancement of spiritual, cultural, and physical values resulting from the preservation of these resources, expenditures for their preservation are a sound financial investment.

Beyond all plans and programs, true conservation is ultimately something of the mind—an ideal of men and women who cherish their past and believe in their future. Most Americans find it difficult to conceive a land ethic for tomorrow. Our sense of stewardship is uncertain partly because many of us lack roots in the soil and the respect for resources that goes with such roots. Our growing dependence on machines has tended to mechanize our response to the world around us and has blunted our appreciation of their higher values. We are now a nomadic people, and our new-found mobility has deprived us of a sense of belonging to a particular place.

Modern life is confused by the growing imbalanace between the works of man and the works of nature. Technology has obliterated old boundaries, and our lives overlap and impinge in myriad ways. Thousands of people who affect the way we live will always remain strangers. An aircraft overhead or an act of air or water pollution miles away can impair an environment that thousands must share.

We can have abundance and an unspoiled environment if we are willing to pay the price. We must develop a land conscience that will inspire those daily acts of stewardship which will make America a more pleasant and more productive land. If enough people care enough about their land to join in the fight for a balanced conservation program, this generation can proudly put its signature on the land. Rather than dedicate the "Making of the Fairfax County Landscape" Program, we should launch it. Then, to make sure that it continues to sail on course, we should dedicate ourselves to the work required to make that happen.

In doing the work we should keep in mind three simple facts:

(1) we do not inherit the land from our parents, we borrow it from our children;

(2) the private marketplace, for all its virtues, is not equipped to deal with long-term, virtually unquantifiable issues like protecting watersheads and preserving wild lands; and

(3) the frequently fierce debate over the choice between development and preservation ignores the central issue—our survival does not depend simply on preservation or development—it depends on both.

Next we must assign responsibility for establishing policy, identifying problems and opportunities, listening to the views of all concerned and acting to implement decisions.

In Fairfax County, the ultimate responsibility of course, lies with the Board of Supervisors and the people, but they both need help. There should be a public agency authorized to set aside and protect public spaces for environmental values, diverse natural habitats, and cultural heritage in order to guarantee that these resources will continue to be available for future generations. It should in effect be the keeper of the County's environmental conscience. That agency is now and should continue to be the Park Authority.

I am keenly aware of the pressures to stress operation and maintenance of park and recreation facilities. These, combined with tight fiscal constraints, often lead to reduction in land acquisition. Nevertheless, I believe that an informed public will recognize that acquisition opportunities foregone today are frequently lost forever and that economic development and a quality environment depend on one another. A quality environment, including a good park and open space system, helps attract new people and businesses and the new economic activity helps pay for new lands.

Establishing and implementing the land ethic will be hard work, often frustrating, sometimes infuriating, but ultimately immensely rewarding. Almost exactly 22 years ago today, John F. Kennedy, one of our nation's great conservationist Presidents, set out a vision of the future that could serve as the goal for the program we launch today. He said,

"I look forward to an America which will not be afraid of grace and beauty, which will protect the beauty of our natural environment, which will preserve the great old American houses and squares and parks of our national past, and which will build handsome and balanced cities for our future. * * * And I look forward to an America which commands respect throughout the world not only for its strength but for its civilization as well."

Fairfax County, under the leadership of the Board of Supervisors and the Park Authority, can help move the nation toward that noble goal. I wish you good luck and Godspeed in the work ahead.

THE TRIO PROGRAMS

Mr. PELL. Mr. President, on Thursday, September 19, 1985, the Subcommittee on Education, Arts and Humanities held one of several hearings concerning reauthorization of the Higher Education Act of 1965. Because our distinguished chairman, Senator STAFFORD, was serving as floor manager of the "Superfund" legislation, I had the privilege of chairing our hearings in the afternoon. I was pleased to hear testimony on behalf of the TRIO programs and the National Council of Educational Opportunity Associations [NCEOA].

The TRIO programs, a composite of five initiatives to encourage disadvantaged students to complete their high school education, enter and graduate from college, has been extremely successful, as our witnesses on Thursday afternoon told us based on their own experiences. Not only do TRIO programs counsel and tutor college-capable young people, but TRIO provides those unquantifiable cultural and social experiences which enrich the lives of these students and open new vistas for them—a tangible look, at what they may never have dreamed.

The subcommittee's witnesses have gone far beyond the dream of a college education with the help and support of TRIO programs. They have excelled in extremely competitive environments—first, Captain Aaron Hayes, a graduate of West Point, second, Barry Cosgrove, who is in his second gradute school program, and the third, Barbara Ann Harmon-Schamberger, a Rhodes Scholar who grew up in a home without electricity or running water in a depressed area of West Virginia.

I applaud these young people for their hard work and their achievements. They are where they are today, in large part, because of their intelligence and tenacity and also because of the time and commitment of professionals in the TRIO programs.

Those students are also where they are today because of the work of talented and dedicated public servants. I count high among that number my distinguished colleague from Illinois, Senator PAUL SIMON. As chairman of the House Postsecondary Education Subcommittee, PAUL SIMON worked hard on behalf of these and all programs which extend the opportunity of a college education to students who otherwise would be turned away. We

in the Senate are fortunate that PAUL SIMON is now among our ranks, and that we will continue to benefit from his work on education through his service on the Senate Subcommittee on Education, Arts, and Humanities. Earlier this week Senator SIMON addressed the National Council of Educational Opportunity Associations on this, the 20th anniversary of TRIO. His remarks deserve the very careful consideration by all who serve in the Senate, and I would ask, therefore, unanimous consent to include the text of his address in the RECORD.

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

REMARKS OF SENATOR PAUL SIMON, NATIONAL COUNCIL OF EDUCATIONAL OPPORTUNITY ASSOCIATIONS

I am delighted to join you in celebration of the twentieth anniversary of the TRIO program. As we are all aware, TRIO did not emerge in a complete legislative package in 1965. Upward Bound was authorized in 1964 in the Economic Opportunity Act; Talent Search was part of the original Higher Education Act of 1965; Special Services for the Disadvantaged became part of TRIO in 1970; Educational Opportunity Centers were added in 1974; and a small portion of funds were set aside in 1978 for staff training.

We can focus on 1965 as the most significant date for TRIO because it was in the Higher Education Act of 1965 that the federal government made a clear commitment to support programs for college capable disadvantaged youth. The Act authorizes compensatory educational services and supplemental educational opportunities, as well as, the counseling and support which TRIO provides first generation college students in order to give them a fair chance at a college education—one of the surest ways to escape the poverty cycle, and an effective instrument to meet our Nation's promise of equal opportunity.

TRIO programs have grown and matured in the last two decades, but not without overcoming obstacles and changing philosophies of different Administrations and Congresses. You have strong and loyal supporters in both the House and Senate, and have been excellent advocates for yourselves. TRIO students and graduates themselves show the successes of your programs. Organization and advocacy, regional associations and, since 1981, the efforts of the National Council of Educational Opportunity Associations (NCEOA) have literally paid off—but the programs you advocate speak eloquently for themselves.

In 1972, landmark legislation was passed by Congress which established among other programs the Basic Educational Opportunity Grant, now known as the Pell Grant in honor of their legislative patron, my friend and distinguished colleague Senator Claiborne Pell (D-RI). This action was a strong acknowledgement that college opportunities should not be denied able and interested students because of their family incomes. Pell Grants acknowledge that the children of poor and low income families should be given access to a higher education. We are a stronger nation if we are an educated nation. And, equally important, we keep faith with the dreams of our founding fathers when we allow those dreams to come true.

But with the advent of the Pell Grant, an implicit question arose about compensatory and supplemental programs for the same target population. With tuition funds available through Pell Grants, where did TRIO programs fit into the federal responsibility to provide access for lower income students seeking a college education? While we, here, are aware that the question does not reflect the realities of many poor and disadvantaged students, it is a question asked and one which legitimately deserves an answer. The core of my remarks today will deal with this issue, celebrating not only your two decades of efforts and successes, but establishing the unquestionable need for TRIO programs as one part of a total and many faceted federal commitment to those capable young people most in need of support to enter and complete higher education and to those capable young people upon whom we will depend for our very future as a free and healthy nation.

The ability to pay for a college education does not magically solve the problem of attending and graduating from college. This is especially true for young people whose family background does not include higher education, whose financial status and restricted opportunities have made it difficult to learn about college, and whose educational experiences prior to reaching college age did not provide the compensation for poverty, social disadvantages and narrowed horizons. These horizons may be limited to the skyline of an urban ghetto or a subsistence farm.

I think opportunities provided by Pell Grants and other programs are great. I know they are part of the packages TRIO counselors use to inform and encourage students to remain in high school, to graduate and to enter college. Pell Grants are just one of the means used by TRIO programs to assure first generation college-bound students that higher education is within reach, financially. But there is more to success in college than finances—important as they are. That more, that very much more, comes from the dedicated staffs of TRIO programs and the services TRIO programs offer.

Compensatory education is not questioned in programs such as Chapter I federal aid for elementary and secondary students. Compensatory education—a very imprecise description of TRIO programs—should be equally immune from question. When 20% of all minority students in higher education have received the help of one or more TRIO programs, they are clearly necessary. When thousands of college-capable young people from backgrounds and geographic areas and families do not have information and motivation, when they have not stepped through the gates of a college or university to see what such an institution looks like, when college capable young people are unaware that financial aid and counselling support through transition periods are available, there is no hope since they may not know what to hope for. TRIO provides more than hope—although it also provides hope in abundance. TRIO provides solid remediation for the educationally disadvantaged. TRIO provides an opportunity for those out of school to come back and complete high school and enter college. TRIO provides enrichment opportunities so that young people can go beyond their perceived social and economic limits. TRIO educates, informs, counsels, motivates and opens doors which were closed to their parents. TRIO provides access, and the tools to succeed once that access is utilized. Federal and state financial aid for college students is only one part of that program of access. Student aid is an irreplaceable part of access, but it is the TRIO programs that guide and support a young person to and through the giant programs of Pell Grants and GSLs and college catalogues and the hurdle of self-confidence toward achievement.

You are to be commended for your successes. Millions of students served by TRIO are, today, in a world in which they once felt they could not succeed. In 1965, just over 3,000 students participated in the first Upward Bound summer programs. Today, close to half a million students are served by EOCs, Special Services, Talent Search and Upward Bound. From a fiscal year 1966 expenditure of $2 million, the fiscal year 1985 budget shows a growth to $175 million. The eligible population is still underserved and if we look at the authorized levels for TRIO back as far as 1976, we see that Congress, under the leadership of such TRIO friends as Representatives Shirley Chisholm and Louis Stokes, authorized a level of $200 million. Ten years later we are still not at that level. But we must also look at the real budget crises of the last five years and see that, in spite of them, there is continued strong support in Congress for TRIO programs is an acknowlegement of the value and successes you have experienced since 1965. There have been hurdles; there have been disappointments and there has been a need to create an advocacy organization ably headed by Arnold Mitchem. There are many members of the TRIO family for whom we owe our thanks for their work, their tenacity, their advocacy and their vision. I would like to thank them all now.

If we believe in opportunity, as I expect we all do with our minds, through our professions, and with our hearts, TRIO is an irreplaceable part of assuring that opportunity. I wish we could do away with the social and economic factors which make TRIO a much needed program. The greatest success of programs which include TRIO would be outliving their own usefulness. But I do not think this will happen.

TRIO programs currently serve less than 10 percent of the eligible population. Demographic projections show us that the pool of college-aged students over the next 15 years will include increasingly large proportions of minority and low income individuals. The need for TRIO programs is likely to grow over the next two decades which recent studies point to in critical and acute ways.

We not only face the challenges of providing support for college capable young people to finish high school and begin a college career, but we need to ensure that those young people have the best chances we can give them to graduate into careers that will serve our country and fulfill their dreams. We applaud existing compensatory programs within TRIO, but we must also look at new and difficult transitions for disadvantaged students. Perhaps the most challenging over the next two decades will be the articulation of two- and four-year institutions. With over 40 percent of all college freshmen attending two year schools, and a disproportionate number of minority and disadvantaged students in junior and community colleges, a critical constituency to serve will be these students, who may need assistance to enroll in a four-year institution. Much of the responsibility rests with the higher education community and cooperative efforts among different institutions.

But student support through the transition period from a two- to a four-year postsecondary institution represents a new and vital point of intercession for the disadvantaged student. The TRIO program concepts can continue and expand by adding this transition period as a priority for existing Special Services programs and new initiatives.

I can see progress, and I see you as central to that progress. We are here to celebrate an anniversary and the millions of disadvantaged students who are part of our nation's social and economic mainstream because of the help of TRIO programs. We are here to celebrate the vision of those who created TRIO and those who make that vision a reality. And I am here to thank you and pledge that I will continue to do what I can in the Senate, as I did in the House, to assure the continuation of TRIO programs until we reach our mutual goal of equal educational opportunity and access for all of our young people.

Special Programs for Disadvantaged Students (TRIO)

PROGRAM OBJECTIVES

The overall purpose of the Special Programs for Students from Disadvantaged Backgrounds (TRIO) is "to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide special services for such students who are pursuing programs of postsecondary education, and to train persons serving or preparing for service in programs and projects so designed." TRIO programs currently consist of five (5) programs:

Upward Bound—to improve the academic performance and increase the motivational levels of eligible participants in order to increase the probability that they complete secondary school and enter and successfully pursue postsecondary educational programs.

Special Services—to provide supportive services to disadvantaged and handicapped participants to enhance their skills and increase their retention and graduation rates, and, as appropriate, facilitate their entrance into graduate and professional programs.

Talent Search—to identify qualified youth with potential and encourage them to continue in and graduate from secondary schools and to enroll in and complete postsecondary educational programs.

Educational Opportunity Centers—to provide to eligible participants financial and academic assistance concerning available opportunities for postsecondary education. These centers assist participants in applying for admission to institutions of postsecondary education and in applying for student financial aid; they may also provide tutorial and counseling services.

Training Program—to provide activities and services that improve the skills of staff and leadership personnel who are employed or are preparing for employment in projects under the Special Programs for Students from Disadvantaged Backgrounds.

SPECIAL PROGRAMS FOR DISADVANTAGED STUDENTS (TRIO)

Eligible Applicants

Upward Bound	Institutions of higher education. Public and private agencies and organizations.
Special Services	Secondary schools, in exceptional cases. Institutions of higher education.
Talent Search	Institutions of higher education. Public and private agencies and organizations. Secondary schools, in exceptional cases.
Educational Opportunity Centers	Institutions of higher education. Public and private agencies and organizations. Secondary schools, in exceptional cases.
Training	Institutions of higher education. Public and nonprofit private agencies and organizations.

SPECIAL PROGRAMS FOR DISADVANTAGED STUDENTS (TRIO)—Continued

Eligible Applicants

TRIO FUNDING

[In millions]

Fiscal year	Educational Opportunity Centers	Special Services	Talent Search	Upward Bound	Staff Training	Total TRIO
1966			2.0			2.0
1967			2.5			2.5
1968			4.0			4.0
1969			4.0	[1] 29.8		33.8
1970		10.0	5.0	[1] 29.6		44.6
1971		15.0	5.0	30.0		50.0
1972		15.0	5.0	31.0		51.0
1973		23.0	6.0	38.3		67.3
1974	3.0	23.0	6.0	38.3		70.3
1975	3.0	23.0	6.0	38.3		70.3
1976	3.0	23.0	6.0	38.3		70.3
1977	4.0	30.0	8.9	41.5		85.0
1978	5.2	45.2	12.5	50.0	2.0	115.0
1979	6.3	55.0	15.3	61.0	2.4	140.0
1980	7.7	60.0	15.3	62.5	2.0	147.5
1981	8.0	63.9	17.1	66.5	1.0	156.5
1982	7.8	60.7	17.1	63.7	.9	150.2
1983	7.8	60.7	17.1	68.2	.9	154.7
1984	8.1	67.0	17.8	70.9	.9	164.7
1985	9.3	70.3	20.3	74.0	1.0	174.9

[1] Separate Appropriation under Economic Opportunity Act.

NUMBER OF STUDENTS SERVED IN TRIO PROGRAMS

Fiscal year	Educational Opportunity Centers	Special Services	Talent Search	Upward Bound	Total
1965				3,261	3,261
1966			50,000	20,333	70,333
1967			62,500	23,507	86,007
1968			97,500	26,639	124,139
1969			100,000	25,743	125,743
1970		30,000	125,000	27,346	182,346
1971		49,921	126,652	28,142	204,715
1972		63,112	125,243	33,809	222,164
1973		73,951	109,025	51,755	234,731
1974	32,239	86,400	110,975	48,603	278,217
1975	37,169	89,753	122,810	46,181	295,913
1976	50,065	93,452	110,982	47,517	312,017
1977	58,666	123,092	146,565	38,887	367,210
1978	69,159	147,648	169,022	38,843	424,672
1979	107,649	165,222	198,817	35,391	507,179
1980	117,100	172,071	202,033	37,210	528,414
1981	127,198	181,368	202,611	37,680	548,857
1982	112,509	166,037	195,176	46,248	519,970
1983 [1]	102,836	141,585	185,560	33,133	464,114
1984 [1]	102,836	141,585	185,560	33,133	464,114
1985 [1]	102,836	141,585	185,560	33,133	464,114

[1] Estimated.

CELEBRATING THE ARTS IS NOT ENOUGH FOR OUR PERFORMING ARTISTS

Mr. PELL. Mr. President, this week we are celebrating the arts in the United States and we are celebrating the 20th anniversary of the National Endowment. However, many artists throughout the United States are not celebrating because legislation that could help them has not been considered by the Senate.

The legislation I am referring to is the performing arts amendment. Earlier in this session, I introduced the performing arts amendments. I believe that this bill, if passed, would benefit directly a great many of the performing artists in this country.

Over a decade ago, performing artists, specifically musicians, were told by the National Labor Relations Board that they could not enter into agreements with their employers to establish their wages and working environment and conditions. Thus, these performing artists were informed by the Board that they were independent contractors—individuals who have control over the means and production of their work.

Mr. President, I believe this decision is wrong. And, performing artists, especially performing musicians, have been working a great many years to get the Congress to address their concerns.

It is clear that performing artists, throughout this country, do not have control over their working conditions. In many cases, performing artists work or do not work at the whim of a hotel manager, a lounge owner, a bar owner or a booking agent or an orchestra leader who contracts with a manager or an owner.

Once again, the legal interpretations of an agency, in this case, the National Labor Relations Board, has had a debilitating effect on the work lives of many musicians and other performing artists. Contrary to the decisions of the National Labor Relations Board, musicians and other performing artists work in a world dominated by forces beyond an artist's control.

A performance is given to satisfy the owner or management of a hotel, a lounge, a club, a bar or a theater. Whether that performance will continue is determined by the owners of the establishment and its patrons. Performing artists have little to say about their destiny as artists or about the continuation of their performances.

My bill, the performing arts amendments, is a small step toward giving artists some control of their working conditions. The performing arts amendment would allow performing artists to chose representatives who would be responsible for negotiating the terms and conditions of a performing artists' work environment. Those elected representatives would work for the benefit of the artist and would work to produce the best working conditions for that artist or group of artist.

Currently, my bill, S. 670 has 14 cosponsors. It has support from both sides of the aisle. I, along with the cosponsors of this bill, believe that per-

forming artists should have the same rights as other employees. To deny these rights to performing artists is unfair. During this time of celebration of the arts I would ask my colleagues to consider the serious need to address the difficulties confronting many performing artists.

SELECTION OF MEMBERS OF THE SENATE STAFF INTO "WHO'S WHO IN AMERICA"

Mr. THURMOND. Mr. President, I am pleased to bring to the attention of my colleagues the selection of several officials of the U.S. Senate for inclusion in the current edition of "Who's Who in America." Among the 1985 selectees are our distinguished Senate Chaplain, the Rev. Richard Halverson; Mr. Douglas Hester, legislative counsel of the Senate; and Michael Davidson, legal counsel to the Senate. Each of these outstanding persons has been an active leader in their chosen career, and together they have served the American people and our Government for a number of years.

Reverend Halverson has guided the Senate in spiritual leadership since 1981. Through his inspirational words of prayer at the opening of each Senate session, his leadership of a Senate Bible study group, his guidance to individual Senators and staff, and in numerous other ways, Dr. Halverson has rendered outstanding spiritual service to this institution of our Government and those associated with it.

Mr. Hester, who is the Senate legislative counsel and supervises the operations of that office under the President pro tempore, has worked with the Senate since 1952. Mr. Hester is a native of Alabama and is widely regarded for his skill as a legislative draftsman and as a scholar of statutory law.

Mr. Davidson has served as legal counsel to the Senate since 1979, with prior legal service in the Peace Corps, NAACP, and U.S. Court of Appeals. It is the task of Mr. Davidson and his staff to represent Senators and Senate employees as may be necessary from time to time in various court proceedings growing out of their official actions. In that regard, Mr. Davidson enjoys the reputation of being a skilled attorney and legal advocate.

Mr. President, I would like to take this opportunity to commend these three outstanding men who have distinguished themselves among their peers. I am sure my Senate colleagues join me in expressing our appreciation for the exemplary manner in which each of them has served the Senate and their country.

OLIVER HAMRICK

Mr. THURMOND. Mr. President, I would like to call attention to an editorial in the Gaffney, SC, Ledger, dated August 26, 1985, which salutes businessman and enterpreneur Oliver Hamrick.

In the 1940's, Mr. Hamrick started a small grocery and general merchandise store that, through his unique foresight and dedication to the principles of free enterprise, has grown to become a major business complex.

Although my friend Oliver Hamrick passed away in 1983, his legacy is a thriving and viable company which provides jobs and boosts the economy. It is people such as Oliver Hamrick who teach us that life is more than just the accumulation of material things. His life was a shining example of how hard work and dedication to good, honest business principles can lead to a realization of the American dream. Mr. President, I respectfully ask for unanimous consent to have the following editorial printed in the RECORD.

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

OLIVER HAMRICK'S LEGACY NOT IN HIS CONGLOMERATE

Mention to some outsider that you're from Gaffney and he or she will automatically mention one of three things: peaches, football or Hamrick's. For more than two decades Hamrick's has been synonomous with Gaffney. People have come from far and near to look for bargains at Hamrick's, and most of them have left with plenty.

It all began back in the 1940s with a small grocery and general merchandise store operated by Oliver and Edna Hamrick. Somewhere along the line they added cloth and later they took on clothing. Then, one by one, they brought their four sons and three daughters into the business. Today Hamrick's is a conglomerate of retail and wholesale outlets, and printing, finishing and manufacturing plants.

Oliver Hamrick, who died in 1983, believed in giving his customers something for their money. He felt that by keeping his profit margin low the customers would buy in sufficient volume to make up the difference. He was one of the original discounters who drew the ire of other merchants while winning favor with shoppers.

Oliver Hamrick's philosophy has been copied by many. In recent years the competition has become keen, but Hamrick's continues to grow and expand. The company's success has something to do with quality merchandise at bargain prices; however Hamrick's faith in its customers has played a part. Few retail stores have liberal return policies like Hamrick's, nor do they take out-of- town checks like Hamrick's does.

Oliver Hamrick would have been proud last Thursday when Edna and the children broke ground for a $6.5 million complex on a piece of property he bought for that purpose back in 1978. But he would have been proudest of the fact that so many of their friends came to wish them well.

Oliver Hamrick didn't have a lot of education, but he was as astute businessman who had lots of friends, from U.S. senators to common everyday people, because each was just as important as the other.

His legacy lives on, not in the conglomerate that he built, but in his family that carries on in his tradition.

SCHEDULING ACTION ON THE DEBT CEILING

Mr. DOLE. Mr. President, as Members know, the Senate will shortly be required to take action on legislation to raise the public debt ceiling. I thought it might be helpful to my colleagues if I took the time to outline what the Treasury Department expects will happen with the Government's financing operations as we move into October, assuming we do not complete action on the debt ceiling before the end of the current fiscal year.

CURRENT PROGNOSIS

Mr. President, the limit on the public debt presently starts at $1,823.8 billion. The Treasury expects that this current limit on our borrowing authority will be reached on or about Monday, September 30, 1985. As always, the Treasury has some cash on hand that will enable it to meet the Government's obligations for some time beyond September 30. How far that cash can be stretched depends on many factors, including the pace at which revenues come in, the order in which Government obligations fall due, and the degree of discretion the Treasury may have in meeting some of those obligations.

Yesterday, September 25, I received a letter from Treasury Secretary James Baker setting out his latest view on how long that cash balance will last. According to Secretary Baker, the Treasury cash balance will be initially exhausted by October 7, 1985. Accordingly, the Treasury Secretary urges that we raise the debt ceiling "no later than" October 7. I will include the letter from Secretary Baker in the RECORD for the benefit of Members.

Mr. President, let me note that Secretary Baker only discusses the cash balances the Government will have available, and does not go into any other devices the Treasury may have available for managing funds between now and October 15.

PENDING BILL

The Committee on Finance has reported out H.R. 372 which was passed by the House automatically when it approved the conference report on the budget for fiscal year 1986. H.R. 372 would increase the debt limit as of October 1 to $2,078.7 billion. That figure is consistent with administration estimates of the Government's debt financing needs through September 30, 1986.

TRUST FUND INVESTMENTS

Mr. President, delay in raising the debt ceiling is already interfering with regularly scheduled investments of Federal trust funds in Treasury securities. Because we are bumping up against the debt ceiling, the scheduled September 1 investment of Social Se-

curity funds has been done only in part and in a piecemeal fashion. No interest is lost to the trust funds as a result of that delay, however.

In addition, the Treasury expects that the scheduled investment of civil service funds in Government securities on September 30 will be delayed, with the result that the civil service fund will lose some interest due. There will also be some interest lost to the military retirement trust fund because of failure to fully invest $10 billion as scheduled on October 1; and a similar loss to the Federal supplementary medical insurance trust fund which is supposed to invest $1.8 billion in Government securities on October 3. However, we expect that each of these last two trust funds will be partially invested as our money situation permits.

RISK TO GOVERNMENT OBLIGATIONS

Finally, Mr. President, let me remind Members of what happens when the Treasury exhausts its options for managing cash obligations without a debt ceiling increase. As I have indicated, Secretary Baker now expects that "zero hour" will arrive on October 7.

When the Treasury exhausts its cash reserves, all obligations of the U.S. Government are put at risk. That means contractual obligations of the Government may not be met, Federal workers might not be paid on time or in full, and basic benefit payments—including Social Security checks—may have to be delayed or cut back. I think we all want to avoid that, so I hope we will get a debt limit bill to the President in a timely fashion.

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

THE SECRETARY OF THE TREASURY,
Washington, DC, September 25, 1985.

Hon. ROBERT DOLE,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR BOB: I am writing to emphasize the need for final action by the Congress on debt limit legislation no later than October 7.

Current projections indicate that, in order to stay within the present $1,823.8 billion debt ceiling, Treasury's cash balance will be virtually exhausted by October 7, and the situation will deteriorate sharply thereafter. Obviously, changes in these projections, in either direction, can and do occur, but these are the best estimates we have at this time.

Consequently, unless a debt limit is passed by the Congress and signed into law by the President on or before October 7, 1985, the United States of America could be in the position of defaulting on its obligations. As you know, and as Treasury testified on September 10, this would mean that recipients of checks for social security, payroll, unemployment, defense contract and other payments, including principal and interest on Treasury securities, would be unable to cash these checks.

I urge you to pass legislation raising the debt ceiling at the earliest possible date but, based on present projections, no later than October 7, 1985.

I will provide you with updated projections of our cash balances by October 1, but this matter is of such importance that I wanted to alert you at this time of our probable needs.

Sincerely,

JAMES A. BAKER III.

SUPERFUND IMPROVEMENT ACT OF 1985

Mr. GORTON. Mr. President, I want to express my strong support for S. 51, the Superfund Improvement Act of 1985. I commend Senator STAFFORD and members of both the Environment and Public Works Committee and the Finance Committee for their work toward establishing a strengthened Superfund, and I urge my colleagues to vote in favor of this vitally important legislation.

Reauthorization of the Superfund is crucially important to the people in Washington State and throughout the country. The authority of Congress to raise revenues and appropriate funds to support the Superfund will expire on September 30, 1985. Failure to pass a 5-year reauthorization prior to the expiration of the existing taxing provision on September 30 will cause tremendous disruption in EPA's cleanup program. EPA already has implemented a slowdown of the cleanup program, and cleanup work at numerous sites in the State of Washington and nationwide has been slowed or halted. Without an assured source of funds for cleanup activities during the next 5 years, major disruptions and potentially long-lasting damage will occur in the long-term cleanup of toxic waste sites.

Across the State—from Whidbey Island to Spokane—residents have experienced the contamination of land and water due to the improper use and disposal of hazardous materials. There are currently 13 sites in Washington State on the Superfund national priorities list and 13 additional sites in the State have been proposed for the list, including five sites located on Federal property.

In Tacoma, WA, the South Tacoma Channel has been contaminated by chlorinated organic solvents from a number of waste disposal sites. This has caused contamination of the surrounding soil and ground water, and a significant portion of the drinking water supply for over 150,000 people also has been contaminated. Cleanup activities are in the design stage and long-term cleanup action will be delayed if Congress fails to reauthorize the Superfund.

In Spokane County, a 40-acre landfill has contaminated a nearby stream with chlorinated organic solvents and poses a grave threat to a large portion of the county. This area is part of the Spokane aquifer, which is the sole source of drinking water for 350,000 people in the region. A cleanup feasibility study is being completed for this site and if Congress fails to reauthorize the Superfund by September 30, the design and implementation of the cleanup activities could be delayed indefinitely.

These are just two examples of the dangers facing citizens in the State of Washington and these scenarios are being repeated in hundreds of communities across the Nation. There is no question about the need to maintain a strong Superfund. It is the Federal Government's responsibility to ensure that the cleanup of both privately owned sites and those sites located on Federal facilities proceed without delay. It is absolutely unacceptable to continue allowing Americans to risk exposure to toxic wastes. But that is precisely the kind of risk we would be taking by having anything less than the strictest waste cleanup law in effect. We must remove toxic waste from our countryside without unnecessary delay and, to the extent possible, the costs for that removal should be borne by those originally responsible for causing the damage.

S. 51 will not only reauthorize Superfund, but will make changes in the law which will expand and accelerate the Federal Government's program to clean up hazardous wastesites and protect the public health and environment from dangerous releases of hazardous substances.

S. 51 will go a long way toward accomplishing this goal, and I urge my colleagues in both the Senate and the House of Representatives to approve this legislation swiftly.

Mr. D'AMATO. Mr. President, I rise today in support of H.R. 2005 (formerly S. 51), the Superfund Improvement Act of 1985. I want to commend my colleague, Senator STAFFORD, in his role as chairman of the Environment Committee, and Senator PACKWOOD, in his role as chairman of the Finance Committee, for their leadership on this issue.

I am extremely pleased that the Senate acted responsibly in reauthorizing this important legislation before the September 30 expiration date. The timely reauthorization of this bill is of the utmost importance in New York, which has the fourth highest number of Superfund sites in the Nation. There is no question that these cleanups must proceed as quickly as possible to protect the health and safety of our citizens.

Although the U.S. Environmental Protection Agency had asked for only $5.3 billion for this 5-year program, I felt very strongly that we should not reduce the funding level of $7.5 billion provided in the Senate bill. The Congressional Research Service has indicated that this additional money can be spent effectively and efficiently by the Environmental Protection Agency

to accelerate these cleanups without overwhelming the Agency.

As the sponsor of S. 606, the Community Right-to-Know Act of 1985, I fully support the Superfund amendment by Senator BENTSEN which will provide information to the public on the presence of hazardous substances in their community without creating unnecessary paperwork requirements for the industry. I also was pleased that the Senate unanimously adopted an amendment by Senator LAUTENBERG which will provide a framework for emergency response on a local level.

Mr. President, I commend the Senate for crafting a responsible approach on this tremendous important issue. I am pleased to support this bill today, and it is my sincere hope that the House of Representatives will act quickly to pass a strong Superfund reauthorization.

Thank you, Mr. President.

Mr. KENNEDY. Mr. President, today a critical piece of legislation is before the U.S. Senate. It concerns the preservation of our environment, the protection of our health and the health of our children. The question before the Senate is whether at long last this Nation is serious about ridding ourselves and future generations of the threat of toxic waste. The passage of S. 51 to reauthorize a strong and expanded Superfund Program will be an important step toward this goal.

But I would have hoped that we could have done better after 5 years experience with the Superfund Program. We must do more.

It was a sad day for the U.S. Senate when earlier this week it turned its back on the human suffering caused by toxic waste. Once again pressure from the White House and intense lobbying from industry interests managed to keep any hint of victim assistance out of the Superfund Program.

For the past 5 years we have had the incredible and unjustifiable standard that says that if public property is damaged by hazardous waste, there can be compensation, but if a human being is injured, if a mother miscarries, if a small child dies from the same poisonous pollution, then the law says there can be no compensation from the Superfund. And that is an unacceptable situation.

The fact is that 35 million people in our society lack any form of health insurance whatsoever, and many of these millions live in areas exposed to the deadly dangers of toxic waste.

But the Senate was unwilling to accept even a limited demonstration program targeted to provide relief to the neediest of these victims. Once again we have a multibillion dollar Superfund Program that allows compensation for public property and not one penny for people who suffer.

Even the current level of funding in the Senate bill is inadequate—it should be increased.

When Superfund was enacted in 1980, many of us believed that the hazardous waste problem in the United States was widespread. However, we had very little concrete information on which to base our decisions concerning the size of the fund. But we did know that perhaps hundreds of thousands of Americans were being threatened by a silent killer—an often tasteless, odorless killer—which had poisoned their drinking water or fouled their air.

Every day, new toxic waste sites are being discovered across the Nation. In Massachusetts alone, EPA estimates that over 300,000 residents are potentially exposed to the harmful effects of the 21 national priority sites in my home State. And every day, more and more people are living with the spectre of chemically induced disease. The EPA estimates that 2,000 sites will eventually reach the national priorities list. But the Office of Technology Assessment, in their report on Superfund strategy, says that a more realistic projection is that 10,000 sites will require cleanup, at a cost of perhaps $100 billion.

Every year millions of Americans are being exposed to improperly disposed toxic waste from over 20,000 hazardous wastesites across the country. EPA estimates that at 541 priority sites, 6 million Americans located within 3 miles of these toxic waste sites are drinking contaminated ground water—and nearly another 6 million are drinking contaminated surface water.

The impact of delay on the public health cannot be measured in dollars and cents. During my 23 years in the U.S. Senate I have never been more moved than by the tragic consequences I have seen in my own State of Massachusetts due to the impact of hazardous waste sites.

I have seen the tears, heard the cries, and felt the pain of these families who, sadly, are not unique. Their stories are repeated throughout communities across this country. And yet, so far we have neither eliminated the danger nor compensated the victims for the pain and suffering which has been such a part of their lives for far too long.

Despite its flaws the new Superfund provides a ray of hope, an opportunity to defuse the most serious toxic time bombs.

I want to commend my colleagues Senator STAFFORD and Senator BENTSEN, for their continued efforts to enact this legislation. They are strong advocates for the rights of victims who have lived through the nightmare of toxic waste in their neighborhoods.

I am especially grateful for the support they provided for amendments that I offered to strengthen the bill by providing a pilot program for removal of lead contaminated soil in urban areas such as Boston and Chelsea, to provide adequate funding for needed health studies, and to prevent unnecessary disruption of cleanup in communities like North Dartmouth, MA.

The preservation of our environment and the protection of the public health are responsibilities that transcend partisan lines. We all share a fundamental commitment to insure that every American avoids unnecessary illness and lives in a clean and safe environment—free from drinking water tainted with cancer-causing chemicals; free from airborne toxins, chemical lagoons, contaminated landfills, and leaking sunken barrels filled with poison.

I hope and expect this bill to pass with overwhelming bipartisan support.

Mr. MURKOWSKI. Mr. President, I support S. 51, the bill to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [CERCLA].

The problem of improperly disposed hazardous waste is one of the most serious environmental and social problems facing this Nation. In 1980 Congress responded to this problem by passing CERCLA, or Superfund, as it is popularly known. This law is unique in that it combines different types of legislation—independent revenue generating, public works, and liability creating. No one knew how well, or whether, such legislation would work; but the nature of the problem justified an innovative and ambitious response.

We now have the experience of nearly 5 years of Superfund implementation to guide us. Although few would contend that the law is perfect, there is a general consensus that its approach is fundamentally sound and that it is evolving into a workable scheme for addressing the problem of cleaning up leaking and abandoned hazardous waste disposal sites.

S. 51 builds on the basic concept established by CERCLA in 1980. Most of the provisions of the bill are designed to enhance CERCLA's ability to address the problem in a more efficient and economic manner. Additionally, there are a few provisions which attempt to remedy perceived inadequacies in the current law. Most important among the changes made by S. 51, however, is the considerable increase in the size of the program.

Since 1980 we have acquired a great deal more information on the number of hazardous wastesites which may eventually require cleanup and the seriousness of the threat to human health and the environment posed by those sites. As a result of this information, the public works aspect of CERCLA has been expanded substantially by increasing the size of the

fund out of which cleanups are publicly financed. To generate the revenues necessary for this expanded effort, S. 51 imposes a Superfund excise tax on manufactured products sold in the United States.

I have serious reservations about the imposition of the Superfund excise tax. The Federal Government is currently spending $200 billion more each year than it receives in revenues. In such an economic climate I believe that enactment of this type of tax should not be interpreted as Congress' desire to balance the Federal budget by increasing the tax burden on all Americans by means of a hidden value added tax. On the other hand, I recognize the extreme need for a substantially increased Superfund effort. I am also of the opinion that it will be impossible to generate $7.5 billion in a fair and equitable manner without turning to the Superfund excise tax. As a consequence, I support, though reluctantly, the imposition of that tax.

Mr. President, I commend the primary sponsors of this legislation and the Senate environment and Public Works Committee for the extraordinary effort that has been devoted to the drafting and refining of S. 51. It is a bill which extends, improves and expands a vitally important environmental law.

Mr. RIEGLE. Mr. President, today, we are reauthorizing one of the most important pieces of legislation we will deal with this year—the Superfund Program. Since the program was enacted in 1980, we have discovered many more abandoned and leaking hazardous wastesites in this country than had originally been predicted.

The Environmental Protection Agency now tells us that there are 17,000 possible abandoned sites across the country and that as many as 2,500 may require remedial action. In my State of Michigan alone, 1,100 dumpsites with the potential to contaminate ground water have been discovered.

The National Geographic magazine's cover story in March 1985 was on hazardous waste and featured the story of a toxic wastesite in Michigan—the Berlin and Farro incineration site in Swartz Creek, near my hometown of Flint. The article relates the efforts of people living near the site, and in particular of Mrs. Verna Courtemanche, to bring the site to the attention of State and Federal authorities.

Mr. President, I ask that this article be printed in full at the conclusion of my statement.

I am bringing this story to the attention of the Senate today because I think it illustrates the magnitude of the hazardous waste problem in this country, and, in particular, the horrors that Mrs. Courtemanche and many others like her across the country are facing because they live near a site that poisons their air and water. They are victims, in a sense, of our national progress in developing new and more sophisticated products. And while I believe strongly in the need to continue to expand and develop the manufacturing base in this country, I also believe that we must accept responsibility for cleaning up areas like these that are threatening the health and well-being of those who, by chance, live nearby.

There is no question that the cost of cleaning up these sites is very high. Long-term remedial action where no ground water contamination has occurred averages $4 to $6 million per site to complete the studies and remove contaminated soils. Where ground water is contaminated, cleanup costs can run $17 million or more. The Michigan Department of Natural Resources estimates that it would cost at least $2.9 million to clean up 600 of the sites in my State alone.

The problem is huge, the cost is great, and progress to date in cleaning up sites has been slow. There are currently 850 proposed and final sites on the National Priority List [NPL] for cleanup activity. While the EPA says that remedial investigations and feasibility studies are underway or have been completed at 436 sites, cleanup work is completed at only 11 NPL sites. We clearly have a long way to go to remove this threat to our national health.

Because the scope of the problem is so large, the measures that we have been considering to deal with it are equally large and, consequently, controversial. I would rather support another financing package if one were available. But in order to take care of the hazardous waste problem, we need to make an economic commitment—the program must be paid for and I believe it would be grossly irresponsible to use deficit financing to keep this program going.

So, Mr. President, I rise today in support of a strong, sound Superfund Program. I believe we must send a firm message to the Environmental Protection Agency that we believe in this program and insist that hazardous waste cleanup activities be given top priority in the agency. We should vote for a strong Superfund package so that the people of this country will not have to live in fear. We have heard them ask for help. We should do everything we can to make sure that dangerous hazardous wastes are cleaned up as efficiently and effectively as possible.

The article follows:

HAZARDOUS WASTE

(By Allen A. Boraiko)

Petite and trim at 66, with whitening hair wisping from a bun and a brooch at the lacy throat of her high-collar blouse, Verna Courtemanche suggests a tintype schoolmarm. She has, in fact, taught mathematics in Michigan schools. Parallel lines never met in her classroom, but in the geometry of her life Verna has converged calamitously with hazardous waste. Under way at her doorstep is the cleanup of one of the nation's most threatening chemical dumps.

Verna lives outside Swartz Creek, at a country crossroads 60 miles northwest of Detroit. For weeks last summer 50 trucks a day rumbled by her house ferrying contaminated soil from a nearby field to a landfill in Ohio. To purge the field of toxic metals, used motor oil, drug and dye by-products, and other industrial waste, backhoes and bulldozers have scooped and scraped 120,000 tons of earth. That's merely a first cut, however, at the pollution left by Verna's former neighbor Charles Berlin.

In 1972 Berlin and a partner opened a hazardous waste incinerator. Often it was overloaded, smothering the countryside in acrid smoke so dark and dense that firemen on the horizon would take it for blazing houses and race over. The corrosive murk turned convertible car tops into literal ragtops, reddened children's faces with rash—swelled eyes shut. Verna and friends harried state officials by telephone, rally, and letter for four years before Berlin's smudge pot was permanently closed.

In 1980 Berlin declared bankruptcy. During the next three years, investigators unearthed behind his incinerator five storage tanks and the first of 33,000 drums. They were bursting with waste that Berlin had been forbidden to burn, yet still allowed to haul—from chemical plants, auto factories, steel mills, refineries, railroads.

Find followed find. In the grim stew of a holding pond, one million gallons of oily muck were laced with polychlorinated biphenyls—PCBs. Until their United States production ended in the late 1970s, PCBs lent durability to hydraulic fluid, to coolant for electric transformers, and to plastics—wide use that now makes PCBs a universal as well as persistent waste, one that accumulates in fish and causes animal cancers.

In another pond, it was believed that drums of hydrochloric acid and barrels of cyanide lurked like mines, needing only a blow for their chemicals to leak, mix, and form a cloud of lethal gas. When the pond was safely dredged in May 1983, Verna and the other 165 evacuees cheered. Today they find they were given a reprieve only to serve an indeterminate sentence.

"We're prisoners," Verna told me. "We can't sell our homes, we're afraid to drink from our wells, and out-of-town friends shy from visits. My sister-in-law won't take gifts of my raspberry jam any more."

Michigan and the U.S. Environmental Protection Agency (EPA) have so far spent six million dollars at Swartz Creek, and some of the 200 firms whose waste was dumped there have pledged 14 million dollars more. Many tons of tainted soil remain, leaching contaminants to local aquifers with every rain. To map groundwater pollution will take several years; eliminating it—if needed and if possible—could take decades.

"At times," says Verna, "I've almost felt that addressing the problem of hazardous waste just makes it worse. You scream and holler, government acts, and easy answers elude you. But your only choice to solve the problem is to give it more attention, more effort. We're learning to do that, but I wonder if we're learning fast enough."

It is no small irony that Charles Berlin began storing up trouble in Swartz Creek at the height of national campaigns to curb environmental pollution. In the early 1970s

visibly smoggy skies and cloudy streams got headlines, it was still largely out of mind.

Then, in 1978 at Love Canal in Niagara Falls, New York, rain popped leaking drums out of the ground on a black tide of long-buried chemicals. Hazardous waste has been front-page news ever since.

It has driven hundreds of families from Love Canal and made a ghost town of Times Beach, Missouri, permanently evacuated in 1983. Dusty dirt roads there had been sprayed a decade earlier with oil contaminated by dioxin, a highly poisonous waste product of some industrial chemical reactions. EPA had its own exodus in 1983, when administrator Anne Burford and other top officials resigned. They left amid public outcry about feeble regulation of hazardous waste and pinchpenny delay in using a five-year, 1.6-billion-dollar "Superfund." The fund was set up by Congress in 1980 to bankroll the cleanup of old waste dumps and spill sites posing grave danger to water supplies or human health.

At the root of all this trouble is waste that EPA classifies as toxic, ignitable, corrosive, or dangerously reactive. Such waste is an environmental tar baby no modern society can shake off. It clings to us as paint sludge from appliance factories, as dregs of chrome and nickel from metal-plating shops, as spent raw materials for varnish, carpets, and detergents at chemical plants. We're dogged by solvents that have dry-cleaned our clothes and degreased microchips for computers. Mercury in an exhausted watch battery is hazardous waste. So is the butane residue in a disposable cigarette lighter and the lye in an "empty" can of oven cleaner.

No one knows the true sum of our toxic throwaways, but the 264 million metric tons regulated by EPA in 1981 would fill the New Orleans Superdome almost 1,500 times over. Since 1950 we've disposed of possibly six billion tons in or on the land, steadily increasing our potential exposure to chemicals that can cause cancer, birth defects, miscarriages, nervous disorders, blood diseases, and damage to liver, kidneys, or genes.

Partly by luck and partly because we now sweep less hazardous waste under the rug than a decade ago, we've so far escaped a major health disaster. Yet in critical areas the effort to control dangerous waste stands at a stalemate, and we risk making a bad situation worse.

To be sure, we've made some progress. In 1976 Congress passed the Resource Conservation and Recovery Act. RCRA directed EPA to regulate hazardous wastes for the first time, requiring them to be tracked and handled from creation to disposal at licensed and inspected facilities that have plans and money for safe closure and years of monitoring. As RCRA has raised disposal costs, many companies have altered their operations to reduce waste or to reuse it for energy and raw materials.

Congress intends RCRA to prevent another Love Canal, the catastrophe that prompted creation of the Superfund. The fund at Swartz Creek and to clear similar immediate threats at about 400 other dumps by early this year. Soon to be renewed, it may expand to more than ten billion dollars. Meanwhile environmental groups and chemical companies have formed a nonprofit corporation—Clean Sites Inc.—to aid the cleanup of at least 20 dump sites by the middle of 1985.

As heartening as these improvements are, there's less to them than meets the eye. Vast amounts of hazardous waste still go unregulated. For example, EPA exempts five million tons of industrial wastes discharged as domestic sewage, including most of the metal-finishing industry's toxic metal dregs. These pass through city wastewater treatment plants and concentrate in the sewage sludge we spread on soil and sink at sea.

The land remains the chief catchall for hazardous waste. But enforcement of RCRA rules and monitoring for groundwater pollution and spotty at most hazardous waste disposal sites—pits, ponds, deep wells, and landfills—many of which overlay or penetrate aquifers, natural underground reservoirs that supply much of our drinking water. Thousands of these sites hold old deposits of toxic liquids, yet they operate without liners and drains to stop and collect leakage—required at new disposal sites accepting less dangerous waste.

Landfills, even poorly monitored ones with suspected leaks, receive most of the waste exhumed at Superfund sites. Chemical treatment can detoxify it and incineration can destroy it, but reburial costs less, at least in the short run. EPA lists 786 Superfind sites nationwide, has fully cleaned 12, and expects eventually to purge 1,500 to 2,500 at a cost of as much as 23 billion dollars. Even this estimate may prove low, however, if old ghosts rise from new graves.

Finally, it doesn't help that PCBs, PCP, TCE, and the other specters that haunt waste dumps can't be seen but seem inescapable. With refined detection methods we can now find invisible traces of waste almost anywhere we look in water, soil, and air. But even experts don't always know if or how seriously these subtle threats endanger our health. Fearing the worst, we've grown as grim about hazardous waste as people menaced by plague, and in the bitterest irony of all, modern waste treatment plants that could spare us future harm and worry are no more welcome in our communities than dumps. NIMBY—"Not In My Backyard"—has become our watchword.

Mired in such a mess, you take comfort where you can find it.

"We're doing a lot better than a few decades ago," says Robert Forney, executive vice president of E. I. du Pont de Nemours & Co., the leading U.S. producer of synthetic chemicals. "If we clean up our past mistakes and adhere rigorously to recent improvements in managing toxic waste, we'll catch the problem in time."

Chemical companies create two-thirds of our regulated hazardous waste, almost 180 million tons in 1981. The industry detoxifies the bulk of its harmful by-products, and as the richest and best-policed waste makers, firms like Du Pont pay out much of the estimated five billion dollars spent annually in the U.S. on hazardous waste control.

At Du Pont's mammoth Chambers Works beside the Delaware River in New Jersey, I clambered the catwalks of a wastewater treatment plant that scrubs 40 million tons of toxic manufacturing residues a year. Ninety-nine percent is water, drafts of the Delaware mixed with railcars of lime and carbon to form an acid-neutralizing slurry. Dirty whitecaps rode this churning cocoa into settling tanks where pollutants sank like silt. Rendered chemically inert, they were later dredged and pressed into gray cakes as big as cartwheels and sent to a company landfill, the irreducible minimum of waste from the Works.

There would be more if Du Pont did not also maintain colossal vats of waste-eating bacteria, cleansing water on its way back to the Delaware. Linger downwind, and your nose swoons from overwork.

Often it makes sense to feed waste to a fire instead of running it through the wash, and two million tons a year go into industrial incinerators. At a Dow Chemical Company plant near Baton Rouge, Louisiana, I found a cavernous rotating furnace whose hellish heat reduces toxic organic waste—steel drums and all—to steam and to ash that can be safely buried.

Other incinerators at Dow's Louisiana Division burn toxic waste to generate steam heat and cut fuel bills. Economy measures are nothing new in big industry, but they have special appeal considering Superfund provisions that hold corporations liable for the negligence of hired waste haulers and disposal firms. The less waste to be gotten rid of outside the company fence, the better.

Called on twice in two years to share cleanup costs, at Swartz Creek and at another mismanaged disposal site, General Motors has begun storing automaking supplies in reusable bulk containers, leaving fewer 55-gallon drums to dispose of, with residues of such poisons as engine coolants. Allied Corporation reacts a caustic sludge with other hazardous waste to synthesize a raw material for gases in air conditioners and refrigerators. And 3M, Minnesota Mining and Manufacturing Company, sells its ammonium sulfate to fertilizer makers, who convert this corrosive by-product of videotape manufacture into plant food.

Such ingenuity shows that industry can reduce hazardous waste and handle it safely when enticed by a savings or a profit and goaded by potential penalties. Yet most often the carrot is too small and the stick too little.

For example, although incineration reduces the volume and dangers of hazardous waste, industry cremates less than one percent of its toxic castoffs. Most companies view incineration as an option only for those with money to burn—it costs $50 to $800 per ton of waste, three times more than to bury it. Not surprisingly, industry goes first to the disproportionately cheap landfill.

California has banned burial of wastes with high levels of cyanides, PCBs, toxic metals, or strong acids and has hiked landfill fees to encourage chemical treatment, incineration, and recycling. But well-intentioned legislators forgot that regulations can't be made in a vacuum. Last year shipments of PCBs from California to Idaho's sole hazardous waste landfill tripled to 90,000 tons.

That might have been avoided if landfills everywhere had to charge according to the full cost of coping with their hazards. We might be better off, too, if government put as much stress on reducing and reusing waste as on regulating it. In 1981 U.S. industry recycled barely 4 percent of its toxic by-products, partly through waste exchanges, organizations that transfer one firm's waste to another firm as raw material. Despite the potential of waste trading, since 1979 EPA has spent almost no money and assigned only one man part-time to promote it.

Much more serious, EPA's budget for drafting and enforcing waste control regulations is one-fourth less today than in 1981. Recent increases have not restored deep cuts made early in the Reagan Administration, which argued that any slack could be taken up by the states, since they may administer RCRA with federal authorization and money. But EPA has begrudged both.

Sue Moreland, executive director of the Association of State and Territorial Solid

Waste Management Officials, told me: "RCRA authorization has been a sham, and the environment has suffered because of it. This year 50 states must share 47 million dollars in federal aid for waste control. Meanwhile personnel are diverted from inspection and enforcement to paperwork, because to win authorization, state regulations must be rewritten to conform with federal standards, even if they make no sense." West Virginia told EPA it had no need to control waste transport by trolley car—objection overruled. Landlocked Vermont has had to regulate ocean-disposal barges.

"Less than a decade ago we had no national program to manage toxic waste," I was reminded by John Skinner, director of EPA's Office of Solid Waste. He nonetheless conceded that "on average, 60 percent of major disposal facilities don't obey all the new laws and regulations. And both we and the states have been slow to inspect and curb violators. We're starting to crack down, but for years government at any level wasn't moving fast enough to prevent trouble."

Even today violations at legitimate disposal sites usually draw only a warning letter, and illegal dumpers stand every chance of escaping EPA's thin net of 35 criminal investigators. The most likely dumpers are small and mid-size companies harder put than big industry to afford increasingly expensive pollution controls.

In Los Angeles, where he suspects that 80 percent of all toxic waste is improperly disposed, city attorney Barry Groveman leads the Toxic Waste Strike Force—an environmental SWAT team drafted from state and county health departments and city police, fire, and sanitation forces. Offenders nabbed by the strike force risk jail, fines, and the shame of having to repent their dumping in full-page newspaper ads.

"We're trying to redeem an honor system that incites people to be dishonorable," Groveman told me. Nights can find him and his raiders in sewer manholes, placing pollution detectors downstream of a suspect firm. By day they may helicopter up the concrete banks of the Los Angeles River, alert for stains betraying illicit discharges. This surveillance led one day to a pipeline that one company built to dump caustic wastes in a sewer presumed to be outside the strike force's jurisdiction. City attorneys convinced a judge it wasn't, and the judge convinced the guilty firm's vice president—with a $75,000 fine and four months in jail.

"Another dodge is to spray toxic waste on ordinary trash in conspiracy with bribed garbagemen," says Dr. Alan Block, a University of Delaware criminologist and research director of the New York State Select Committee on Crime. "Compact the trash, send it to a city landfill, and who'll know?"

Dr. Block has found organized crime "at every level of the toxic waste disposal industry—in hauling, landfilling, incineration, and recycling—all over the country. This stems from the mob's domination of garbage disposal in the Northeast, and from the appalling futility of environmental regulations and their poor enforcement. Organized crime is besting disorganized government."

For this he partly faults lax monitoring of waste shipments. EPA requires these to be tracked by manifests filled with state authorities and listing the origin, nature, and destination of transported waste. "Few states check out discrepancies in manifests," Dr. Block told me, "so they're widely doctored. And often it's easier to get a permit to haul waste than a license to cut hair."

Worse, Dr. Block says hundreds of legitimate hazardous waste disposal companies must buy permission to operate alongside competitors allied with or controlled by organized criminals. Payoffs go to mobsters through a national network of loan sharks. Passed on to customers as a cost of doing business, this tribute to criminals is a hidden tax on lawful waste disposal.

Indiscriminate burning of toxic waste in residential and commercial boilers nets the mob still more money. Some liquid wastes can be mixed with heating oil and safely burned in the boilers of hospitals, schools, and apartment and office buildings. Unregulated by EPA, this blending annually supplies consumers some 19 million tons of low-cost, recycled fuel. But sham recyclers have been watering down immense amounts of it with the waste of companies attracted by cheap, no-questions-asked disposal.

At Congress's insistence, EPA might curb this abuse in 1986. Last year New York State set limits on how much waste may be mixed with heating oil and restricted recycled fuel to high-temperature burners. Dr. Block believes, however, that 40 percent of the heating oil sold in the New York City area continues to be laced with toxins that only an industrial incinerator can adequately combust—and that ordinary boilers are spewing into the sky.

Through another loophole in the law, four million tons a year of hazardous wastes slip into municipal sanitary landfills from which they steadily leak. EPA now allows "small-quantity generators"—you, me, the local exterminator or dry cleaner—to discard like a banana peel all but the most deadly waste, as much as one metric ton a month. And our trash includes an amazing array of toxic stuff: insect sprays, antifreeze, chlorine bleach, nail polish. Only a handful of the nation's 15,000 sanitary landfills are built to capture and drain away these poisons before rain flushes them down through the soil.

Since federal money for inspections ended in 1982, only a few states regularly check to see if such leachate is percolating into groundwater. More than one city landfill is a Superfund site, and Congress has recently ordered EPA to narrow its one-ton-a-month exemption to 220 pounds. Some states are stricter, and some hold collection drives. Last summer, during Amnesty Days, the people of one Miami suburb alone turned in 12 tons of hazardous waste that would otherwise have gone out with the garbage.

Had we been so careful all along, we might not be so worried today about groundwater pollution. The vast majority of us have safe drinking water, but our supplies are not so well distributed that we can afford to add hazardous waste to them, already burdened with highway de-icing salts, farm sprays and fertilizers, and seepage from gasoline and septic tanks.

Many large cities—Tucson, Memphis, and Miami among them—rely entirely on groundwater. So do most rural Americans. They tap a resource more plentiful than all the water in the Great Lakes, and man-made pollution corrupts only one percent of it.

"Unfortunately," says David Miller, a leading hydrogeologist, "that tiny bit is often fouled just where a lot of people need it." Toxic waste contaminates the groundwater supply drawn on by three million people on Long Island, New York, including Miller. In New Jersey, Atlantic City shifted its well fields to escape chemicals seeping from Price's Pit, a Superfund landfill a mile away. Tap water was turning laundry yellow and pots black.

Groundwater is polluted at the majority of Superfund sites, especially where toxic liquids were pooled in pits and ponds to evaporate. Marian Mlay, director of EPA's Office of Groundwater Protection, told me that thousands of the more than 181,000 impoundments still in use hold hazardous waste and were designed to leak.

"They were meant to leach waste into the ground as much as to evaporate it," she said. "Many impoundments are on soil so porous that their builders couldn't have threatened groundwater more if they had tried."

In a canyon 50 miles east of Los Angeles an engineer showed me drainage pumps at the Stringfellow Acid Pits. This Superfund site still holds most of the 34 million gallons of solvents, acids, toxic metals, and DDT sent there between 1956 and 1972. Until capped with clay in 1981, ponds overflowed during winter storms. Waste taints the groundwater serving nearby homes, and despite ten million dollars spent to halt it, a finger of pollution has poked into an aquifer supplying seven eastern Los Angeles suburbs. Half a million people live there.

Cleanup costs soar at Superfund sites with sullied groundwater, climbing, for example, to a projected 1.8 billion dollars at the U.S. Army's Rocky Mountain Arsenal in Colorado. Stringfellow could cost 60 million dollars to sanitize. Facing such bills, EPA has decided on a policy of triage. The agency plans to clean up essential aquifers but will likely abandon others and pipe in drinking water from elsewhere. In some places EPA will try to manage contamination with pumps and containment methods so that it does not reach the public.

Joel Hirschhorn, director of a 1983 study of hazardous waste for Congress's Office of Technology Assessment, thinks containment schemes are the Maginot Line of those who even now don't grasp the scope of our toxic troubles. Noting how pollution outflanked EPA at Stringfellow, Hirschhorn told me: "I doubt we'll come fully to grips with hazardous waste until more of us are affected by groundwater contamination. That will be traumatic for millions of Americans. It's one thing to hear about a dump across town and quite another to be warned not to drink the water from your own tap. The crisis is almost inevitable because even if we had full compliance with EPA regulations, they don't protect our water or our health."

Hazardous waste does seem certain to infiltrate drinking water for years to come. EPA plans to bar new landfills and lagoons above vital aquifers, to ban burial of some solvents, and to require liners at many old impoundments, but leaks need not be stopped or even located.

About 60 percent of all toxic waste legally disposed of in the U.S. is pumped down injection wells, to be imprisoned between layers of impermeable rock. Near Corpus Christi Bay, amid the puncture marks of Texas oil drillers, I visited a well that each month swallows as much as six and a half million gallons of caustic liquors from refineries.

The well belonged to Chemical Waste Management, the world's largest waste disposal company. Under high pressure, treated waste shot down a steel pipe clad in concrete—down past the brine of the intruding Gulf of Mexico; down through layers of dense clay; down, finally, to the sand of an ancient sea nearly a mile beneath my feet.

And shale under it all, a subterranean breakwater marking the bottom line.

I asked the well supervisor where the sidelines were. "You can't be sure where or how far and fast injected waste will spread out," he said. "It might hit something like a deposit of clay and flow around it like an amoeba, taking the path of least resistance."

If waste hits cracks and crevices in fractured rock, it can flow to groundwater. To limit such mishaps, most waste wells have been drilled in the well-mapped geology of Texas and Louisiana petroleum fields. For half a mile around the Chem Waste perforation at Corpus Christi, old gas and oil wells have been sealed top and bottom, so that errant waste has no pipeline to drinkable water. Monitoring wells stand watch.

Last year, from Chem Waste wells in Ohio, 45 million gallons of steel-pickling acid and other wastes seeped into porous sandstone. Well-casing cracks and corrosion were at fault; for this and other violations Ohio fined Chem Waste $10,000,000.

In Emelle, Alabama, Chem Waste runs a 2,400-acre landfill, the country's biggest. Its trenches resemble open-pit mines cut into 700 feet of gray chalk. Chem Waste hopes they'll hold waste secure for 10,000 years.

At trench number 20 I watched trucks switchback into the earth, their gears grinding out a dinner call to roaring bulldozers waiting to snuffle in the arriving waste like eager pigs. They tamped drums with chalk and heaped cement dust into watery black sludge to solidify it and neutralize acids. A diesel pig snorting smoky satisfaction nudged broken barrels from a Superfund dump in Indiana up next to a leachate drain.

Ringed with monitoring wells and capped by clay when full, the Emelle trenches may be the safest of the nation's 199 active toxic waste landfills. EPA assumes all will leak and forbids burial of high-hazard liquids. Yet it will permit a landfill with a plastic liner as thin as a raincoat to open in a swamp.

"Every landfill poses a future threat," allows William Hedeman, the EPA official in charge of Superfund cleanups. A good many involve old landfills, and EPA tries to recoup its costs by settlement or suit when if can find those liable. This replenished the Superfund by a mere seven million dollars before it was exhausted early last year. "That hardly enables us to keep a finger in the dike," says Hedeman. "Some sites may cost hundreds of millions each to remedy."

Congress is about to renew and expand the Superfund and may lay out a cleanup timetable, unhappy that although EPA has removed imminent hazards at hundreds of dumps, only 12 have been fully purged. But deadlines may not help much.

"When Congress wrote Superfund into law in 1980," William Hedeman tole me, "it ordered EPA always to choose the most cost-effective cleanup remedy. Nobody wants toxic waste in their backyard, but the law is skewed toward leaving some there. We may haul away drums and dirt and leave groundwater contaminated because it's cheaper to pipe in water than to clean the aquifer. And it's hard to move fast when you don't know which remedies will work."

At Times Beach, the Missouri town emptied by dioxin, the immediate remedy has been to buy the town and relocate 2,000 people, at a cost of 33 million dollars. The town is one of more than 40 sites in Missouri under investigation by EPA, which is testing methods to detoxify or incinerate dioxin-contaminated soil. But getting rid of dioxin could prove easier than learning whether we really need to.

Vanishingly small doses of dioxin cause miscarriages, birth defects, liver damage, or death in laboratory animals; to guinea pigs it's 200 times as lethal as strychnine. But mammals vary in sensitivity to chemicals, and dioxin's only undisputed, but not inevitable, effect in humans is a skin rash, sometimes severe and lasting. Even workers heavily exposed in industrial accidents seem not to have suffered worse. Nor have scientists found any abnormal rates of illness among former residents of Times Beach.

Still, animal tests indicate dangers, and the long-term health effects of dioxin remain unknown. That's true of practically all toxic wastes: A health survey hardly ever establishes whether they slowly and subtly poison us.

"That demands proof of cause and effect that science cannot now provide," says Dr. Roger Cortesi, head of EPA's Office of Health Research. "Usually people's exposure to chemicals is uncertain, not enough people can be studied to reveal minute health effects, and detectable injuries may have other causes and take years to appear."

This makes it difficult to measure risks. Most of us don't even try: We conclude that injury from hazardous waste is always as probable as it is possible—that if the worst can happen, it will. I asked Dr. Donald Barnes, EPA's chief adviser on dioxin, how regulators determine degrees of risk.

"When we assess the seriousness of a potential threat to health," he said, "we always lack full information. So we cautiously make worst-case assumptions, such as that dioxin causes cancer in humans as easily as it does in rats. To that assumption we add others—for instance, a conservative estimate of the dioxin exposures that might put you at risk of developing cancer. A prudent regulator acts on these assumptions as if they were realistic in every situation. That confuses people into taking them as documented fact, but things are not always as calamitous as they seem."

EPA is checking hundreds of possibly contaminated factories and dumps for dioxin and surveying its level in the environment. Municipal incinerators emit dioxin—as may home fireplaces—and residues may remain in forests, fields, and lawns from dioxin-tainted herbicides, common until EPA largely halted their use in 1979.

The dioxin molecule is exquisitely difficult to identify. But in Midland, Michigan, where Dow Chemical has been testing soil, fish, and river water for dioxin from company discharge pipes and incinerators, chemists using ultrasensitive instruments can detect it at parts-per-quadrillion levels. That's like zeroing in on one drop in 12 billion gallons of water.

EPA suspects that dioxin causes some human cancers and says Dow is the main dioxin source in Midland, a legacy of past production of the herbicide 2,4,5-T. Dow suggests that dioxin is naturally widespread, and while it can persist in humans, it does so at harmless levels. That thesis escaped trial by jury early in 1984, when Dow and six other companies settled out of court with thousands of veterans who claim injury by the 2,4,5-T in Agent Orange, a defoliant that was sprayed on Vietnamese jungles.

Dr. Vernon Houk, director of the Center for Environmental Health at the National Centers for Disease Control in Atlanta, Georgia, told me that we can reasonably associate disease with more recent toxic encounters—assuming significant exposure. But what is "significant?" We rarely know.

"Our skill in detecting toxic chemicals exceeds our ability to medically interpret what we find," says Dr. Houk. "Risk assessment at most dump sites is somewhat less precise than a five-year weather forecast."

Gert Heinemann canvasses Europe for customers for the *Vulcanus II*, a seagoing incinerator ship out of Rotterdam in the Netherlands. He sees from the inside how Europeans manage—and mismanage—their hazardous waste.

"I'd do more business if England stopped dumping in old mines and in the North Sea," Heinemann told me. "Italy? A basket case! Sweden agitates piously against ocean incineration, but lets its industry give us waste anyway—keeps it out of Swedish landfills."

Flying over the North Sea a few days later, I peered into the huge incinerator stacks of the *Vulcanus II*, glowing orange with burning waste. Gray wisps of steam carried away dilute hydrochloric acid, which fell to the sea and turned to salt. By neutralizing its exhaust with seawater instead of expensive stack scrubbers, the ship can dispose of waste at half the cost of incinerating it on land. For years EPA has considered allowing *Vulcanus II* and a sister ship to incinerate waste in the Gulf of Mexico, but Gulf coast residents who fear toxic slicks and dead fish have kept the idea in dry dock.

In Bavaria and in two other West German states, collecting stations funnel most toxic waste to regional incinerators and landfills funded by industry and government. East Germany, however, serves as Europe's dumping ground to earn hard currency. Crude pits there take foreign waste at such low rates that West Germany has limited border crossing points for waste shipments—lest "toxic tourism" grow.

The dynamics of disposal in Germany impressed me most at a salt mine on the East-West frontier. Since 1972 Kali and Salz AG has bricked up waste in caverns left by miners, salting it away in formations stable for 250 million years and presumed immutable for eons more.

"Each year we mine, we gain 30 more years of disposal space," said engineer Norbert Deisenroth, showing me maps. Dated and multicolored, they cataloged 400,000 tons of waste in drums. "Purple . . . August 14, 1978 . . . Kepone pesticide . . . Virginia." West Germans must cope with old dumps and half-forgotten war rubble containing live bombs and chemical weapons, but they've avoided calamity comparable to the dumping that in the 1970s extensively polluted Virginia's James River with toxic residues of Kepone production.

The Japanese, otherwise fastidious, have suffered cruelly from careless disposal of hazardous waste. In the 1950s at Minamata Bay in southern Japan, waste mercury from a chemical plant contaminated fish, eventually inflicting disfiguring paralysis or slow death on thousands of people, including children in the womb. Minamata disease hit central Japan in 1965, and harbor dredging at the site of the first disaster threatens to send mercury up the food chain once again.

In Haginoshima, a farm village on Japan's west coast, elderly Miyo Komastsu graciously bowed to meet me despite the agony of bone-splintering cadmium poisoning. Japanese have named Miyo's affliction after the

cry it wrings from its victims: "*Itai, itai. . . . It hurts, it hurts. . . .*"

"Itai-itai disease is chronic," explained Dr. Noboru Hagino, who in 1961 linked it to rice from paddies polluted by toxic waste from a mine upriver of his ancestral village. "It mainly affects aged women, after repeated pregnancies. Calcium drawn from a woman's bones by her growing child is replaced by cadmium, and in time bones can so soften that they snap at a sneeze." Miyo was brought to Dr. Hagino in a sling, with 28 major fractures.

The cadmium dumping ended in 1971, when villagers won a lawsuit. More than a hundred have died, but Miyo and other survivors draw benefits under a unique Japanese law that aids nearly 85,000 people injured by air pollution or hazardous waste.

Proposals to give similar help to Americans come up often in Congress but never survive debate. For people like Verna Courtemanche of Swartz Creek, the only hope of redress for anxiety, economic loss, and bodily harm is to chance a long and costly court battle against a polluter. "That's woefully inadequate," says Congressman James Florio, who helped write the Resource Conservation and Recovery Act and the Superfund law. "We're not spending billions to clean up dumps because they're eyesores—they threaten public health. Ignoring the injury they cause people is illogical and unjust."

But government relief makes even less sense to Michael Horowitz, general counsel of the U.S. Office of Management and Budget. "If you want to understand the explosive implications of such schemes," he says, "look at black-lung compensation for coal miners. When it began in 1969, nobody thought it would cost more than 300 million dollars. Now it costs the Treasury almost two billion dollars yearly. Imagine multiplying a small cohort of miners by the number of people potentially exposed to toxic waste. If two children near a dump develop leukemia, and health statistics suggest that eventually 12 children will sicken, do you compensate just the two, or 12, or every child for miles around because you can't predict exactly which ones will get the disease?"

One hallmark of our recent experience with hazardous waste is naïveté. Industry is too trusting of supposed state-of-the-art lagoons and landfills. The Reagan Administration thought a nation that had voted for less government would tolerate less protection of the environment. Congress overrates the power of law to budge economic forces, social inertia, and scientific unknowns. TV and newspapers supply a catalyst for cleanup with the drama of people trapped by dumps, but seldom ask whether the engine of reform can go anywhere other than in circles if its only fuel is alarm. And we all want a solution overnight to a crisis decades in the making.

But long neglect is hard to relieve, not least because we can't always agree on what to do with hazardous waste. Caught up in debate that is more often confusing than conclusive, lawmakers, scientists, industry, and the public fall badly out of step with each other and sometimes march off in entirely different directions.

The people of Warren, Massachusetts, could reasonably object, "Why here, in *our* town?" as they turned back the attempt of a developer and a state commission to locate a waste treatment complex in their community last year. And the commission could legitimately ask, "If not here, *where?*"

"Technologically, toxic waste is no harder to control than air or water pollution," says William Ruckelshaus, twice administrator of EPA. "But toxic waste frightens people more because we're less certain about the dangers it poses—risks we likely can't eliminate, only reduce. We may suffer more recrimination, false starts, and environmental insults as we tackle this dilemma, but there's no doubt of our solving it."

Verna Courtemanche hopes so. "I'd like to think I'll live long enough to see an end to problems with hazardous waste," she told me. "I want a new water supply, and I want the government to monitor 'my' dump for at least 50 years and promise that the land will never be a field for crops or a playground for kids. That's not ideal, but it's probably the best we can do. So there it is."

Mr. GLENN. Mr. President, I strongly support passage of the Superfund Improvement Act of 1985.

One of the most significant improvements made by this legislation is the increased funding level for hazardous waste cleanups. Since we enacted the Superfund Program in 1980, more information has been obtained about the magnitude of the cleanup problem. In its March 1985 report, the Office of Technology Assessment [OTA], estimated that 10,000 sites or more may reach the national priority list. In OTA's opinion, the cost of cleaning up these sites could exceed $100 billion. The General Accounting Office has estimated that costs for cleanup range between $6.3 billion and $39.1 billion. In short, while there is no definitive figure on total cleanup costs, it is indisputable that existing Superfund resources will be insufficient.

In my State, there are now 28 sites listed on the national priority list and the Ohio Environmental Protection Agency is currently investigating over 800 sites across the State which may pose hazards. Although Ohio ranks eighth in Nation in the number of Superfund sites, cleanup is underway at only a few sites, and none of those cleanups is completed. I believe that passage of this Superfund reauthorization will send a clear signal to the American people that further delay of Superfund implementation will not be tolerated.

Beyond increasing the size of the Superfund, this legislation also makes other important improvements in existing law. S. 51 contains new health provisions for testing toxic chemicals found most frequently at Superfund sites. In addition, it requires the performance of health assessments at all NPL sites. S. 51 contains new provisions to improve planning for emergencies caused by chemical releases as well as requirements for companies that handle hazardous substances to provide more information to the public.

Finally, provisions which are of special interest to me, to ensure and expedite the cleanup of Federal facilities are included in the legislation. I believe that the Secretary of Energy and other applicable agencies should request an adequate funding level in their appropriations to clean up dangerous waste sites. The Government has the responsibility to cleanup sites it owns just as industry is called on to pay for its contribution.

Mr. President, an expanded Superfund is vitally important and I urge my colleagues to join me in supporting passage of S. 51.

SUPERFUND PROGRAM NEEDED TO PROTECT PUBLIC HEALTH

Mr. PELL. Mr. President, I am voting for final passage of the Superfund Improvement Act. I view the passage of this measure as an absolutely essential step in protecting the public health and our Nation's environment.

I also am pleased to support final passage because the Superfund reauthorization, as amended, now includes provisions authorizing a research program on hazardous contaminants in indoor air and directing EPA to conduct that research program.

This measure, which I cosponsored as a separate bill, focuses research on the location and amount of radon pollution in buildings in the United States, and to provide guidance and information on measures to reduce human exposures to radon.

As reported by the Environment and Finance Committees, the Superfund Improvement Act of 1985 authorizes nearly five times the $1.6 billion authorized by the original legislation for 1981–85. Both committees are to be commended for their hard work and the production of an excellent measure.

I regret, however, that we did not boost funding beyond the level recommended by the committees to a level in the $10 billion range. It is apparent that the scope of our hazardous waste problems are multiplying far more rapidly than the funding.

At the start of this decade, the Comprehensive Environment Response, Compensation and Liability Act [CERCLA], which I supported as an original cosponsor, created the Superfund Program.

Since the program's inception, Superfund has brought more than $70 million to New England and more than $6.5 million to Rhode Island for work on hazardous waste sites from 1981–85. This influx of Federal funds, although sizable, has not been nearly enough.

Superfund work has not been completed on any of Rhode Island's eight national priority list sites—including a dreadfully dangerous site in Coventry, RI, that was among the first in the Nation to be targeted for cleanup under Superfund.

We have not only failed to complete these cleanup tasks to assure the safety of Rhode Island residents, we have a list of 160 additional sites that includes many potential candidates for

the national priority list. Clearly we are not doing enough, fast enough.

In the case of the Superfund Improvement Act, no general revenues would be authorized for Superfund. Superfund expenditures, since they are financed by separate taxes, would not add to the huge national Federal deficit.

We have to build a strong and effective program to protect our citizens and our environment from the dreadful threats of hazardous wastes. Threats that, in Rhode Island, have included chemicals that explode if exposed to water and chemicals that form nerve gas if exposed to sunlight.

If we do not act now, for fear of the financial cost, we face far higher costs in the future. I am not just talking about increased financial costs, I am talking about increased disease, injuries, and death.

As I said in testimony on Superfund more than 6 years ago, it is hard to conceive of a higher priority than the health and welfare of our citizens and the preservation of a clean and healthy environment for them and future generations.

Mr. LEVIN. Mr. President, the Superfund bill is of utmost importance to the Nation and the innocent victims whose lives are disrupted by the consequences of living near a toxic waste dump.

The citizens of Michigan are no exception. Michigan has 64 sites on the Environmental Protection Agency's [EPA] national priority list [NPL] and ranks second in the Nation in Superfund sites. The Michigan Department of Natural Resources estimates at least 1,000 hazardous waste sites are located in the State.

The March 1985, edition of National Geographic featured a sobering article on hazardous waste. One of the toxic waste dumps it mentioned was near Swartz Creek, MI also known as the Berlin and Ferro site. Verna Courtemanche who has led a long fight to get the site cleaned up is mentioned throughout the article.

Let me take a few minutes to quote from the article:

Verna lives outside Swartz Creek, at a country crossroads 60 miles northwest of Detroit. For weeks last summer 50 trucks a day rumbled by her house ferrying contaminated soil from a nearby field to a landfill in Ohio. To purge the field of toxic metals, used motor oil, drug and dye by-products, and other industrial waste, backhoes and bulldozers have scooped and scraped 120,000 tons of earth. That's merely a first cut, however, at the pollution left by Verna's former neighbor Charles Berlin.

In 1972 Berlin and a partner opened a hazardous waste incinerator. Often it was overloaded, smothering the countryside in acrid smoke so dark and dense that firemen on the horizon would take it for blazing houses and race over. The corrosive murk turned convertible car tops into literal ragtops, reddened children's faces with rash—swelled eyes shut.

In 1980 Berlin declared bankruptcy. During the next three years, investigators unearthed behind his incinerator five storage tanks and the first of 33,000 drums. They were bursting with waste that Berlin had been forbidden to burn, yet still allowed to haul—from chemical plants, auto factories, steel mills, refineries, railroads.

Find followed find. In a grim stew of a holding pond, 1 million gallons of oily muck were laced with PCBs. In another pond, it was believed that drums of hydrochloric acid and barrels of cyanide lurked like mines, needing only a blow for their chemicals to leak, mix, and form a cloud of lethal gas. When the pond was safely dredged in May 1983, Verna and the other 165 evacuees cheered. Today they find they were given a reprieve only to serve an indeterminate sentence.

Verna told me:

We're prisoners, we can't sell our homes, we're afraid to drink from our wells, and out-of-town friends shy from visits. My sister-in-law won't take gifts of my raspberry jam any more.

I wish I could say this vivid description is an exaggeration. But I assure the Senate that this case is not overstated. Unfortunately, this story repeats itself in every State in this Nation and that is why it is essential that we pass this legislation as soon as possible.

I completely agree with the Environment and Public Works Committee that spending $7.5 billion over 5 years on Superfund is necessary and desperately needed. A good case can even be made for setting the funding at $10 billion over 5 years.

However, I do not agree with the Finance Committee's proposal to finance the Superfund in part with a value added tax [VAT]. It is a regressive, complicated tax. That is why I am pleased that the Senate approved an amendment introduced by Senator HELMS and which I cosponsored that expressed the sense of the Senate that the conferees on the Superfund bill should report back a funding mechanism other than the VAT. As I indicated in my remarks during the debate on the Helms amendment, I believe that the Superfund should be financed by a corporate minimum tax. I am pleased that Senator HELMS indicated that a corporate minimum tax was one of the options that could be considered by the conferees in the spirit of his amendment. This tax reform would improve the equity in the Tax Code by addressing the outrageous situation that tens of thousands of profitable corporations in this country are currently not paying anything in taxes. This tax reform could also provide enought money to finance the Superfund at least at the $7.5 billion rate.

Now that the Senate has acted, I urge our colleagues in the House to follow through with their own actions quickly. It's been said that "haste makes waste." However in this case, it is the only way to get on with the job of getting rid of waste.

Mr. QUAYLE. Mr. President, it is imperative that Congress reauthorize the Comprehensive Environmental Response, Compensation, and Liability Act, known as Superfund, this year. I applaud the Environment and Public Works Committee and the Finance Committee for bringing to the Senate floor a very workable bill.

This program is very important for my State of Indiana. Just this month, EPA added four more Indiana sites to the national priorities list, bringing the total in Indiana to 26 sites. Five removal projects are underway and two more are being prepared. While EPA has obligated $7.9 million from Superfund in Indiana as of the end of July of this year, clearly the additional progress we need to make will be jeopardized if Congress does not complete consideration of this legislation this year.

I support the authorization level as reported in the Environment Committee's bill, $7.5 billion over 5 years. I recognize the enormity of the cleanup chore before us and that current levels are not sufficient to deal with the problem, however, like other fields in which the Government becomes involved, simply throwing money at the problem will not solve it. The Congress has a duty to see to it that these funds are expended wisely and try to achieve the most "bang for the buck."

Developing a revenue source for this authorization level has not been a simple task. Generally, I believe that the Superfund should be supported by a dedicated tax, that is fair and equitable. Furthermore, I have grave reservations of extensively using general revenues in the Superfund. Given our deficit situation, I believe an independent funding source is the best solution to providing reliable financing for the Superfund.

I believe the committee acted wisely in balancing the need for administrative discretion with requirements to assure timely and satisfactory cleanup. EPA retains discretion to utilize the most effective method of cleanup on a site-by-site basis while assuring protection of human health and the environment. Cleanup of Superfund sites is a massive engineering undertaking. Additionally, we are on the fringes of technology both in terms of cleanup technology and engineering practices to develop plans to achieve maximum cleanup. Correcting ground water contamination could take years. Obviously, the expertise necessary to evaluate technology and cleanup strategies is best left with EPA, rather than to be second guessed by Congress.

The Superfund reauthorization bill is one of the most important bills to be considered by Congress this year. I hope our colleagues in the other body will take heed of our action and act

quickly to work toward final enactment of this much needed legislation.

Mr. HARKIN. Mr. President, I strongly support this bill.

In 1980, the Congress created the Superfund, recognizing the need to clean up the many hazardous waste sites which endanger the health of all Americans. Unfortunately, progress has been far too slow. Only six priority sites have been cleaned up across the whole country in the last 5 years. The Environmental Protection Agency has begun to address only 20 percent of the 850 sites on the national priority list. And, the General Accounting Office has estimated that we may have as many as 4,000 national priority sites.

Iowa has seven toxic waste sites on the national Superfund list. Twenty additional sites are listed under Iowa's State Superfund law. In addition, it is estimated that 270 Iowa dumpsites contain hazardous or potentially hazardous materials.

In spite of the size of this problem, we have seen years of footdragging and efforts to cut back. Every month of delay only adds to the cost that will have to be paid. There is no saving by delay. Delay only makes many of these sites more dangerous and harder to clean up. It only increases the danger of contaminating the water supply.

This bill calls for spending $7.5 billion over 5 years. Estimates for the total cost of the cleanup efforts range from EPA's figure of $23 billion to the Office of Technology Assessment's view that it could take $100 billion to solve the problem.

We need to approve a larger program. I understand that the administration would like to spend less. But that is the wrong way to go. Studies have shown that the money can be well spent. Spending the higher sum does not really increase costs. It simply has us clean up the sites more quickly. And, in the long run, it means that we will spend less.

I am concerned about a key aspect of the bill—the value added tax charged to every manufacturer in the country. I voted against the amendment by Senator ABDNOR which would have exempted fertilizer and animal feed because I believe that if we are going to have this tax, then we should not be creating further exemptions. It should fall on all manufacturing. However, I want to make it clear that I have reservations about any value added tax.

I would have preferred to see the Finance Committee propose a package of taxes which looked more to the polluters.

I do believe that a tax on hazardous wastes would create a very substantial incentive for the producers and users of that waste to find ways to cut down the amount that needs disposal.

With a "waste end tax," we would see producers of waste adopting all types of creative mechanisms to recycle the waste or to avoid its production. And, that would mean fewer expensive and dangerous problems in the future.

I also recognize that there are many technical and substantive issues which prevented the Finance Committee from developing such a proposal including the desire not to favor one disposal method over another through the tax system.

I understand that the Ways apd Means Committee plans to seriously look at this question along with other funding mechanisms. If the other body passes a reasonable plan, one providing for reliable funding, I would urge that the conferees sympathetically examine the alternative funding mechanism to the value added tax.

Mr. KERRY. Mr. President, I rise in support of the Superfund reauthorization, H.R. 2005, which we have before us today. I am proud to vote for a bill that I believe is a strong and responsible answer to a complex problem. I urge my colleagues to join with me in commending the determined and fruitful work of the committee in crafting H.R. 2005.

Hazardous wastes represent a complex problem. They pose a direct threat to our citizens and our environment. The improper disposal of these wastes has had a significant negative impact on both terrestrial and aquatic ecosystems. There is little doubt that without management of past and present waste, we could be faced with problems of considerable magnitude.

The extent of our hazardous waste problem and the consequent cleanup efforts necessary are now becoming evident. The number of waste sites on the national priorities list is increasing steadily and the Office of Technology Assessment projects that as many as 10,000 sites may finally be added to the list. Cost estimates of cleanup have also increased. GAO and OTA project that the final cost might total $40 billion and $100 billion respectively. And unfortunately, many of those numbers may have to be adjusted because of problems that are just beginning to reveal themselves. Although I would have preferred a higher level of funding for Superfund, I am pleased that we will be providing almost five times the level of funding during the last authorization.

In addition, I am particularly disturbed by recent reports on the extent of ground water contamination since so many Americans rely on ground water as their primary source of drinking water. I am hopeful that EPA, armed with this strong bill that we are approving today, will make every effort to deal with the issues that will undoubtely develop during the life of this Superfund.

While the problem of how to deal with our toxic waste dumpsites is significant, I believe that we are proving that it is not insurmountable. We have learned much during the first 5 years of Superfund. This bill enables EPA to use this experience, advancements in technology, and increased financial resources to move toward alleviating this environmental threat.

Mr. President, I am proud that the Senate will soon be on record approving a strong commitment to the environment and a strong commitment to the future health and safety of our Nation. I urge my colleagues to support this worthwhile legislation by voting in favor of H.R. 2005.

Mr. MATHIAS. Mr. President, I am pleased to support S. 51, the Superfund Improvement Act of 1985, and I commend the chairmen of the Committees on Environment and Public Works, Finance, and the Judiciary, for their hard work that has brought this measure before the Senate for final passage.

"Out of sight, out of mind" is a proverb which has guided us when it came to disposing of used household items, byproducts of manufacturing processes, old packaging, and other residue of our high-tech American society.

Only recently have we come to recognize the shortsightedness of our ways. Knowing what we know now about the long-term health effects of many of those products we threw away and long since have forgotten, we have come to recognize our collective responsibility. We have contributed an enormous amount of dangerous matter to our environment without proper safeguards.

We are now paying the price of our throwaway habit in Superfund cleanup costs; RCRA disposal sites and methodologies; Clean Water and Clean Air Act discharge permits, ambient air quality levels, and best available technologies; and in health and disability costs for persons who have medical problems today because of our prior carelessness.

The Superfund bill is part of our collective response to our past carelessness. The difficulty is that there are thousands of toxic wastesites. In Maryland alone, EPA and the State already have identified 168 sites, only half of which have, as of yet, been investigated and evaluated for toxicity, at the expense of the State of Maryland.

Here in Washington, we recently read of electric transformers in a Smithsonian Institution Building that were leaking PCB's. So the problem is all around us and includes the Federal Government as well as everyone else.

The Defense Department occupies a good deal of real estate in Maryland, including 21 former Nike missile sites. They are no longer used and the De-

partment is trying to dispose of them, declaring them excess and transferring them to the General Services Administration.

Many of these underground sites are prime suspects as the sources of ground water contamination affecting surrounding residential communities. The Superfund bill before us maintains the Defense Department's responsibility to assure that those Nike sites are not causing contamination, and that they will not contaminate Maryland before they are transferred for public sale.

Toxic waste is a serious problem for Maryland, where we have had some experience attempting to clean it up. The first Superfund site in the Nation was a site in the city of Baltimore in which drums of poison chemicals had been buried for years. The steel drums began to rust and therefore to leak and there was an imminent health danger to a whole neighborhood. The Environmental Protection Agency responded to the State's request and the two cooperated in a cleanup. Not everyone was satisfied with it, but at least it demonstrated that EPA could be called upon in such circumstances and would respond. There are six sites in Maryland on the national priority list for cleanup. Mr. President, I ask unanimous consent that brief descriptions of those sites and actions taken to date appear in the RECORD at the conclusion of my remarks

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

(See exhibit 1.)

Mr. MATHIAS. The citizens of Silver Run in Carroll County, MD, have been plagued with water problems. These are problems beyond the powers of Maryland to solve for them, however, because the source of the pollution is a toxic wastesite in Pennsylvania. It is an interstate problem.

And it is a problem that affects not just property, but people too.

We have a number of big and important engines of commerce in Maryland, particularly in the Baltimore area. These manufacturers have been the backbone of Maryland employment, industrial strength, and trade through the Port of Baltimore. Yet some of the former employees of those businesses are showing signs of poor health—symptoms of respiratory diseases, unexplained headaches, nervous system disorders, skin rashes, cancers, and even impotence—that may be related to their prior long-term work. We don't know for sure yet what, if any, disabilities, deformities, or shortened life expectancies may appear in their children and grandchildren.

But we do know there is a possibility that some of the jobs these people held, some of the materials they handled or to which they were constantly exposed, and some of the places where they lived have placed them at risk because of toxic substances. We have an obligation to get the facts and determine whether there is a direct causal relationship and at what levels and time periods of exposure.

When faced with the stark reality of cleaning up a toxic waste dump, whether a municipality, private landowner, the Federal Government, or a present or prior contributor to the dumpsite, the "NIMBY" problem arises—not in my back yard. No one wants toxics anywhere near. So we as a nation must begin to address the nature of the toxic substances we create, their shelf life, and how to safeguard ourselves, our children, and grandchildren from their adverse effects.

I am proud to represent a State which has taken the lead in addressing the problem of toxic waste. Last year, at the urging of the Maryland Waste Coalition, composed of 15 citizen environmental protection organizations, the Maryland General Assembly appropriated $500,000 to the Maryland Superfund to continue State site evaluation and emergency response efforts. I commend the leadership of the executive and legislative branches of the State of Maryland for recognizing the seriousness of this problem and devising an integrated management approach to toxic and hazardous materials.

The technology may not even exist to fully solve all of the problems. And the amount of money that it would require is fantastic. EPA has estimated there are 22,000 sites nationwide to evaluate and that approximately 2,000 of them will require remedial response. The current cost estimate is an average of $8.1 million per site, which will continue to escalate over time the longer we put off the inevitable and let inflation take its toll.

Some of the estimates of the national cost go as high as $40 billion. The bill before us now is nowhere near that sum, but rather a modest $7.5 billion to be expended during the next 5 years. I personally believe the nature and extent of the problem warrants more than this amount.

The job ahead is a huge one requiring money, expertise, technology, and long-term commitments to clean up, contain, and/or reduce the toxicity of many of these volatile elements. It also requires us to reevaluate some of our uses of such toxics, weighing their health costs against the benefits of the products, processes, and lifestyle they help to create.

So this is clearly a Federal problem. It involves interstate pollution issues and a wide array of responsible parties. I believe it is a necessary program. I say that with great deliberation and caution because I believe in reducing the deficit in every possible way. If this were an expenditure we could postpone, I would favor postponement. But the danger to human health is great. The problems can only get worse as the toxic dumpsites fester and the poison spreads. It is time to get on with Superfund and what Superfund will buy, which is freedom from the poisons and toxins of the last century that will poison the next generation if we do not deal with them now.

EXHIBIT 1

MARYLAND SITES ON EPA LIST

Among the 812 (540 final and 272 proposed) hazardous-waste sites on the EPA's Superfund list are the following in Maryland:

Limestone road, Cumberland. The 35-acre site consists of two contiguous areas in Allegany county where officials have identified contamination of ground and surface water from chromium waste on the site. The EPA is preparing a remedial plan to determine the full extent of cleanup required.

Middletown Road Dump, Annapolis. The 10-acre site in a residential and rural area in Anne Arundel county has been used to dispose of rubble, fill material and miscellaneous wastes. Toluene, benzene, paint waste and solvents were stored in at least 12 drums. The EPA, which is conducting a remedial plan for cleanup, is concerned because groundwater in that area is used for drinking. The agency has completed emergency action at the site by removing contaminated soil and installing groundwater monitoring wells.

Sand, Gravel and Stone Quarry, Elkton. At least three acres on the inactive quarry in Cecil county were used until 1974 for the disposal of approximately 700,000 gallons of bulk, solid and semi-solid waste. In 1976, 200,000 gallons of liquid waste and some sludges were removed. The EPA, in 1982, found surface water contamination as well as localized contamination of groundwater. Maryland officials are pursuing local enforcement action against the responsible parties and EPA is pursuing remedial cleanup.

Kane and Lombard street drums, Baltimore. There are about 1,000 drums of toxic waste including benzene, lead and chromium, on the 8.3-acre abandoned dump site, which is about a quarter-mile away from a residential area of 2,500 people. State and EPA officials have begun to remove surface drums and contaminants at the site.

Mid-Atlantic Wood Preservers Inc., Harmans. The Fort McHenry Lumber Company manufactures treated wood products on the 3-acre Anne Arundel county site. The lumber is pressure-treated with chromated copper arsenate to protect it against water and insect damage. Maryland officials detected chromium and arsenic in soil and groundwater, and in 1980 the company removed contaminated soil to an approved disposal facility, since then, the state has found surface water draining from the site to Stony Run that was contaminated with copper.

Southern Maryland Wood Treating Company, Hollywood. The 25-acre site in St. Marys county is owned and operated by L.A. Clarke and Son Inc., of Fredericksburg, Va. The company preserves wood with creosote. Manufacturing byproducts such as pentachlorophenol, benzene and lead are disposed of in a landfill and surface impoundment. EPA is concerned by a potential contamination of groundwater, surface water and soil because about 300 people who live within 3

miles of the site depend on groundwater for drinking. The company has excavated and treated parts of the soil.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS, 1986

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 3036, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3036) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1986, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Abdnor Amendment No. 696, to increase funding for salaries and expenses of the Office of Management and Budget.

(2) Grassley Amendment No. 700, to make the order of the Commissioner of Customs applicable to contract shipments of ethyl alcohol entered after September 30, 1985.

AMENDMENT NO. 700

The PRESIDING OFFICER. The question is on the Grassley amendment No. 700.

Mr. ABDNOR. Mr. President, this side is happy to accept the Grassley amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. DECONCINI. Mr. President, this amendment has been cleared on this side.

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

The amendment (No. 700) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ABDNOR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the pending excepted amendment be temporarily laid aside.

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

Mr. ABDNOR. Mr. President, I also ask unanimous consent that the pending amendment No. 696 be temporarily laid aside.

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

AMENDMENT NO. 702

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. LAXALT] proposes an amendment numbered 702.

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

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

Title IV, page 32, beginning line one, insert:

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

For the year ending September 31, 1986, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, pursuant to 50 U.S.C. 98a and g(a)(2)(c) and 50 U.S.C. 100(a), notwithstanding the provisions of 50 U.S.C. 98h, an additional $15,000,000 is appropriated, to remain available until expended, for a grant to construct Phase II of the Mines Building at the Mackay School of Mines, University of Nevada, Reno, relocate the Generic Center on the Recycling of Strategic Metals and establish the Policy Center on Strategic Materials, including such equipment as the school deems necessary to the conduct of its activities.

Mr. LAXALT. Mr. President, I have discussed the amendment with the distinguished floor manager and I believe it is acceptable to him.

Briefly, the amendment provides for the continued development of a strategic materials research facility at the Mackay School of Mines at the University of Nevada, Reno. Funding for the facility would be from the national defense stockpile transaction fund.

Mr. ABDNOR. Mr. President I accept the amendment of the Senator from Nevada. This amendment will be of assistance in grappling with the problem of strategic minerals.

Mr. DECONCINI. Mr. President, I compliment the Senator from Nevada. Frankly, I am sorry that it did not include the College of Mines at the University of Arizona. I know the record of the University of Nevada, which is very outstanding. I think this is a good program.

Mr. President, I would like to ask the Senator if he realizes that there is likely to be an amendment later today that would reduce all discretionary funding by 1.3 percent which, of course, would affect this project as well as law enforcement and other things. I hope the Senator can give due consideration to the eloquent argument that I am sure the chairman and myself are going to put forth to save this project in Nevada, law enforcement, and many other items.

Mr. LAXALT. Mr. President, I can say this to my distinguished friend and colleague from the State of Arizona: at this critical point, I would certainly not enter into any discussion with the floor managers but would give the later debate on the subject full and due consideration.

Mr. DECONCINI. Mr. President, I will put my friend from Nevada down as leaning our way without a further commitment. This amendment is acceptable.

Mr. ABDNOR. Will my colleague yield?

Mr. DECONCINI. Yes, Mr. President, I yield.

Mr. ABDNOR. I just want to say to him that I did not really have too much of the sense of the amendment in the committee. He knows how we pretty well put the knife to those committees so that 1.4 was almost devastating to them. He probably knows why we did it, because we put the money into law enforcement instead of some of these other agencies that he is talking about.

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

The amendment (No. 702) was agreed to.

Mr. ABDNOR. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the excepted committee amendment be temporarily laid aside.

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

Mr. ABDNOR. I ask unanimous consent that amendment No. 696 be temporarily laid aside.

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

AMENDMENT NO. 703

(Purpose: To permit the allocation of space in Federal buildings for the purpose of providing child care facilities for Federal employees)

Mr. TRIBLE. 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 Virginia [Mr. TRIBLE] proposes an amendment numbered 703.

On page 58, between lines 2 and 3, insert the following:

SEC. 615. (a) If any individual or entity which provides or proposes to provide child care services for Federal employees applies

to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such services, such officer or agency may allot space in such a building to such individual or entity of—

(1) such space is available; and

(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 95 percent are Federal employees.

(b)(1) If an officer or agency allots space to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropraite account of the Treasury.

(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and security systems) including installation and other expenses associated with security systems.)

Mr. TRIBLE. Mr. President, today I am offering an amendment along with Senators ABDNOR and DECONCINI that will make a significant contribution to the morale and productivity of Federal employees. The amendment would permit a greater availability of child day care facilities for working parents employed by the Federal Government.

Very simply, my amendment would permit child care facilities in Federal buildings to be treated in the same manner as credit unions in Federal buildings. Currently, if space is available, credit unions may be granted space in Federal buildings rent-free. Mr. President, if our policy is to provide space for such services rent-free, surely we can extend this same treatment to facilities which would meet the urgent needs of working parents.

American society has seen a dramatic increase in the number of families whose adult members work outside the home. And this trend is expected to continue as a growing number of households are headed by single parents and as more and more women pursue careers outside the home. By 1990, 2 out of 3 mothers will be working outside the home and 50 percent of mothers with children under age 6 will be employed. By the end of the decade, 1 in every 4 children under age 10 will be in a single-parent household.

As women and single parents become a major force in the workplace, their requirements and those of their families must be recognized. For working parents, childcare benefits may be at least as important as other more traditional employment benefits such as health insurance or retirement plans. Employers wishing to recruit or retain quality personnel will find childcare benefits to be increasingly important.

Recognizing this, the White House office of private sector initiatives has established a program to inform business of employer options for working families and of the tax and productivity advantages of child care benefits.

Mr. President, the House of Representatives, led by my colleague from Virginia, Representative WOLF, included in their report accompanying this appropriations measure, language supporting child care assistance for Federal employees. The report language supports having the General Service Administration treat space granted for child care assistance on the same basis in which credit unions are provided space. I wholeheartedly support the House's efforts in this issue.

Mr. President, we must recognize these changes that are taking place in our society. This amendment, I think, will improve Federal morale and the efficiency of our work force, and will add no cost to the operation of the Government. It has been cosponsored and enthusiastically supported by the managers of the bill on both the Republican and Democratic side.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there any further debate?

Mr. ABDNOR. Mr. President, I thank the Senator from Virginia for bringing this issue to the Senate for consideration. As I understand it, this language will put day care centers on the same footing as cafeterias and credit unions which presently occupy Federal space and are exempted from the payment of the standard level of user charges. If that is correct, I am happy on this side to accept the amendment.

Mr. TRIBLE. That is correct, Mr. President.

Mr. DECONCINI. Mr. President, I compliment the Senator from Virginia. It is a good amendment, in my opinion. I ask unanimous consent that I be added as a cosponsor.

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

Mr. DECONCINI. This is a situation, Mr. President, that is of growing concern to industry and the private sector and ought to be with the Government. That is providing adequate child care and day care facilities. Yes, it costs money. In this particular case, it is going to be excess, as I understand it, or given at the same rates and under the same provisions, as the chairman pointed out, as for cafeterias and credit unions. It makes eminent sense that we move in this direction. I am pleased to see this type of attitude expressed in the Senate. On this particular bill, I think it is most fitting. I compliment the Senator from Virginia.

The amendment is agreeable to this side.

Mr. ABDNOR. Mr. President, I ask the Senator from Virginia to include me as a cosponsor as well.

Mr. TRIBLE. I ask unanimous consent, Mr. President, that Senator ABDNOR be added as a cosponsor.

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

Mr. TRIBLE. I thank them for their assistance in bringing this matter before the Senate.

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

The amendment (No. 703) was agreed to.

Mr. ABDNOR. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the excepted committee amendment be temporarily laid aside.

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

Mr. ABDNOR. I ask unanimous consent that amendment No. 696 be temporarily laid aside.

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

AMENDMENT NO. 704

(Purpose: To authorize payment of certain travel and transportation expenses for certain officers and employees of the Federal Government)

Mr. ABDNOR. Mr. President, I send an amendment for Mr. WARNER 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 South Dakota [Mr. ABDNOR], for Mr. WARNER, proposes an amendment numbered 704.

On page 58, lines 2 insert the following new section:

SEC. (a) Section 5723 of title 5, United States Code, is amended—

(1) by redesignating the second subparagraph (B) in subsection (a)(1) as subparagraph (C); and

(2) by adding at the end thereof the following new subsection (f):

"(f) Under regulations prescribed pursuant to the authority contained in subsection (a) of this section, any appointee who is referred to in paragraph (1)(B) or (1)(C) of such subsection and receives travel and transportation expenses under this section may be allowed relocation expenses to the same extent and under the same conditions and limitations as are prescribed for a transferred employee in sections 5724a, 5724b, and 5724c of this title.".

(b) Paragraph (4) of section 5724a(a) of title 5, United States Code, is amended by adding at the end thereof the following new subparagraph (C):

"(C) Reimbursement under this paragraph may also be allowed for (i) the expenses of the sale of the residence at the old official station located within the areas listed in subparagraph (A) incident to an employee's transfer to a post of duty located outside those areas to serve an agreed upon tour of duty and the employee's travel and transportation expenses are allowed pursuant to 5724(d) of this title, and (ii) the expenses of the purchase of a residence at a new official station located within the areas listed in subparagraph (A) when the employee is transferred in the interest of the Government to such official station from a post of duty located outside those areas and residence sale expenses are allowable under clause (i) of this subparagraph. Agencies may pay expenses under clause (i) of this subparagraph. Agencies may pay expenses under clause (i) or (ii) of this subparagraph only after the employee agrees in writing to remain in Government service for 12 months after each of the transfers described in clauses (i) and (ii) unless separated for reasons beyond his control which are acceptable to the agency concerned. If the employee violates the agreement for either transfer, the money spent by the United States for the expenses incident to that transfer is recoverable from the employee as a debt due the United States. The benefits authorized under this subparagraph shall in no case duplicate benefits or allowances authorized under other statutory provisions for the same basic purposes."

Mr. WARNER. Mr. President, it is my privilege today to offer an amendment assuring a greater degree of equity in the manner in which members of the Federal work force are provided relocation assistance.

My amendment was first approved by this body on June 20, 1985, as a part of H.R. 2577, the fiscal year 1985 supplemental appropriations bill.

At that time, our distinguished manager of the Treasury bill (Mr. ABDNOR) had been kind enough to approve the amendment in committee, and with the valued support of Senator STEVENS and Chairman HATFIELD, the Appropriations Committee reported the language to the full Senate.

When H.R. 2577 went to conference, however, certain of our House colleagues withheld their approval and the amendment was dropped from the final version of the bill.

In the interim period, I have sought to gain approval for the amendment, and I now believe that previous objections have been met.

The Office of Management and Budget has withdrawn its original concern, and both the General Services Administration and the Office of Personnel Management have expressed their full support.

In fact, GSA was instrumental in assuring that the language of the amendment is technically correct.

Specifically, my amendment proposes a twofold action.

First, relocation assistance now available to career civil servants would also be extended to Presidential appointees and new appointees to the senior executive service [SES].

This action should greatly assist in recruiting top-level Federal personnel and is consistent with relocation benefits offered in the private sector.

Second, the same relocation assistance provided in domestic moves would be provided on the departure and return of Federal employees assigned overseas.

Benefits already available, such as those provided for the foreign service, would not be duplicated.

Furthermore, relocation services would continue to be strictly domestic as the Government already provides overseas housing allowances.

In closing, I wish to express my continuing appreciation to Senators ABDNOR and STEVENS.

Due to their support of related efforts in the last 2 years, a growing number of Federal employees now have access to relocation services truly comparable with the private sector.

This amendment involves no new funding and only acts to broaden eligibility under current discretionary authority.

I encourage all of my colleagues to lend this legislation their valued support.

Mr. ABDNOR. Mr. President, I thank the Senator from Virginia [Mr. WARNER] for offering this amendment. It is a good amendment. I believe it will be beneficial to the Government. The Senate passed this language earlier this year and I believe it should be accepted again.

I yield to my colleague.

Mr. DECONCINI. Mr. President, the amendment is agreeable on this side.

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

The amendment (No. 704) was agreed to.

Mr. ABDNOR. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

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

Mr. ABDNOR. Mr. President, I ask unanimous consent that the excepted committee amendment be temporarily laid aside.

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

Mr. BYRD. Mr. President, I have just come from a congressional awards ceremony in which gold congressional awards are being given to young people who excel in service to their neighborhoods, who develop themselves physically and mentally, and develop skills that can be used in important jobs.

At that meeting is Majority Leader DOLE, and I am sure he wants to be here to vote.

So if the two managers have no objection, I will suggest a brief quorum so that Senator DOLE can be alerted. He has to come all the way back from the Cannon Building.

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

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

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

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

AMENDMENT NO. 696

The PRESIDING OFFICER. The question is on agreeing to amendment No. 696.

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 Louisiana [Mr. EAST] and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

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

The result was announced—yeas 24, nays 72, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—24

Abdnor	Evans	Rudman
Armstrong	Gorton	Simpson
Cochran	Hatch	Stafford
Danforth	Hatfield	Stevens
Denton	Heinz	Thurmond
Dole	Humphrey	Trible
Domenici	Laxalt	Warner
Durenberger	Mathias	Weicker

NAYS—72

Andrews	Goldwater	McConnell
Baucus	Gore	Melcher
Bentsen	Gramm	Metzenbaum
Biden	Grassley	Mitchell
Bingaman	Harkin	Moynihan
Boren	Hart	Murkowski
Boschwitz	Hawkins	Nickles
Bradley	Hecht	Nunn
Bumpers	Heflin	Packwood
Burdick	Helms	Pell
Byrd	Hollings	Pressler
Chafee	Inouye	Proxmire
Chiles	Johnston	Pryor
Cohen	Kassebaum	Quayle
Cranston	Kasten	Riegle
D'Amato	Kennedy	Rockefeller
DeConcini	Kerry	Roth
Dixon	Lautenberg	Sarbanes
Dodd	Leahy	Sasser
Eagleton	Levin	Simon
Exon	Long	Symms
Ford	Lugar	Wallop
Garn	Mattingly	Wilson
Glenn	McClure	Zorinsky

NOT VOTING—4

East Specter
Matsunaga Stennis

So the amendment (No. 696) was rejected.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the expected committee amendment be temporarily laid aside.

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

AMENDMENT NO. 705

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I believe this amendment has been agreed to on both sides.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 705.

On page 14, after line 10, insert the following new section:

SEC. . No funds appropriated under this Act shall be used to grant, maintain, or allow tax exemption to any cult, organization, or other group that has as a purpose, or that has any interest in, the promoting of satanism or witchcraft: *Provided*, That for purposes of this section, "satanism" is defined as the worship of Satan or the powers of evil and "witchcraft" is defined as the use of powers derived from evil spirits, the use of sorcery, or the use of supernatural powers with malicious intent.

Mr. HELMS. Mr. President, there is widespread concern across the country as result of the growth of cults, satanism, witchcraft, sorcery, and the like. These have been countless tragic cases of young people committing suicide or becoming involved in violent religious rituals as a result of an attraction to what can generally be described as the occult.

Mr. President, let me offer an example. On May 16 of this year, the ABC news program 20/20 focused on this problem. To get the full impact of the parade of horrors presented that night one needs to have seen the actual program. But a few quotes from the lead-in to the story provides the gist of what is being described. ABC newsman Tom Jarriel began this way:

Dateline: Northport, Long Island. A quiet community rocked by reports a teenager was dragged through these woods toward a late-night ritual of death. An eyewitness said the victim, Gary Lowers, was forced to pray to Satan as he was repeatedly stabbed to death. Two young men were arrested. James Trovana was found innocent last month, but his alleged accomplice never made it to trial. Ricky Casso committed suicide in jail the day after his arrest. Despite numerous signs that Casso was into satanism and rock music associated with devil worship, police steadfastly refused to label this case satanic. The official explanation: a drug related crime.

Dateline: Phoenix, Arizona. One hundred forty dogs found slaughtered. Across the country, police tell us there have been more than 15,000 animal mutilations and often they were clearly used in some kind of bizarre ritual. But there's no official explanation.

Mr. President, I ask unanimous consent that the full text of the 20/20 segment entitled, "The Devil Worshippers," be printed at this point in the RECORD.

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

20/20—MAY 16, 1985

HUGH DOWNS. Good evening. I'm Hugh Downs. And this is 20/20.

ANNOUNCER. On the ABC Newsmagazine, 20/20, with Hugh Downs and Barbara Walters.

DOWNS. Tonight, the startling, sobering results of a 20/20 investigation. Satanism, devil worship, being practiced all across the country.

DALE GRIFFIS. We have all types perversion going on, and it's affecting America.

DOWNS [voice-over]. Perverse, hideous acts that defy belief. Suicides, murders, and the ritualistic slaughter of children and animals. Yet so far police have been helpless.

SANDI GALLANT. The problem that exists is we're getting the stories but we don't have the victims.

DOWNS [voice-over]. Our report comes after questions by 20/20 viewers. Tom Jarriel, with signs of and testimony about "The Devil Worshippers."

And Hugh Hefner and Peter Bogdanovich once seemed like good friends. Both work in fantasy worlds. Hefner chooses pinups. Bogdanovich makes movies. Now they're blaming each other for Playmate Dorothy Stratten's death. It's a wild feud, fueled by ego and power. Geraldo Rivera, with some surprising facts and the truth behind a case of "Smear and Obsession."

[commercial break]

DOWNS. Up front tonight, a 20/20 investigation. You know, the stories we air originate in many ways and for many reasons. Some ideas, as I'm sure you're aware, come through the mail, from you, often involving issues of deep concern. And that's the case with our first story this evening. There have been a series of criminal acts reported around the country that have had unique characteristics that linked them together. And the source of all this is the apparent practice of satanism. That's worship of the devil. Now, police have been skeptical when investigating these acts, just as we are in reporting them. But there is no question that something is going on out there, and that's sufficient reason for 20/20 to look into it. One caution: we believe that some of the pictures and descriptions in Tom Jarriel's report may be disturbing, even frightening, particularly to younger viewers. Here is Tom's report.

TOM JARRIEL [voice-over]. Dateline: Northport, Long Island. A quiet community rocked by reports a teenager was dragged through these woods toward a late-night ritual of death. An eyewitness said the victim, Gary Lowers was forced to pray to Satan as he was repeatedly stabbed to death. Two young men were arrested. James Trovona was found innocent last month, but his alleged accomplice never made it to trial—Ricky Casso committed suicide in jail the day after his arrest. Despite numerous signs that Casso was into satanism and rock music associated with devil worship, police steadfastly refused to label this case satanic. The official explanation: a drug-related crime.

Dateline: Phoenix, Arizona. One hundred forty dogs found slaughtered. Across the country, police tell us, thee have been more than 15,000 animal mutilations, and often they were clearly used in some kind of bizarre ritual. But there's no official explanation.

Dateline: Walnut Grove, Alabama. Police are called in to investigate the site of what appears to have been a ritual. They find various satanic paraphernalia, including pictures of the devil. There was a routine inquiry which didn't discover what was going on here.

Across this country and Canada, satanic graffiti is turning up on public buildings and abandoned buildings, where police suspect secret meetings are being held by people calling themselves satanists, people who worship the devil. Most often found: the inverted five-pointed satanic pentagram, the upside-down cross, the evil eye, references to Babylon and the devil's number, 666. Vandals often target churches. Here in southern Maine, after a dozen churches were painted with satanic symbols, police arrested a suspect. Although vandalism charges were later dropped, he offered an explanation for the church graffiti from behind a locked door.

MAN. Anyone that receives the mark of the beast, which is 666 is his number, is going to burn in hell forever and ever.

JARRIEL. *[voice-over].* It's the way some people interpret the Bible, the Book of Revelations, where it's written: "Satan can be identified by the number 666, calling him the beast, which deceiveth the whole world." The goat's head is a key symbol of the Beast. Yet throughout history, Satan has taken on many different shapes and disguises. He's widely considered by conventional religious as the embodiment of evil on a mission to tempt man to sin and destroy God's kingdom. Today we have found Satan is alive and thriving, or at least plenty of people believe he is. His followers are extremely secretive, but found in all walks of life. Modern satanism was shockingly dramatized on the screen in the mid-'60s with the release of Rosemary's Baby. It's a move that's been described as the best advertisement that devil worship has ever had.

[clip from Rosemary's Baby]

JARRIEL. *[voice-over].* The zeal of these fictional devil worshipers is strikingly similar to that of real-life satanists. Mike Warnke is a former satanist. Today he's a successful comedian, preaching Christianity in the form of humor. But back in the '60s he was one of satanism's high priests. He showed us what a satanic temple might resemble and typical implements used to worship the devil.

MIKE WARNKE, former satanic priest. The bones usually are used in a ceremony that calls for telling the future with the bones or a part of the deceased person.

JARRIEL. *[voice-over].* He also explained what attracted him to satanism.

Mr. WARNKE. I was basically drawn into it when I was young just wanting to be somebody special. I just wanted to be different than everybody and have something that was special that everybody, you know, looked up to.

JARRIEL. *[voice-over].* This is a 15-year-old boy who also wanted to be special. Before hanging himself he wrote on his body, "I'm coming home, master" and "Satan lives" and "666." It was a case with such clear satanic symbols, it brought two police officers together. Sandi Gallant is one of them. She's a San Francisco policewoman, and now a leading authority on satanic crime, a speciality other cops often scoff at.

SANDI GALLANT, police intelligence officer. As time goes on, maybe my work gets a little more credibility. There's one guy that still walks around and when he sees me he goes like this [symbol of horns] wherever he goes. But I've gotten pretty much used to that.

JARRIEL. *[voice-over].* The other officer is Dale Griffis, chief of a small police department halfway across the country in Tiffin, Ohio.

DALE GRIFFIS, police chief. We have kids being killed, we have people missing in America—we have our own MIAs right here. We have cattle being killed. We have all types of perversion going on, and it's affecting America.

JARRIEL. *[voice-over].* America is being affected. Nationwide we found that minor cases of satanic activity light up the map. Not a single state is unaffected. But even more frightening is the number of reported murders and suicides with satanic clues. All of them were investigated by police, but usually without much result. We found that satanism falls into three categories. One, self-styled satanists: a growing number of young people who dabble in devil worship. Two, religious satanists: people who publicly worship the devil, a right that's protected by law. And three, satanic cults: what appear to be highly secretive groups commiting criminal acts, including murder.

First, let's examine self-styled satanists like Ricky Casso. Often they're teenagers who learned that the message of satanism is for sale right in the neighborhood.

[On camera]. This shopping mall in affluent Westchester County in New York exemplifies how easy it is for children, or adults for that matter, to get their hands on satanic material. We stress it's perfectly legal, and these are typical commercial outlets you'll find just about anywhere. Three stores side by side: a bookstore, a music store, a videotape center, each offering seemingly harmless types of entertainment like movies. Here at the neighborhood videotape store, take a look at the number of movies that involve satanism. Most were popular films in their day, but even today if one is inclined to believe in satanism, it's a way to actually see the devil and perhaps be inspired.

[voice-over]. In The Exorcist it is the tremendous power of the devil himself controlling a little girl's body against the will of a priest that makes the movie still one of the most popular examples of evil versus good.

[clip from "The Exorcist"]

Mr. WARNKE. It wasn't that a demon jumped out of the TV and grabbed me by the face and dragged me down the road and forced me to join the Church of Satan. It was just that there were certain things in this program that piqued my interest, and then I decided to study more on my own. And if the devil has PR, then it is, you know, cinema.

JARRIEL [voice-over]. Then there's also the satanic literature, which includes many books that are sold in many bookstores [on camera] Librarians point out that they're among the most popular books on their shelves. Here, as in almost any bookstore, you'll find both The Satanic Bible and its companion, The Satanic Rituals, a step-by-step guide is performing evil rites.

Mr. WARNKE. Kids get their ideas, especially their psychological pumping up, so to speak, from the literature. And books play an extremely important part.

JARRIEL. And finally, music, which is found here in the neighborhood record store under the category of heavy metal music. The satanic message is clear, both in the album covers and in the lyrics, which are reaching impressionable young minds.

[voice-over]. And the musical message comes across loud and clear, at concerts and now through rock videos. The symbolism is all there: the satanic pentagram, the upside-down cross, the blank eyes of the beast, the rebellion against Christianity, and again and again, the obsession with death. According to most groups, it's all done in fun. But according to police it's having an effect on many children, a growing subculture that mixes heavy metal music with drugs and the occult. In addition to groups that are blatantly satanic, there are also many recordings which some believe may contain satanic references in the form of backward messages.

[interviewing]. What's a popular song that has a reference to the devil in it?

[voice-over]. Chris Edmonds is a Detroit disc jockey whose speciality is finding secret recorded messages exhorting the devil by playing music popular with kids in reverse, a technique they've learned to use.

CHRIS EDMONDS, disc jocket. Okay, the phrase we're looking for is "and there's still to change the road you're on."

JARRIEL. Now flip it for us.

Mr. EDMONDS. A lot of people hear the phrase "my sweet Satan." Here, we'll play this back. Here it? "My sweet Satan."

JARRIEL [to Mr. Griffis]. How often do you find heavy metal music indicators at the scene of a crime involving satanic worship?

Mr. GRIFFIS. Probably about 35%, 40% of the calls.

JARRIEL. Regularly.

Mr. GRIFFIS. Yes.

JARRIEL. [voice-over]. This art work is from a homicide case that combined heavy metal music with self-styled satanism. It's the work of 18-year-old Scott Waterhouse, a so-called satanist whose drawings clearly show he had murder on his mind. He's now serving a life prison term for the slaying of 12-year-old Giselle Cody. Before this case, officers here at the local police station in Sanford, Maine, had never even heard about satanic crimes. But that's all changed. The officer who broke the case was state Detective Moe Ouellette.

[interviewing]. When you reached the crime scene, what did you find?

MOE QUELLETTE, police detective. When I reached the crime scene, the local police had cordoned the area off, showed me the bank and where the young lady was found. She was probably killed right there at that particular area. She was strangled.

JARRIEL [voice-over]. Waterhouse was seen leaving the crime scene. And in a deposition, when he was later questioned by Officer Ouellette, he seemed almost proud to boast. "I'm a satanist." Waterhouse also described how he first became involved in it. "In a bookstore, my friend hit the shelf and a book fell out, and I caught it, and it had a pretty weird-looking guy on the back." The book was The Satanic Bible, by Anton LaVey. After Scott Waterhouse's trial, both the prosecution and the victim's father claimed that although The Satanic Bible did not condone violence. Waterhouse had interpreted it that way.

JOHN COTE, father of the victim. The book made you feel do what you want to and the heck with everybody, more or less. And I believe that that had a lot to do with it.

MICHAEL WESTCOTT, Assistant Attorney General. It tries to make itself innocuous, but if you actually read it and believe it to the letter, it's a very dangerous manifesto.

JARRIEL [voice over]. The author of The Satanic Bible, Anton LaVey, is a former lion tamer and palm reader, who in 1966 founded the First Church of Satan. It quickly became the country's most prominent satanic organization, fully protected as a religion under the law.

ANTON LAVEY, founder, Church of Satan. This is a very selfish religion. We believe in greed, we believe in selfishness, we believe in all of the lustful thoughts that motivate man, because this is man's natural feeling. This is based on what man naturally would do.

JARRIEL [voice over]. The Church of Satan and other organized devil worship groups represent our second category; religious satanists. Although LaVey would not talk to me, we can get a glimpse of his theories and his rituals in the 1970 documentary on his church.

Mr. LAVEY. We feel a person should be free to indulge in all his so-called fetishes that they would desire, as long as they don't hurt anyone that doesn't deserve or wish to be hurt.

CHURCH MEMBERS. Hail Satan!

Mr. LAVEY. We perform human sacrifices, by proxy you might say, the destruction of human beings who would, let's say, create an antagonistic situation towards us, in the form of curses and hexes, not in actual blood rituals because certainly the destruction of a human being physically is illegal.

JARRIEL [voice over]. Police we spoke to say they have made a link between this satanic church and the satanic crimes being committed. However, some incidents described to us by witnesses from around the country are strikingly similar to these ritualistic scenes. For example, the ritualistic embracing of death—actually being placed inside a coffin containing a body. Or ritualistic sacrifice—using a voodo-type doll to place a curse on an unsuspecting victim. It's nothing that can be called physically harmful or illegal.

Although not connected to the Church of Satan, these 12-year-old boys, with their parents' consent, demonstrated how they were taught to inflict pain on their enemies. They also claim they witnessed sacrificial murder by members of our third category of satinism, satanic cults. Police have found no proof, made no arrests. But that's no surprise, for, nationwide, police are hearing strikingly similar horror stories, and not one has ever even been proved. Take for example, the mother of a young victim who asked not to be identified.

MOTHER of alleged participant. Usually they have the children kill the infants or the other kids.

JARRIEL. The children who were there, actually, what, were given knives?

MOTHER. Yes, they were. And if they refused to do it, an adult, usually the child's father or mother would actually take the child's hand and make them kill the child.

JARRIEL [voice over]. There's also this similar case that links child sex abuse with murder.

GRANDMOTHER of alleged participants. The children were given—were given knives and told to go and stab those bodies. And my grandchildren told me that they couldn't do that, that it wasn't possible, that they could only get the knives to go in about that far. And then the adults put their hands over the children's hands and shoved the knives in.

JARRIEL. Was there any reference to the devil?

GIRL. Yes.

JARRIEL. Yes.

[voice over] And this case now under police investigation involving young boys describing murders.

[interviewing] Tell me what you were asked to do.

1st BOY. I was asked to stab him.

JARRIEL. To stab him. And this was in front of other people who were there? Were you given a knife?

1st BOY. Yes.

JARRIEL. And were you told what would happen to you if you didn't?

1st BOY. Uh-huh.

JARRIEL. Do you remember what they said?

1st BOY. "This will happen to you."

JARRIEL. So you either stab him or you'll be stabbed, was about what it came down to?

[to mother] When the oldest boy describes stabbing with the knife, what's his reaction?

MOTHER. It's a hard, hard thing for him to say. He's been more apt to act it out.

JARRIEL. Do you remember his eyes?

[voice over] With their guardians' consent, the boys a doll to illustrate what they did.

[interviewing] So you were given the knife, and then what did you do?

1st BOY. I went like this.

JARRIEL. Did you push the knife all the way in deep, or did you just touch the skin?

1st BOY. All the way in deep.

JARRIEL. In deep. Were you in the room when this was going on? Did you see what happened to the child that was stuck with the knife?

2nd BOY. Yeah.

JARRIEL. What do you remember?

2nd BOY. All blood.

JARRIEL *[voice over]*. Ritualistic murder has become a specialty for San Francisco's chief medical examiner.

[interviewing] Are local investigators really prepared, equipped? Do they know what to look for when investigating these cases?

Dr. BOYD STEPHENS, medical examiner. No, I don't think they do. Even though we're—many different people are trying to get out the message about ritualistic or funny types of killings, first of all, just on their face value, they sound so unusual or bizarre that most people hearing that message really don't think that it's true.

JARRIEL *[voice over]*. It's bizarre and hard to prove. Yet the tales that were told to us in interviews conducted across the country were later verified by authorities, who say there are consistent telltale clues. And they provide a checklist of six satanic practices to look for. For example, being placed inside a coffin. It's an experience that many children are describing.

MOTHER. Well, the adults will dig up the caskets from the graveyards, and all the members, including the children, were made to lay in the remains of whatever was in the casket.

JARRIEL. Get in a casket with a decomposed body?

MOTHER. Right. And then the casket was closed and they would be lowered into the ground while they were in the casket.

JARRIEL *[voice over]*. The author of a popular book on satanism, Dr. Laurence Pazder.

Dr. LAURENCE PAZDER, psychiatrist. Children are involved in graveyards, in crematorias, in funeral parlors, because one of the primary focuses of these people is death. Everything is attempted to be destroyed and killed in that child and in that society, everything of goodness. And death is a major preoccupation.

JARRIEL [voice-over]. Another indicator: satanic paraphernalia. In every case the children talk about precisely the same setting.

GRANDMOTHER. They described a satanic goat's head being on the wall over the table. They described a lot of candles. And they described people in black and white robes with hoods.

JARRIEL [to Mr. Warnke]. The hood, Mike, what's this for?

Mr. WARNKE. This is to create for whoever's practicing a magical atmosphere.

JARRIEL. Do the colors mean anything?

Mr. WARNKE. Yeah, the red ones would be used for some types of sexual rituals, people are doing sexual magic. This would be used for ordinary ceremonies and also for ceremonies where you'd be throwing a curse on somebody.

JARRIEL [voice-over]. Another indicator: kidnapping. In almost every case the children have talked about children who were snatched and later sacrificed.

MOTHER. They were taught to aid in the kidnapping of children. What they would do is the kids would go and play with the children and then tell them that they were either going to go to a party or that there were some toys or whatever, and get them so that they weren't on the move, and then her father and other members would grab the kid.

JARRIEL [to Ms. Gallant]. Do you find missing children sometimes fall prey to these people?

Ms. GALLANT. I believe that they do. We can't prove that they do. But as a law enforcement officer, I question two million children missing in the United States, knowing that many, many of those are not runaways and are so young that they couldn't run away anyway.

JARRIEL [voice-over]. Number four: sexual abuse aimed at destroying faith in God. It's being described by numerous children.

[Interviewing.] What were the parallels with what the boys have told you and the worship of Satan?

MOTHER. Well, first of all, the sexual abuse, the pornography, which always seems to go hand in hand. The boys talked about how these people actually said: "I hate God," and they used a very deep voice when they talked about that.

Dr. PAZDER. One of the primary aims is to destroy the belief system within a child, to make a child turn against what they believe in, in terms of who they are, of who God is, and to desecrate all manner of flesh, all manner of church institution, all manner of sign and symbol that a child could in any way be attached to.

JARRIEL [voice-over]. Cannibalism. It's difficult to believe, but in every case we examined, children described it.

GRANDMOTHER. The hearts were cut out, and the children were made to chew pieces of these children's hearts, pieces of their flesh.

JARRIEL [to Ms. Gallant]. Is cannibalism part of the ritual?

Ms. GALLANT. The children have spoken about this in almost every instance. Also human feces, or drinking the urine or drinking human blood.

JARRIEL. That's part of the ritual.

Ms. GALLANT. Right.

Mr. WARNKE. I have an old three-inch scar here on my wrist where my friends used to cut my arm open and bleed my blood into a cup and drink it mixed with urine four times a year as a ceremony to Satan.

JARRIEL *[voice-over]*. And finally, cremation. Most of the children describe witnessing it. It might explain why no bodies have been found. So far police have failed to make the connection, as in the case of yet another youngster who, with his mother's consent, described how bodies were disposed of.

3rd BOY. He would take the bodies and put a trash bag over the feet and head. He put—and then what he would do is had his car parked out back. So he took him to a funeral home, and they got—they were cremated and nobody ever knew anything about the bodies.

Dr. PAZDER. These people cover their tracks very well. When they dispose of a body, they use that body as well. They will use, as I said, they will cremate that body, they will use the ashes that will become part of what they will continue to present to that particular group, and they will disperse that. They're not going to do some simple murder and leave a body in a stream for you to pick up the pieces of it.

JARRIEL *[voice-over]*. Six clues that point to the illegal worship of Satan, each based on the testimony of children, and none of it has ever been proved.

Ms. GALLANT. The problem that exists is we're getting the stories, but we don't have the victims. Once it's proven with one case, it's going to add more credibility to each one of the other cases.

JARRIEL *[voice-over]*. Until that one is proved, the link between crime and satanic cults will remain speculative. The victims in this report did break the grip of satanism, but each is left with permanent scars, and experts say they were lucky to escape.

Mr. GRIFFIS. When you get into one of these groups, there's only a couple of ways you can get out. One is death. The other is mental institutions. Or third, you can't get out.

WALTERS. That's terrifying, and that's no choice.

JARRIEL. Serious business.

WALTERS. If the police were aware of this, it might be that they could get to the instigators, to the top people. Why isn't there more awareness on the part of the police?

JARRIEL. Police are very reluctant to investigate these crimes as satanic crimes, Barbara, because communities quite naturally don't want their reputations stigmatized as being the home of the devil. They prefer to try to categorize them as drug-related crimes, sex-related crimes or robbery or something that they're more familiar with.

WALTERS. Individual rather than finding out who's behind it. Look, if this happens to your kid, or if you look at this and you have children and you say, "Could this happen to my child out of some kind of rebellion?" how would a parent be aware?

JARRIEL. Many youngsters are into it, teenagers and younger. And the clues are there, the satanic symbol—666. If you see that written on your child's notebook, if they're into heavy metal music, if they're associating with strange characters or drifting off to ceremonies and not explaining where

they're at, it's well worth it to parents to look deeper and ask, "What exactly are you up to?"

WALTERS. And with whom.

JARRIEL. Because this is serious.

WALTERS. It could be harmless. It could just be a diversion. But it could also be deadly serious.

JARRIEL. Absolutely.

WALTERS. Fascinating and horrifying report. Thank you for bringing it to us.

Mr. HELMS. Mr. President, it was because of reports such as this ABC news production on satanism that I took particular note of a letter from a constituent back in the fall of 1982. The constituent asked if a particular group, known to be explicitly promoting witchcraft, has been given tax-exempt status by the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code.

I wrote the IRS to find out. To my astonishment, the IRS told me that yes, indeed; the particular group in question had been granted tax-exempt status as if it were an ordinary bona fide church. This original response was dated December 17, 1982, and it was from Tully Miller, Acting District Director, Internal Revenue Service, Altanta, GA.

On February 10, 1983, I wrote the then Secretary of the Treasury, Don Regan about this matter—the Secretary's jurisdiction, of course, includes the IRS. I asked Secretary Regan (1) if the IRS District Director's view was correct, (2) if this had always been IRS policy since enactment of section 501(c)(3), and (3) if so, on what legislative history was it based. After many inquiries over a 2-year period, I finally got an answer dated May 24, 1985. By then, Mr. Regan had become White House chief of staff. The response to my inquiry was signed by Mikel M. Rollyson, tax legislative counsel, Office of the Secretary of the Treasury. It basically confirmed the earlier IRS letter from the IRS District Director.

Then on June 17 of this year, I wrote Treasury Secretary James A. Baker III, to ask for his personal consideration of this matter. He obliged me in this request, and I received his reply dated July 19, 1985.

Unfortunately, however, Mr. Baker basically confirmed the earlier letters I had received. Among other things, he wrote:

> Under the standards (used by the IRS for determining religious exemptions), several organizations have been recognized as tax-exempt that espouse a system of beliefs, rituals, and practices, derived in part from pre-Christian Celtic and Welsh traditions, which they label a "witchcraft.

Thus, the Secretary of the Treasury confirmed for me the fact that the IRS has and will grant tax-exempt status as a religious organization to groups explicitly promoting witchcraft.

Mr. President, I ask unanimous consent that Secretary Baker's letter to me of July 19, 1985, be printed at this point in the RECORD.

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

THE SECRETARY OF THE TREASURY,
Washington, DC, July 19, 1985.

Hon. JESSE A. HELMS,
U.S. Senate,
Washington, DC.

DEAR JESSE: In a letter dated June 17, 1985, you asked me to consider personally whether section 501(c)(3) of the Internal Revenue Code would permit a group that practices "witchcraft" as a religion to be treated as tax-exempt.

You expressed special concern about recent reports linking violent crime to so-called satanic cults. You are absolutely right—neither the Reagan Administration, Jim Baker, nor the Internal Revenue Service will provide tax incentives for conduct which leads to violent crime.

Section 501(c)(3) of the Code exempts from Federal income taxation any entity that is organized and operated exclusively for religious purposes. As a conscious policy decision, the Code and the applicable Treasury regulations do not attempt further to define what religious purposes are. This decision, which reflects the First Amendment to the Constitution and its interpretation by the courts, has withstood the test of time.

The Service does not simply accept a claim of religious belief at face value in making determinations under section 501(c)(3). Instead, it makes two inquiries. The first is whether the organization's practices or rituals are illegal or are contrary to clearly defined public policy. The second is whether the asserted beliefs are sincerely held by those professing to follow them.

These standards guarantee that the Service will operate impartially—and will be understood by religious groups and the public to do so—in administering the tax exemption rules. Under the standards, several organizations have been recognized as tax-exempt that espouse a system of beliefs, rituals, and practices, derived in part from pre-Christian Celtic and Welsh traditions, which they label as "witchcraft." we have no evidence that any of the organizations have either engaged in or promoted any illegal activity. (One of the organizations was in fact subject to an on-site audit several years after it received an exemption letter; the agent found no basis for any change in tax-exempt status.)

In contrast, the Service has not hesitated to deny recognition of tax-exempt status to organizations that claim to be churches but engage in criminal activity. For example, the Service has denied exemption to an organization promoting drug use during its rituals and revoked the tax-exempt status of a purported church found to be involved in drug smuggling. Our records also indicate that an organization that espoused devil-worship, black magic, and other satanic rituals failed to meet several of the requirements for tax-exempt status and was denied an exemption under section 501(c)(3).

You enclosed with your letter a transcript of a television segment dealing with cults, violence, and drug-induced rituals. The Service's published cumulative list of tax-exempt organizations does not indicate that the Service has approved a tax exemption for either of the so-called "satanic churches" named in the transcript.

As you know, churches need not file an application for recognition of exemption or any annual information returns. Thus, I cannot assure you that some organization of which the Service has no knowledge may not improperly be claiming a tax exemption. The Service maintains an ongoing examination program to assure that organizations continue to comply with the requirements for tax exemption. Churches are subject to special statutory rules, enacted by Congress last year, that limit and restrict church contacts and examinations by the Service.

I am satisfied that present law, as administered by the Service, is effective to deny tax exemption to any organization that seeks a subsidy for promotion of illegal activity, without infringing on the rights of citizens guaranteed by the First Amendment. I hope this letter puts your concerns to rest.

Sincerely,

JAMES A. BAKER III.

Mr. HELMS. Mr. President, despite the reasoning of the Secretary, I simply cannot believe that Congress ever intended for section 501(c)(3) of the Internal Revenue Code to be used to promote witchcraft or other cult-related activities through the granting of tax-exempt status. To whatever extent such activities occur in this country, they certainly should not be subsidized—directly or indirectly—by the U.S. taxpayers.

After all, Mr. President, we allow tax-exempt status for bona fide religious organizations because we believe they help promote the common good. Cults and witchcraft groups do not; in fact, they lead to violent and unlawful behavior.

Mr. President, the pending amendment uses the congressional power of the purse to stop activities by the Treasury Department and the IRS in allowing tax-exempt status to "any cult, organization, or other group that has as a purpose, or that has any interest in, the promotion of satanism or witchcraft." The amendment defines "satanism" as "the worship of Satan or the powers of evil" and "witchcraft" as "the use of powers derived from evil spirits, the use of sorcery, or the use of supernatural powers with malicious intent."

I urge adoption of the pending amendment.

Mr. ABDNOR. Mr. President, I believe there are still some questions about this amendment on the other side of the aisle.

Mr. HELMS. Mr. President, I am willing to lay the amendment aside.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside.

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

ORDER OF BUSINESS

Mr. BYRD. Mr. President, I seek recognition at this time for the purpose of asking the distinguished majority leader what the schedule will be for

the rest of the day and whether there will be a Senate session tomorrow. I do this especially in behalf of all Senators in view of the approaching storm that we have been hearing about for the last few hours.

Mr. DOLE. Mr. President, if we could have order, I shall attempt to answer.

The PRESIDING OFFICER (Mr. CHAFEE). May we have order in the Chamber?

Mr. DOLE. Mr. President, I know there are a number of Senators who have expressed their concern about what could be a rather bad storm. It could be in this vicinity sometime tomorrow. I can only indicate to the minority leader at this point that if we can make progress today—dispose of this bill, dispose of the HUD appropriations and dispose of D.C. appropriations, and that is not really as complicated as it may seem—then we would avoid a Friday session. If not, I assume we shall be in tomorrow, at least until around 2 or 3 o'clock in the afternoon.

I am advised by the distinguished chairman of the Committee on Appropriations that following this bill, he would like to move to the HUD appropriations bill. There will be amendments to that bill. The D.C. appropriations bill, I understand, will have an abortion amendment. That will not be a long debate.

It is possible that with some luck, we can complete action on these three bills by 8 or 9 o'clock this evening.

Mr. BYRD. Mr. President, in that event, the Senate will not be in tomorrow?

Mr. DOLE. In that event, I suppose there are a couple of other bills we could dispose of by unanimous consent. Then on Monday, we could go to the appropriations bill on agriculture.

Mr. HATFIELD. Will the Senator yield?

Mr. DOLE. Yes; but the minority leader has the floor.

Mr. BYRD. Yes, Mr. President, I yield.

The PRESIDING OFFICER. Will the Senator withhold while I ask all to give our attention to the Senators who are speaking, please?

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I wish to say to the leader that the Appropriations Committee reported out both the Agriculture and the Interior appropriations bills. I would be hopeful that we could have a pro forma session tomorrow, at least, in order to provide—I have been assured that my desire to get to the Agriculture and Interior appropriations bills up on Monday will not be impeded by our failure to be in tomorrow.

Mr. DOLE. That is my understanding. There may be some problem with bringing it up on Monday, but the 3-day rule would run even though we are not in session tomorrow.

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

Mr. BYRD. Yes, I yield.

Mr. PRYOR. I wish to ask the majority leader or the chairman of the Committee on Appropriations a question.

How is it that we are going to appropriate for the U.S. Department of Agriculture and its programs before we have considered the authorization bill for the agriculture programs?

Mr. DOLE. How is it?

It is all right with me.

Mr. PRYOR. The chairman of the Committee on Appropriations, if I could get his attention, is saying he would like to bring the appropriations bill for agriculture programs forward. My question is, how do we appropriate the money for the agriculture programs before we have considered the authorization for the agriculture programs?

Mr. COCHRAN. Mr. President, will the Senator yield to me so I may respond to the Senator from Arkansas?

Mr. BYRD. Mr. President, I yield for that purpose without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. The appropriation that we approve under the appropriations bill each year for the Commodity Credit Corporation simply reimburses the Corporation for net realized losses, so it is an after-the-fact kind of appropriation; the long-range programs and others administered by the Department do not have to be funded in advance by the appropriations process.

Mr. PRYOR. I appreciate that answer very much, Mr. President.

Mr. BYRD. Mr. President, may I say to the distinguished majority leader that I do not know what problems we may run into with respect to the appropriations bills, but I certainly want to do everything I can on this side to expedite the action on the appropriations bills today, because there are a good many Senators who, because of the approaching storm, may have to be elsewhere on tomorrow. So I am going to ask my people immediately to continue their efforts with respect to D.C. appropriations and this bill, of course, and HUD appropriations in hope that we can complete action today.

Mr. DOLE. I thank the distinguished minority leader.

Did the Senator have a resolution he wishes to offer?

Mr. BYRD. Yes, I do. I thank the distinguished Senator.

Mr. President, I want to make this statement while the Senator from Virginia [Mr. WARNER] is in the Chamber.

THE SENATE MISSION TO HUNGARY AND THE SOVIET UNION

Mr. BYRD. Mr. President, from August 27 to September 6, the distinguished senior Senator from South Carolina, [Mr. THURMOND] and I led a delegation of eight Senators to visit Hungary and the Soviet Union. Along with Mr. THURMOND and myself, the delegation included Messrs. PELL, NUNN, SARBANES, DECONCINI, WARNER, and MITCHELL. The primary purpose of the visit was to meet and establish a dialog with the new Soviet leader, Mr. Mikhail Gorbachev. We accomplished this on September 3, and exchanged views with him for over 3½ hours. The key items on our agenda for discussion were arms control, human rights, economic and other various bilateral relations, and regional questions, particularly Afghanistan.

Upon the return of our delegation, Mr. President, we met with the President and gave him an oral report on our visit. We think we accomplished some things that possibly helped to pave the way for the President when he goes to the summit. He was very interested from the beginning in having us report back to him upon the conclusion of our trip. We have done that.

Now Mr. President, I have the written report prepared and I shall shortly ask unanimous consent for the immediate consideration of a resolution which I have cleared with the distinguished majority leader and which will provide for an additional 1,000 copies of the report.

Mr. President, I yield to the distinguished Senator from Virginia [Mr. WARNER] who, as I say, was a member of the delegation and who, as a result of his experience, having been a former Secretary of the Navy and because of his chairmanship on the Subcommittee on Armed Services which has jurisdiction over the SDI, made a fine contribution as a member of the delegation. We benefited greatly from his participation, and I hope that Senators will want to take a look at this report. I am sure they will gain from the reading thereof.

Mr. President, I personally thank Mr. WARNER again for his participation at all times. He is a Member who is most thoughtful. He worked hard on the trip to help us all by virtue of his previous experience and knowledge, and the Senate and the country are in his debt, in my judgment.

I yield to him for any remarks he may wish to make.

Mr. WARNER. Mr. President, I thank the distinguished minority leader, who was the head of this delegation. The leadership, of course, was shared with Mr. THURMOND, and the remarkable combination of these two outstanding Members of the U.S. Senate established the tone of our mission abroad.

Time and time again, Mr. President, the distinguished Senator from West Virginia, joined by the distinguished Senator from South Carolina, remarked on the unique role of the U.S. Senate in matters of foreign policy and, drawing on their long experience in the Senate—the combined number of years being over 50 in the Senate—they pointed out that those periods in the history of our country where foreign policy has been most successful have been predicated on the spirit of bipartisanship.

Throughout the work of this delegation—and it was intensive and hard—there was a total bipartisan spirit. The Senator from West Virginia indicated that it was a bipartisan delegation with a nonpartisan goal; namely, to make a contribution toward world peace; that it is the Senate, with its unique responsibilities under the Constitution, which has a continuing role and that members of this delegation would be in office after Mr. Reagan steps down and a new President, whoever he or she may be, assumes that office; that it would be the hope of the leadership of our delegation and the members that the work that we perform would contribute to the challenge before President Reagan today with reference to the summit, and that we would hope to provide some continuity in the foreign policy. Time and time again all of us recognize the value of bipartisan continuity in the foreign policy of the United States.

I close with the remark that perhaps left the greatest impression on me given by the distinguished Senator from West Virginia to the General Secretary of the Union of Soviet Socialist Republics, Mr. Gorbachev. He remarked that this delegation was prepared to work and support this President, Ronald Reagan, in his efforts to provide for a more peaceful world, and that now is the time to make a start under this President; that future Presidents would build on that foundation, and that it would be unwise for the Soviet Union to in any way perceive that maybe there would be an advantage in waiting for another President to follow Ronald Reagan to make that start. The leadership of this delegation made it eminently clear that now is the time to make the start.

I thank the distinguished Senator.

Mr. President, I think the distinguished minority leader would join with me in also paying tribute to a very hardworking staff which accompanied this delegation. Many times they would work late into the night under rather extraordinary conditions because of certin unique security requirements to prepare each Senator with the arduous tasks on the day that followed.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Virginia [Mr. WARNER]. We did attempt to make very clear to the new General Secretary, Mr. Gorbachev, that now is the opportunity and we would hope the Soviet Union would not proceed under a misunderstanding. We made preeminently clear that they should not wait, thinking that they might get a "better deal," if I can put it in those words, from the successor, whether he be Democrat or Republican, to the Presidency after Mr. Reagan has finished his term.

I compliment also the President pro tempore [Mr. THURMOND], who contributed in a great way to the overall effort. As President pro tempore of the Senate and also as the ranking Republican of the Armed Services Committee, Mr. THURMOND was a very important part of this delegation. He did himself honor, and we are all proud of the things that he said in the meetings not only with Mr. Gorbachev, but also on the previous day with two very high military officials in the Soviet Union. He reflected well on himself and his State and the Senate of the United States, and I thank him.

I shall, at the conclusion of my remarks, offer the report of my delegation for printing as an official Senate document, and I will not repeat at length here the extensive observations and conclusions which are contained in this report. Nevertheless, I would like to take a few moments to summarize the highlights of our visit.

First, I wish to compliment the seven other Senators who accompanied me on this delegation. of the hard work, the serious intent, and deeply held motivations of all these Senators. It was a pleasure and a privilege for me to work closely with them in the intensive planning that went into this trip, and to see them represent the United States in the statesmanlike way and constructive approach that they used in handling this responsibility and this opportunity. I would, particularly, like to express my appreciation and my admiration for Mr. THURMOND, a true gentleman, who represented this body as a senior Senator with great experience and a sound judgment. I would say that both parties in the Senate were represented in the highest traditions of this body. This was a bipartisan delegation in the true sense of the word, expressing the concerns and the hopes of all Americans, regardless of party, regardless of region.

Today, we stand at a historic watershed in our relations with the Soviet Union. There is a new leadership, confident and clearly in control, in the Soviet Union. Mr. Gorbachev is a capable individual who has apparently put his team together, and I think we have to assume that that team will be in place for several years to come.

The first stop on this trip was London, where the delegation met with the Honorable Malcolm Rifkin, Member of Parliament, and Minister of State for Foreign and Commonwealth Affairs, who had participated in the meetings that were held in April between Mr. Gorbachev and Prime Minister Margaret Thatcher. Mr. Rifkin provided valuable insights and impressions of the new Soviet leader and the British view of current Soviet policies and strategies.

En route to Moscow, the delegation visited Hungary and met with a number of officials of the top Hungarian leadership. During extensive discussions with them, important insights were obtained from the perspective of a Soviet ally that has had some success in pursuing a rather creative economic policy, an ally that may be able to act as a bridge between East and West.

I do not know what level of understanding Mr. Gorbachev has of our system. I do not know what stage he has reached in forming opinions and conclusions about the United States, and what perspective he has developed about doing business and reaching agreements with the United States. The delegation attempted very carefully to impress upon him some important insights and realities about the U.S. system and attitudes, particularly the constitutional responsibilities of the Senate in the treatymaking area, and the role of public opinion in the United States in the establishment of the acceptable parameters of our Nation's relations with the Soviet Union.

In addition to the leadership changes in the Soviet Union, we are now actively engaged in Geneva with the Soviets in important arms control talks on intercontinental and intermediate strategic nuclear forces, as well as space systems. Those talks are now in the beginning of the third round for this year, having resumed on September 19, and we engaged in extensive discussions with Mr. Gorbachev, as well as senior soviet military officers, and the Hungarian leadership about the status and ramifications of those negotiations.

Finally, of course, the first summit meeting between the Soviet and American leaders in 7 years will occur in November, and my delegation intended to help in whatever ways it could, to make that meeting as productive as possible. I carried a letter from President Reagan to Mr. Gorbachev, and did express to him our President's strong desire for a constructive meeting. Mr. Gorbachev also indicated a desire along the same lines.

Mr. President, our two powerful nations have an opportunity, which should not be missed, right now to take the first substantial steps in establishing a new and better relationship. Let us not miss that opportunity. Over the last few years, the level of rhetoric has been too negative, and

the level of tensions has been too high between the United States and the Soviets. No one is blameless. Let us not dwell on the past. Let us not succumb to the easy temptation to call names, to point the finger. Mr. PELL, a member of the delegation, and the ranking Democrat on the Foreign Relations Committee, has said it best in his op-ed piece in the Washington Post on September 18:

> We would hope that both leaders would rise above their respective bureaucracies in a statesmanlike manner to boldly face the task of reaching mutually beneficial accommodations on the great issues which divide us.

We are hearing too many voices, Mr. President, which purport to speak for the President of the United States. We are seeing "anonymous" background briefings for reporters on what the President is thinking, what the President means when he says so and so at a press conference; and we are witnessing an abundance of commentary by not-so-anonymous aides. This does not contribute to a proper atmosphere leading up to this historic summit meeting 2 months hence.

An example of the confusing picture being painted about U.S. arms control positions is what has been said recently about the Anti-Ballistic Missile [ABM] Treaty, and about the relationship of the Strategic Defense Initiative [SDI] Program to that important arms limitation agreement.

Before and after the President's press conference, we heard statements attributed to various named and unnamed administration officials about the validity of the ABM Treaty and whether our SDI Program would conform to that treaty.

These statements raise concerns about U.S. arms control intentions and complicate our attempts to demonstrate to our allies that we are serious about respecting existing arms treaties and about negotiating in good faith to reach new agreements. They also present to our adversaries a picture of a disorganized decisionmaking process.

To eliminate this confusion, and to clarify some of the impressions emanating from the press conference discussion on the SDI Program, I personally spoke with the President on September 21. I asked the President directly whether, by his own statements about the negotiability of SDI testing and development at the press conference, he intended to signal that the United States was changing its policy of strict adherence to the provisions of the ABM Treaty. The President was emphatic in stating to me that he did not intend to send such a signal.

There should be only one spokesman on arms control in this administration, and that is the President. If others speak on this subject, they all should adhere to a unified position.

My delegation attempted, and I think successfully, to impress upon the Soviet leadership a unified commonality of views, representing not only the Senate but also the American people, regarding our concerns over the major issues separating our two countries. We oppose the picture of confusion and competing parochial interests which seem to be injecting themselves into the political environment at the present time.

Although the delegation does not believe that any breakthroughs occurred on the major issues of contention between the two superpowers, modest steps forward on some of those issues were taken. Most importantly, both sides took advantage of this opportunity to communicate their real concerns through an extensive exchange of views and dialog. We believe that the insights gained into the viewpoints, personalities, and policy positions of the new Soviet leadership were useful in helping to develop a better understanding of each nation's perspective on the relations between our two countries.

My delegation believes that the Soviets have to get down to business on arms control in Geneva. We attempted to impress upon the Soviets the need to formally table at the Geneva talks their proposals on what they have referred to as "radical" reductions in the strategic and intermediate nuclear weapons area in Geneva, as well as their concepts as to the acceptable dividing line between SDI research and development. The Soviets told us they have proposals, Mr. Gorbachev told us they have initiatives already developed.

Indeed, most recently, a Washington Post article of September 24, 1985, says the Soviets have "passed the word" that Soviet Foreign Minister Eduard Shevardnadze will present a radical strategic nuclear offensive arms reduction proposal this week. It is said that he may present it personally to President Reagan during his meeting this Friday, September 27, 1985.

It is reported that the Soviets will propose a 40-percent reduction in nuclear missiles and warheads, and also that no more than 60 percent of each nation's nuclear strength be contained in any one of the three prongs of the triad—for example, ICBM's, submarines, and bombers.

We are told that the Soviets will present the proposal in detail at Geneva if United States officials respond favorably by saying that it provides "a basis for negotiation"; but, if the United States rejects it "out of hand," it might not be presented in Geneva.

This is the latest installment of a Soviet public relations campaign to make themselves look flexible and reasonable on arms control. It follows the pattern they have recently been engaging in of informally floating generalized and attractive-sounding ideas, while so far not presenting them in specific detail at the proper forum, that is, the Geneva arms talks.

Mr. President, I shall quickly itemize the other recommendations of my delegation, as outlined in our official report.

First, the Soviet publicity campaign leading up to the summit is geared toward building support, in Europe, the United States, as well as the Third World, for seeming Soviet flexibility on arms control issues. An inherent advantage for the Soviets is their complete accessibility to Western publics because of the open nature of Western societies. The American message has so far been almost, if not completely, shielded from Soviet society. The administration should request formally, and repeatedly, that President Reagan and other American spokesmen be given access to the Soviet media to make the United States case on arms control matters and other issues. This request should point out the unimpeded access to United States and other Western news media enjoyed by Soviet spokemen. If as expected, the Soviet refuse the opportunity for the President and other American spokesmen to address the Soviet citizenry, the repeated United States requests and the Soviet responses should be well publicized to West European publics. In this case, the point should be communicated directly to the West Europeans that due to Soviet unwillingness, only one side of the arms control debate is being heard.

The media campaign being waged by the Soviet Union necessitates that the United States formulate and implement no less vigorously its own campaign to communicate United States arms control positions and American flexibility to the world, especially to our NATO Allies.

Second, the delegation also recommends that our own Government, as well as other free-world governments, should join with the media to insist that the Soviet Union allow newspeople into Afghanistan to report without interference on events there. This would permit the world to see what is, in reality, going on in that unfortunate nation and to reach the appropriate conclusions.

Third, the Soviet initiative on a nuclear testing moratorium has in some ways put the United States on the public relations defensive, particularly with reference to Europe and the Third World. Additional responses and counter proposals to the Soviets in this area may be desirable.

Fourth, Soviet actions in Afghanistan and in the area of human rights constitute two of the most difficult obstacles to overcome in order to put

United States-Soviet relations onto a more positive track. While the rest of the world remains relatively quiet—with some exceptions—on these matters, the United States should continue to remind other governments that these are areas which lie almost exclusively in the hands of the Soviets to remedy. It should be made clear that positive actions by the Soviets on these two matters would go far toward creating a better climate for successful arms control negotiations and for reducing superpower tensions.

Fifth, the nuclear risk reduction centers proposal which has been developed by Senators NUNN and WARNER, and unanimously endorsed by the full Senate, is believed by the delegation to represent a major step forward in the development of productive relations with the Soviet Union. The timing of the delegation's visit influenced the administration to develop its position on this proposal on August 26, 1985, just prior to the delegation's departure, National Security Adviser Robert McFarlane informed Senators NUNN and WARNER that the administration endorsed the first stages of the proposal. Mr. Gorbachev was informed of this endorsement during his meeting with the delegation in Moscow, and indicated that he believed the proposal demanded "attention." We, therefore, encourage the President to include this proposal on his agenda for discussion with the Soviet leader at the summit.

Sixth, productive Navy-to-Navy talks between the Soviet Union and the United States have been held annually since 1972, when the incidents-at-sea agreement was signed. The value of this agreement, in establishing rules of engagement for the United States and Soviets when vessels of the two navies are operating in proximity to each other, has been lauded as an example of a tool which can be used to reduce misunderstandings and accidents at sea. The talks were suspended this year as a result of the killing of U.S. Army Maj. Arthur D. Nicholson, Jr., in East Germany. Senator WARNER indicated to Mr. Gorbachev that he had actively supported the resumption of those talks, and had written to the President in this regard. The delegation concludes that these talks should be resumed as soon as possible and encourages the President to take the initiative to do so.

I would be remiss, Mr. President, if I did not acknowledge the very substantial amount of help that was afforded the delegation by American executive branch officials in Washington prior to the trip, as well as in Hungary and the Soviet Union during our visit. We also are indebted to a number of officials from previous administrations, who gave generously and freely of their advice.

We consulted with President Reagan and former Presidents Nixon, Ford, and Carter, Secretary of State Shultz and Secretary of Defense Weinberger; National Security Advisor McFarlane; the chief arms control negotiator for the Geneva talks, Ambassador Max Kampelman; Secretary of Commerce Malcolm Baldrige; and other senior administration officers of the National Security Council, State and Commerce Departments, and the Central Intelligence Agency. Also consulted were former Defense Secretaries James Schlesinger and Harold Brown; former Secretaries of State Henry Kissinger and Cyrus Vance; former National Security Advisor Zbigniew Brzezinski; former Ambassador to the Soviet Union Malcolm Toon; and Dr. Dmitri Simes, professional lecturer at the Johns Hopkins School of Advanced International Studies. The Congressional Commission of Security and Cooperation in Europe, the Helsinki Commission, also provided timely assistance and information.

In Hungary, we benefited from the briefings, hospitality, and advice of our capable Ambassador there, Mr. Nicholas Salgo, and the very professional Foreign Service officers who work with him in the U.S. Embassy in Budapest. The delegation also benefited from the insights of the Chargé d'Affaires of our Embassy in Moscow, Mr. Richard Combs, and his country team, which provided an excellent briefing on United States-Soviet issues, and invaluable assistance throughout the visit.

Mr. President, I thank the Senator from Virginia for reminding us of the work that was done by our staff. We could not have succeeded, as we think we did, without the aid, knowledge, advice, and counsel, and the many hours of hard work which they gave to the delegation and to the seeking of the objectives that we think we reached.

Mr. President, I thank the distinguished majority leader for his approval of the quick action on this request.

I do urge Senators on both sides of the aisle to read this report. They do not have to pay so much attention to my statement, but the report, which is the product of all eight Senators, I hope Senators will read. I will be happy to hear from them if they have any constructive comments or whatever.

Mr. THURMOND. Mr. President, I rise today to comment on the Senate delegation visit to the Soviet Union and to commend the distinguished Democratic leader for his efforts in connection with this trip.

Mr. President, Senator BYRD is to be congratulated for helping to organize, and then chairing, this delegation. He was very forceful in the way he relayed to the Soviets how united all Americans are in their desire for arms control. He was unyielding when he told the Soviets that any arms control agreement must be verifiable. He was completely nonpartisan as he told the Soviets they need to deal with President Reagan because they cannot expect easier terms from another administration. Such words would carry not as much weight coming from anyone other than the Democratic leader of the U.S. Senate. I might add that Senator BYRD, as he has so eloquently done here on the floor for this body, imparted to the Soviets a clear expression of the role the Senate plays in the treaty process—not as negotiators, but as advisers and ratifiers.

Mr. President, I was pleased to serve as vice chairman of this delegation. Among its members, we counted some of the most influential and articulate Members of this body. Senator PELL, the ranking member on the Committee on Foreign Relations; Senator NUNN, the ranking member on the Committee on Armed Services; Senator WARNER, second ranking Republican on the Committee on Armed Services and the chairman of the Armed Services Subcommittee on Strategic and Theatre Nuclear Forces; Senator DECONCINI, who was a strong and constant voice for improved human rights conditions in the Soviet Union; Senator SARBANES, an influential member of the Foreign Relations Committee; and Senator MITCHELL, who used his considerable skill to force the Soviets to articulate and attempt to justify their positions. Also, the staff did outstanding support work for the delegation. Their efforts certainly contributed to the success of our trip.

I believe the trip was successful, because we accomplished our mission—to underscore the nonpartisan nature of the American desire for fair and effective arms control. I believe I can speak for the delegation when I say we hope this trip will contribute, even if it is in the smallest manner, to a successful negotiation and ratification of a fair, effective, and meaningful arms control agreement, between the United States and the Soviet Union.

Again, I commend Senator BYRD for his outstanding leadership on this important trip.

THE SUPERPOWERS AT A CROSSROADS: SOVIET-AMERICAN RELATIONS IN THE AUTUMN OF 1985—AUTHORIZATION TO PRINT REPORT

Mr. BYRD. Mr. President, Mr. DOLE indicated during the rollcall that it would have his approval if I presented the resolution that would provide an additional 1,000 copies of "The Superpowers at a Crossroads" report by the Senate delegation. I send the resolu-

tion to the desk, Mr. President. I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 234) that there shall be printed a report entitled "The Superpowers at a Crossroads: Soviet American Relations in the Autumn of 1985—Report by Senate Delegation to Hungary and the Soviet Union led by Senators Robert C. Byrd and Strom Thurmond, August 27-September 6, 1985."

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

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

The resolution (S. Res. 234) was agreed to.

The resolution reads as follows:

S. RES. 234

Resolved, by the Senate of the United States of America, that there shall be printed for the use of the Senate an additional one thousand copies of "The Superpowers at a Crossroads: Soviet American Relations in the Autumn of 1985—Report by a Senate Delegation to Hungary and the Soviet Union led by Senators Robert C. Byrd and Strom Thurmond, August 27-September 6, 1985" for distribution to the Members of the Senate as an official Senate document.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS, 1986

The Senate continued with the consideration of the bill.

AMENDMENT NO. 705

Mr. ABDNOR. Mr. President, I am happy to now say that both sides have cleared the amendment of Senator HELMS, the Senator from North Carolina.

Mr. HELMS. I thank the distinguished manager of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 705) was agreed to.

Mr. ABDNOR. I move to reconsider the vote by which the amendment 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. ABDNOR. Mr. President, I ask unanimous consent that the excepted committee amendment be temporarily laid aside.

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

Mr. DOMENICI. Mr. President, I am compelled to rise in opposition to the Treasury, Postal Service and General Government appropriations bill as reported by the Appropriations Committee because it exceeds the amounts assumed in the fiscal year 1986 budget resolution that passed with broad bipartisan support.

Mr. President, this is the first fiscal year 1986 appropriation bill to be considered by the Senate that exceeds the budget resolution. I will therefore offer amendments to bring the bill into conformance with the budget resolution so that the Senate can show the American people that they truly want to reduce the staggering $200 billion Federal deficits.

Mr. President, I would like to point out that the subcommittee, under the able chairmanship of Senator ABDNOR, approved a bill that was largely consistent with the totals assumed in the Senate-passed budget resolution, and I commend the subcommittee members for their efforts.

However, the bill reported by the full Appropriations Committee that is before us today exceeds the budget resolution assumptions, and it must be addressed.

Mr. President, H.R. 3036 provides $13.0 billion in budget authority and $12.1 billion in outlays for fiscal year 1986 for the Department of Treasury, including the Customs Service and the Internal Revenue Service, as well as for the Postal Service, the Executive Office of the President, and independent agencies.

Taking into account outlays from prior-year budget authority, the bill is $0.1 billion higher in budget authority and outlays than Senate Budget Committee's assumptions for the subcommittee's allocation under the first budget resolution. It is necessary to score the bill in this fashion in the absence of formal 302(b) allocations by the Appropriations Committee.

I intend to offer an amendment that would reduce appropriations for nondefense discretionary appropriated programs, by 2-percent across the board to conform the bill to the totals assumed for the subcommittee under the fiscal year 1986 budget resolution.

I will oppose any major amendment adding appropriations to this bill and urge my colleagues to do the same.

Mr. President, I ask unanimous consent that a table showing the relationship of the reported bill to the first budget resolution, the President's budget request, and the House-passed bill be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

AMENDMENT NO. 706

(Purpose: To conform the bill as reported to the First Concurrent Resolution on the Budget for Fiscal Year 1986)

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of myself, Senators CHILES, BOSCHWITZ, EVANS, MATTINGLY, NICKLES, and EXON and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI), for himself, Mr. CHILES, Mr. BOSCHWITZ, Mr. EVANS, Mr. MATTINGLY, Mr. NICKLES, and Mr. EXON proposes an amendment numbered 706.

Mr. DOMENICI. 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 follow:

At the end of the bill, add the following new section:

"SEC. 618. Each dollar amount contained in this Act as reported by the Senate Committee on Appropriations which is provided for non-defense discretionary programs and activities is hereby reduced 2.0 per centum."

Mr. DOMENICI. Mr. President, I rise today, on behalf of myself, Senator CHILES, and others to offer a simple amendment to the pending Treasury-Postal Service appropriations bill.

This amendment would bring the appropriations bill within the limits assumed by the first concurrent budget resolution for 1986 by cutting all discretionary, nondefense accounts within it by 2 percent.

In short, this bill exceeds in outlays the levels assumed by this body when the Senate voted by a more than 2-to-1 margin for the budget for the next fiscal year just 2 months ago. A simple 2-percent across-the-board cut on all nonentitlement, nonmandatory accounts in this bill will bring the measure within budget. Such a cut not only will keep this bill, as I see it, consistent with that resolution but will also keep faith with the Senate vote.

Senator CHILES and I have agreed to approach this bill and other bills that are significantly over-budget in the same manner. We do so for several reasons. Let me give mine, and then my good friend, the distinguished Senator from Florida, can give his rationale.

The Senate voted a budget resolution for the upcoming year, after months of effort, that would cut deficits by $55.5 billion below the level that would otherwise occur. This is a critical point, because by that vote the Senate was saying to authorizing committees through reconciliation and to the appropriations committees through the normal appropriations

route, "You must cut outlays by a certain amount in order to achieve deficit reductions of $55.5 billion."

After all, I think everyone knows that it is the level of outlays that determines deficits, not the level of budget authority that might be appropriated by the Appropriations Committee or subcommittees thereof. Indeed, the Senate has instructed 11 of the Senate committees to find $19.4 billion in deficit reduction through reconciliation for the upcoming fiscal year. That reconciliation process is going on right now. Some committees are working very hard; some are succeeding; some are having a difficult time.

As has been the precedent, we are scoring—that is, we are keeping track of the progress of those 11 committees, on the basis of outlays. They are being very cooperative. They must cut a certain amount of outlays from programs within their jurisdiction in order to comply with the reconciliation instruction. I should say cut programs or change tax laws so as to increase revenues because the Finance Committee was asked to do that.

But, nonetheless, those committees must come up with rconciliation legislation that cuts a certain amount of outlays from the programs within their jurisdiction to be in compliance with reconciliation.

The amendment I offer today would hold the Appropriations Committee to the same deficit-cutting standard to which we are holding the other committees of the Senate.

We are not singling out any one, not singling out the Appropriations Committee, upon which I serve and my good friend from Florida serves, for any extra burden, and at the same time, we believe it should be accorded no special treatment.

The deficit-cutting effort involves all committees and all Members of the Senate equally. Therefore, although we are aware that the Appropriations Committee appropriates only budget authority, just as the authorizing committees only authorize budget authority to be appropriated, we believe that outlay estimates must be brought into line with the Senate budget resolution that was overwhelmingly approved by the Senate, and with 20 members of the Appropriations Committee voting for it.

Let me briefly bring the Senate up-to-date on the progress of reconciliation. As we meet today, it is not completed. Several committees have completed action. The Finance, Small Business, Commerce, and Environment and Public Works Committees have already finished their work. Each of them have met or exceeded their deficit reduction targets in outlays. Indeed, Finance, Small Business, and Environment and Public Works Committees have exceeded their savings goals, and the Commerce Committee may have done so after final costing is completed.

I understand since I prepared these remarks last night, the Veterans' Affairs Committee has also completed its work. I cannot report yet whether in outlays it is in compliance, but the chairman has told me they completed their reconciliation package this morning. The other committees that have not completed it are nearing completion of their action.

So we will, in my judgment, meet or exceed the savings of $19.4 billion in outlays that the Senate mandated its committees to find through reconciliation.

This circumstance makes it more critical than ever that we diligently attempt to get the outlays savings that are expected and assumed in the budget resolution through the appropriations process. This can only be done by looking at each individual appropriation bill as it comes before us, and as we score it not by ourselves but through the good offices of the CBO, the Congressional Budget Office, which has that responsibility.

So let me review the overall savings that were voted on in the budget resolution one more time. Of the $55.5 billion to be saved from the deficit this year, approximately $29 billion in outlay savings were to come from defense spending. I have no doubt that that will occur. That leaves $26.5 billion to be found in other areas of the budget. About $3 billion of that was assumed in a decrease in public debt servicing because we reduced the expected deficit for fiscal year 1986. That leaves $23 billion to be saved. Entitlement restraint, like farm bill savings, and Medicare changes, were to make up about $15 billion of that $25 billion, leaving approximately $8.3 billion in outlays to be found from all of the appropriation bills.

So, when I am asked why I am here trying to get the outlays in line with the budget resolution assumptions, and $100 million on this bill may not sound like very much, I must point out to the Senate that this is only one of the bills, and we are merely enforcing what the Senate overwhelmingly gave as its mandate just 2 months ago.

Some may ask how we know that this bill, or any other bill, is over the budget? After all, some may say the Appropriations Committee has yet to adopt its allocation to its individual subcommittees as section 302(b) of the Budget Act requires. I acknowledge that the committee has failed to make those allocations on a basis yet. But we do have two other benchmarks against which to judge those bills. First, the Senate approved, as part of the budget resolution 2 months ago, a set of assumptions called 302(a)'s. We have to do that with the adoption of the budget resolution—to allocate the budget authority and the outlays from the budget resolution to the Senate committees of jurisdiction.

So, we have that bench mark which is an allocation of the budget authority and outlays to the appropriate Senate committees.

Second, the majority of the Appropriations Committee has discussed in some detail the status of individual subcommittee bills, and that has revealed that the sum of those measures, indeed will exceed the total budget given to the Appropriations Committee by $3.2 billion in outlays in fiscal year 1986. The bill that we have before us today exceeds its allocation, using the internal documents of the Appropriations Committee itself, by $100 million. Our amendment, to repeat, merely corrects that overage.

The best estimate we have from the Appropriations Committee's documents to date is that the total of the 13 individual appropriations bills will be about $3.2 billion in outlays over the budget resolution, all in nondefense accounts.

Let me repeat one other matter. We have asked the Appropriations Committee to save $8.3 billion in outlays this next year. After the entire exercise of months, as far as discretionary appropriated accounts of the entire Government go, the nondefense outlays to be saved is $8.3 billion. At this point with Appropriations Committee documents showing that the sum of the 13 appropriation bills will exceed the budget by $3.2 billion, a very substantial portion of the savings.

Almost 40 percent of the nondefense savings we asked the Appropriations Committee to make, are at stake.

So, you cannot wait until we are all finished and then look back and say, "Now, let's try this or that." You have to do the very best you can on each bill to establish a benchmark.

I have chosen 302(a)'s as a benchmark because there are no formal 302(b) allocations by the Appropriations Committee. The 302(a) crosswalks approved in the resolution are printed in the RECORD and are formally published.

Finally, I rise today to make this very unusual amendment, the first time that I have done this in my Senate career, because I see what the House of Representatives has done in its appropriations process. Preliminary estimates are that the House will produce bills that exceed the budget by more than $3.5 billion in outlays next year alone. This happens despite claims of the House Appropriations Committee that it will save more than $5 billion in budget authority. I repeat, the best estimates are that in in spite of that, there will be at least a $3.5 billion over in outlays.

I think that is rather serious. I do not have an instant cure and perhaps

it can be something left up to conference and later activities. But I must call it to the Senate's attention. There will be some who will say the outlays are vague; there will be some saying that only budget authority counts.

But when you take out the entitlements, as is being done here and other accounts that vary by virtue of economics in good or bad times, and address only the discretionary account such as this, frankly the estimating has been pretty good, clearly not off by 40 percent as we might be in terms of outlays now versus those estimated a mere month-and-a-half ago.

So some of my colleagues may ask about this kind of double-speak. How can the House be $5 billion under in budget authority and $3.5 billion over in outlays? Well, on the one hand, the process is very complicated. On the other hand, there is a rather easy explanation.

The House claims savings of $6.9 billion in budget authority from the synthetic fuels program. That cut, of course, yields no outlay savings to speak of. As a matter of fact, in fiscal year 1986, I believe the number is $100 million; $100 million in outlays measured up against the $6.9 billion in budget authority available to the Synthetic Fuel Corporation, which provides this nonprofit corporation with continuity and the assurance that for the next 4 or 5 years they would indeed have authority to make loans.

So, in essence, when you save $6.9 billion in budget authority on that account, you do not save very much outlays. But when the budget authority is available, you can put it in an account that spends out rather rapidly. As a matter of fact, when you finish the arithmetic, you can be under the overall budget authority allocation in the budget resolution and not yet have used all of that $6.9 billion that was rescinded.

Mr. President, I ask unanimous consent that a table comparing the House appropriations action to date be printed in the RECORD.

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

STATUS OF APPROPRIATION BILLS IN THE HOUSE

[Dollars in billions]

Subcommittee	FCR crosswalk		Adjusted bill totals[1]		Bill compared to crosswalk		Bill status
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	
Agriculture	$28.0	$25.0	$28.2	$25.2	+$0.2	+$0.2	House-passed.
Commerce-Justice	11.7	11.9	12.1	12.3	+0.3	+0.3	Do.
Defense	285.9	252.2					
District of Columbia	0.5	0.5	0.5	0.5			Do.
Energy-Water	15.7	15.7	15.4	15.7	−0.4	+([2])	Do.
Foreign Ops	15.0	14.7	15.0	14.7	+([2])	+0.1	House-reported.
HUD-Independent	60.7	61.2	60.6	62.5	−0.1	+1.4	House-passed.
Interior [3]	8.2	8.9	1.5	9.5	−6.7	+0.6	Do.
Labor-HHS	108.0	114.9					
Legislative Branch	1.7	1.7	1.7	1.8	+0.1	+0.1	Do.
Military Construction	8.5	7.6	8.4	7.5	−0.1	−([2])	House-reported.
Transportation	10.0	26.6	10.8	27.2	+0.9	+0.6	House-passed.
Treasury-Postal	13.1	13.1	13.6	13.6	+0.5	+0.5	Do.
Unassigned	0.2	0.2					
Total, Appropriations Committee	567.1	554.1	167.9	190.6	−5.2	+3.7	

[1] Includes possible later requirements, adjustments to conform mandatory items to the budget resolution level, and other adjustments.
[2] Less than $50 million.
[3] The House-passed Interior bill contains a rescission of $6.9 billion in BA and $0.1 billion in outlays from the Energy Security Reserve that was not assumed in the FCR. Congressional scorekeeping rules provide that rescinded amounts be deducted from the amounts appropriated in the bill, and the totals on this table reflect this. If the rescission is removed from the totals, the Appropriations Committee as a whole would be over the crosswalk by $1.7 billion in BA and $3.8 billion in outlays.

Note: Details may not add to totals due to rounding.

Mr. DOMENICI. Mr. President, when we cut that much budget authority from a program that will not spend very fast, it can be transferred to a program that will. This transfer of budget authority from slow spend programs to fast spend programs, commonly done by the Congress is the reason that the outlays go up over budget. It is this legerdemain that the Senate must avoid at all costs.

Recently, 19 of our colleagues in the Senate sent a letter which was addressed to the majority leader and this Senator. I ask unanimous consent that the letter be made a part of the RECORD.

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

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, September 11, 1985.

Hon. BOB DOLE,
Majority Leader,
U.S. Senate, Washington, DC.

Hon. PETE DOMENICI,
Chairman, Senate Budget Committee, Washington, DC.

DEAR BOB AND PETE: With the breakdown of the budget process which has become all too common over the past several years, the focus on controlling the deficit will rapidly shift to the appropriations process. Thus far, the process has given us little room for optimism, with the House going over $10 billion over budget on the HUD bill alone.

We hope the Senate can do better. But that will require that the Senate work aggressively to use the appropriations process to bring spending under control.

To this end, we would ask the Senate Budget Committee, in cooperation with the Appropriations Committee, to provide all Senate offices with a line-item comparison between the recommendations of the Appropriations Committee, the Senate version of the First Concurrent Budget Resolution, and the final version of the First Concurrent Budget Resolution at the time the bill is reported out of committee. If the regular three day rule is enforced—as we hope it will be—this would give us an opportunity to determine whether each bill is substantially out of line with what the Senate approved earlier in the year.

The continuation of the current levels of deficits could indeed do serious damage to our economy. But it is not yet totally out of our hands to do something about these deficits during fiscal year 1986. We therefore hope that you will comply with our request (1) to provide us with the figures necessary to analyze each appropriations bill, and (2) to give us time to prepare amendments if those figures suggest they would appropriate.

Sincerely,

Steve Symms, Orrin Hatch, Phil Gramm, John P. East, Strom Thurmond, Mitch McConnell, Frank H. Murkowski, Mack Mattingly, Chuck Grassley, Jeremiah Denton, Don Nickles, Paul Laxalt, Chic Hecht, Jesse Helms, Pete Wilson, Dan Quayle.

Mr. DOMENICI. Mr. President, the letter asked that appropriations bills be subjected to the same scrutiny that we give the authorizing committees under reconciliation. It asked for a line-item comparison of the appropriations bills as they came to the Senate floor to the budget resolution assumptions approved by the Senate 2

months ago. I do not choose to do that in this amendment. It is very difficult to do that. The Appropriations Committees have established their priorities. I am not here quibbling with their prioritization. I am not trying to go back through the bill item by item and pick specific programs.

Indeed, there are some programs in which we clearly expected some savings, such as postal service revenue foregone subsidies. The authorizing committee is supposed to make changes in the program in reconciliation. I do not know if they will or not. It is about $53 million of the $125 million that I seek to cut here in budget authority and outlays.

I choose, nonetheless, today to make the point and to make everybody understand that I am not trying to interfere with the line-item priorities of the subcommittee. It is just when you are finished adding up all the appropriation bills acted upon to date and compare them to the benchmark of the crosswalk allocations assumed in the budget resolution, having nothing else to formally measure against, a 2 percent across-the-board reduction will yield $139 million in budget authority and $125 million in outlay savings and eliminate the budget overage.

I have not chosen to reduce spending on an account-by-account basis. It is a very, very difficult job. The subcommittee can do it if they see fit.

What I am trying to do is to reduce both budget authority and outlays enough so that the subcommittee is within the crosswalk under the budget resolution that was voted here in the Senate just a short time ago.

Mr. President, my amendment reduces only the nondefense discretionary accounts in this bill. So that everyone knows what these accounts are, I send to the desk a detailed list showing the nondefense discretionary accounts within this subcommittee's jurisdiction and ask unanimous consent that it be printed in the RECORD.

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

NON-DEFENSE DISCRETIONARY ACCOUNTS: TREASURY-POSTAL SERVICE SUBCOMMITTEE

Postal Service, Payment to the Postal Service fund, 18 1001 0 1 372.

Committee for Purchase from the Blind and other Severely Handicapped, Salaries and expenses, 95 2000 0 1 505.

Executive Office of the President, Special Action Office for Drug Abuse Prevention, Miscellaneous expired accounts, 11 9912 0 1 554.

Office of Personnel Management, Civil service retirement and disability fund, 24 8135 0 7 602.

Department of the Treasury, Federal Law Enforcement Training Center, Construction, Federal Law Enforcement Training Center, 20 0103 0 1 751.

Department of the Treasury, Federal Law Enforcement Training Center, Salaries and expenses, 20 0104 0 1 751.

Department of the Treasury, United States Customs Service, Salaries and expenses, 20 0602 0 1 751.

Department of the Treasury, United States Customs Service, Operation and maintenance, air interdiction program, 20 0604 0 1 751,

Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Salaries and expenses, 20 1000 0 1 751.

Department of the Treasury, United States Secret Service, Salaries and expenses, 20 1408 0 1 751.

Administrative Conference of the United States, Salaries and expenses, 95 1700 0 1 751.

Legislative Branch, United States Tax Court, Salaries and expenses, 23 0100 0 1 752.

Funds Appropriated to the President, Unanticipated needs, 11 0037 0 1 802.

Executive Office of the President, Office of Administration, Salaries and expenses, 11 0038 0 1 802.

Executive Office of the President, The White House Office, Salaries and expenses, 11 0110 0 1 802.

Executive Office of the President, Office of Management and Budget, Office of Federal Procurement Policy: Salaries and expenses, 11 0201 0 1 802.

Executive Office of the President, Executive Residence at the White House, Operating expenses, 11 0210 0 1 802.

Executive Office of the President, Official Residence of the Vice President, Operating expenses, 11 0211 0 1 802.

Executive Office of the President, Office of Management and Budget, Salaries and expenses, 11 0300 0 1 802.

Executive Office of the President, Property Review Board, Salaries and expenses, 11 0800 0 1 802.

Executive Office of the President, Special Assistance to the President, 11 1454 0 1 802.

Executive Office of the President, Council of Economic Advisers, Salaries and expenses, 11 1900 0 1 802.

Executive Office of the President, National Security Council, Salaries and expenses, 11 2000 0 1 802.

Executive Office of the President, Office of Policy Development, Salaries and expenses, 11 2200 0 1 802.

General Services Administration, General Activities, Allowances and office staff for former Presidents, 47 0105 0 1 802.

General Services Administration, General Activities, Expenses, presidential transition, 47 0107 0 1 802.

Department of the Treasury, Office of the Secretary, Salaries and expenses, 20 0101 0 1 803.

Department of the Treasury, Office of the Secretary, International affairs, 20 0171 0 1 803.

Department of the Treasury, Bureau of the Public Debt, Administering the public debt, 20 0560 0 1 803.

Department of the Treasury, Internal Revenue Service, IRS Unspecified, 20 0910 0 1 803.

Department of the Treasury, Internal Revenue Service, Salaries and expenses, 20 0911 0 1 803.

Department of the Treasury, Internal Revenue Service, Processing tax returns, 20 0912 0 1 803.

Department of the Treasury, Internal Revenue Service, Examinations and appeals, 20 0913 0 1 803.

Department of the Treasury, Internal Revenue Service, Investigation, collection and taxpayer service, 20 0914 0 1 803.

Department of the Treasury, Bureau of the Mint, Salaries and expenses, 20 1616 0 1 803.

Department of the Treasury, Financial Management Service, Salaries and expenses, 20 1801 0 1 803.

Department of the Treasury, Bureau of Engraving and Printing, Bureau of Engraving and Printing fund, 20 4502 0 4 803.

Department of the Treasury, Bureau of the Mint, Expansion and improvements, 20 9911 0 1 803.

General Services Administration, General Activities, Office of Inspector General, 47 0108 0 1 804.

General Services Administration, General Activities, General management and administration, salaries and expenses, 47 0110 0 1 804.

General Services Administration, Personal Property Activities, Personal property, operating expenses, 47 0116 0 1 804.

General Services Administration, Federal Property Resources Activities, Operating expenses, federal property resources service (General property), 47 0533 0 1 804.

General Services Administration, Office of Information Resources Management, Operating expenses, Office of Information Resources Management, 47 0900 0 1 804.

General Services Administration, Personal Property Activities, General supply fund, 47 4530 0 4 804.

General Services Administration, Office of Information Resources Management, Federal telecommunications fund, 47 4533 0 4 804.

General Services Administration, General Activities, Working capital fund, 47 4540 0 4 804.

General Services Administration, Office of Information Resources Management, Automatic data processing fund, 47 4541 0 4 804.

General Services Administration, Real Property Activities, Federal buildings fund, 47 4542 0 4 804.

National Archives and Records Administration, Operating expenses, 88 2300 0 1 804.

Office of Personnel Management, Salaries and expenses, 24 0100 0 1 805.

Office of Personnel Management, Revolving fund, 24 4571 0 4 805.

Merit Systems Protection Board, Salaries and expenses, 41 0100 0 1 805.

Merit Systems Protection Board, Office of the Special Counsel, 41 0101 0 1 805.

Commission on Executive, Legislative, and Judicial Salaries; Salaries and expenses, 48 2800 0 1 805.

Federal Labor Relations Authority, Salaries and expenses, 54 0100 0 1 805.

Advisory Committee on Federal Pay, Salaries and expenses, 95 1800 0 1 805.

Advisory Commission on Intergovernmental Relations, Salaries and expenses, 55 0100 0 1 806.

Federal Election Commission, Salaries and expenses, 95 1600 0 1 806.

Allowances for: 10 percent Administrative Savings, 99 1004 0 1 920.

Allowances for: 2087 Hours/Workyear: Nondefense, 99 1005 0 1 920.

Allowances for: 4 percent Work Force Attrition, 99 1007 0 1 920.

Mr. President, I yield the floor.

EXHIBIT 1

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT SUBCOMMITTEE

[Spending totals—Senate-reported]

[In billions of dollars]

	Fiscal year 1986	
	Budget authority	Outlays
Outlays from prior year budget authority and other action completed		0.9
H.R. 3036, as passed by the House	13.0	12.1
Adjustment to conform mandatory programs to budget resolution assumptions	+0.2	+0.2
Subcommittee total	13.2	13.2
Senate subcommittee allocation:		
FCR conference agreement	13.1	13.1
House-passed level	13.6	13.6
President's request	12.1	12.1
Subcommittee total compared to:		
Subcommittee allocation (FCR conference agreement)	+0.1	+0.1
House-passed	−0.4	−0.4
President's request	+1.1	+1.1

Note: Details may not add to totals due to rounding.

Mr. HATFIELD. Mr. President, will the Senator yield for a couple of questions?

Mr. DOMENICI. Indeed, I am pleased to yield to my good friend, the chairman.

Mr. HATFIELD. The Senator from New Mexico may have stated these figures prior to my arrival on the floor, but I would like to just clarify again for my own understanding what the budget authority reduction in this amendment is and what the outlay reduction is in this amendment of 2 percent reduction.

Mr. DOMENICI. Yes. By applying the 2-percent across-the-board reduction to the nondiscretionary accounts, as previously defined and sent to the desk in a list, we will achieve savings of $139 million in budget authority and $125 million in outlays.

Mr. HATFIELD. $139 million?

Mr. DOMENICI. A 2-percent reduction applied across the board to the accounts as described, will yield, according to CBO, $125 million in outlay reductions for this bill.

Mr. HATFIELD. If I may ask the Senator another question, in the markup on the agriculture bill the other day, the Senator, I believe, is on record in that committee, as a member of that committee, indicating and, in effect, complimenting the subcommittee chairman for having achieved a remarkable appropriation bill in the context of some very difficult problems. That bill has been reported to the floor and it is $200 million over, according to the schedule and measurement used by the Senator from New Mexico. Will he offer another amendment at that time relating to a reduction on the Agriculture appropriation bill?

Mr. DOMENICI. Let me tell my good friend, the chairman, that I appreciate the question and, in fact, looking at the nature of the level of funding allocated to that subcommittee and considering the kinds of cuts that had to be made, I was extremely complimentary of the Agriculture Subcommittee chairman's efforts. It is $200 million in budget authority and $200 million in outlays over the budget resolution assumptions, using the same benchmark that I have described here today.

Frankly, I think the chairman knows that my principal concern is outlays because, as I indicated, if I read the House bills correctly, while the House claims they are under in budget authority, I think they are $3.7 billion over in outlays.

I say to my good friend, the chairman of the committee, in all honesty, I do not know whether I will offer the amendment on the Agriculture bill, and I will tell you why. My present intention is to offer it, because I have no other benchmark of budget authority or outlays other than the budget resolution to compare the bill to. I do not have any 302(b) allocations for the Appropriations Subcommittee. Clearly, some tentative ones have been discussed. But if they are adopted later on, it will be difficult to figure out where the Senate stands on a cumulative basis. So, clearly, some bills could be over, and some bills could be substantially under, but the Senate needs a fair understanding of where the appropriation bills stand against the overall allocations under the budget resolution.

To this point, if those allocations could be firmed up, and we can assess where we are, maybe I will not offer an amendment to the Agriculture appropriations bill. I could then clearly see, looking at all the rest of the bills, whether the Agriculture bill is going to be consistent with the budget resolution.

So if we do not have 302(b) allocations by the Senate Appropriations Committee, my intention would be to offer an amendment to reduce the Agriculture appropriations bill by $200 million in both budget authority and outlays. That is the best way I can put it.

Mr. HATFIELD. Now the Senator has shifted back from outlays to budget authority as the Senator is answering my question.

Mr. DOMENICI. No. It happens that the budget authority and outlay average in the Agriculture bill are the same.

Mr. HATFIELD. Is the Senator focusing on, as I heard the Senator say a while ago, outlays, or is the Senator now focusing back on the 301 budget target figures as it relates only to budget authority?

Mr. DOMENICI. No. I have not changed. I think there are two columns. One is "budget authority" and one is "outlays." There is a cumulative total for each column, but outlays determine the deficits.

Mr. HATFIELD. Does the Senator have any question about the situation as it relates to budget authority as far as the tentative target figures that we are working on in the appropriations bill?

Mr. DOMENICI. Do I have any problem?

Mr. HATFIELD. Do you have any question as to whether we are above, below, or on target?

Mr. DOMENICI. Frankly, let me say this: The tentative budget authority figures that were discussed privately have changed because the Agriculture subcommittee has come down from that level. I do not know what the Transportation bill is going to be; it has not been finished yet. The Interior bill is lower in budget authority than the original subcommittee recommendation, but higher in outlays. But if you want me to answer whether your tentative budget authority recommendations for the subcommittees that were discussed about 10 days ago—if the arithmetic of adding up the budget authority—is over or under, I will say for the record that it appeared to be zero. It was right on. However, the budget authority allocation among the 13 individual subcommittees was never specified nor were outlay allocations addressed.

Mr. HATFIELD. Right on target?

Mr. DOMENICI. That is correct.

Mr. HATFIELD. That is correct. The Senator from New Mexico is correct. The Appropriations Committee has functioned, is functioning, and will continue to function for this fiscal year on target for that budget authority as identified in the budget resolution. As we all know there was only one precise figure given in that budget resolution on budget authority, and that figure was $302.5 billion for defense—050 programs which come out of three separate subcommittees.

Mr. President, I thank the Senator from New Mexico for responding to the questions. I think we are back at the same old situation. And much to the disagreement of the Senator from New Mexico, let me make a statement again. We are dealing with shifting goalposts when we try to estimate budget outlays. I am sure the Senator would not deny the fact that we have had a fairly phony budget outlay estimate in the defense budget in the programs undertaken by the Budget Committee—$6 billion. Do you know what happened? The budget resolution took the lower outlay estimate by the House of Representatives and combined it with the higher budget authority of the Senate. If that is not a fancy little foot trick, I do not know what one really is.

Obviously, the Budget Committee has been under tremendous pressure. They could not produce a budget resolution in May. The Appropriations

Committee again had to be held in terms of performing our responsibilities to the Senate. We did not get that resolution under the Budget Act passed until just before the recess. We have been supportive. We have been cooperative with the budget process. I think the Senator from New Mexico and I ushered in a new era of relationship between the Appropriations Committee and the Budget Committee because we both committed ourselves one to the other.

We were no longer continuing the rivalry, the destructive kind of competition that existed between the Budget Committee and the Approriations Committee for too many years. And we did usher in a whole new era of relationship.

Mr. President, let me just say for the record that as of noon yesterday, Mr. Joseph Wright, representing the administration, the OMB, and I sat down to work out again the final kind of arrangements that we thought would be feasible, stay within the budget resolution, and would make these bills signable. Treasury-Postal that is pending here now is an acceptable bill to the administration in its current situation before this amendment would be applied.

Let me just add one or two thoughts here. A 2-percent reduction would directly impact upon the ability of the IRS and the Customs Service to hire the personnel needed to collect additional revenues and custom duties in order to reduce the deficit. That is not my estimate. It is not my evaluation. That is the administration's. The budget resolution calls for those additional people in order to achieve those additional revenues. The budget resolution calls for this. And we have funded within our budget authority target.

Now the Budget Committee comes back through its chairman and is offering to the Senate a 2-percent reduction. My friends, we cannot have it both ways. Is the Budget Committee going to say to the Appropriations Committee we want these services funded at this level because there is a cost-benefit ratio that is going to collect more money, then we come in and do it, and now they say, "No, we are going to cut that 2 percent?"

Whatever the will of the Senate is we are going to accommodate. It will not be difficult to make that 2-percent reduction. Those will have to reflect themselves program by program. A lot of those programs have add-ons by Members of this body. We will have to correlate all of those reductions program by program. All I am saying is you know when we get into percentages, I have had too many times when Members have asked for an add-on for their constituency notwithstanding whatever targets we were working at, add-ons and then turn around and vote for percentage reductions. Do not let it touch my end. Just put it on everybody else's program. I think we had better correlate between add-ons and those actions that say, hey, we want to cut this, and we want to cut this.

The Appropriations Committee has borne the burden, let us face it, of the Budget Committee not being able to perform its duties in due course of time, and we worked with them, and we have tried to accommodate to that. The Appropriations Committee has been asked to do the reconciliation on occasions which the legislative committees refused to do or found unable to do. The Appropriations Committee has been the core of trying to reduce the deficit. And we have that responsibility. We are on the firing line. We are the only committee in this whole body that has to perform. All other committees can discuss, debate, theorize, and do all the things and never come out with a bill including the Finance Committee, except on the debt ceiling. But we have to perform in order to keep Government moving. And we do perform under tremendous difficulties. We should not be on this CR at all. We would not have been on this CR if we had had a budget resolution in May.

Mr. DECONCINI. Will the Senator from Oregon let me clarify a point?

Mr. HATFIELD. I am happy to.

Mr. DECONCINI. The Senator indicated some allocations were made between all the chairmen of the subcommittees, and the distinguished Budget Committee chairman was there. And he agreed to it, and it came out even with where you were on this particular bill. Are we over or under that informal agreement?

Mr. HATFIELD. We are on target?

Mr. DECONCINI. If the Senator will yield, if I am not incorrect, I think we might be even a couple hundred million dollars below what arrangement was.

Mr. HATFIELD. Target or below when you say our target. By the way, also when you look at all of those subcommittees in toto that are the nondefense subcommittees, you will find for instance on the Energy and Water, which I happen to chair, we are way below. We are $200 million below. But you know, interestingly, where we went below in the 050 part of that bill, namely, the nuclear energy, what happened is did we get to reduce that against the deficit? No?

No; that is going to be picked up someplace.

Mr. DECONCINI. If the Senator will yield, that means that Chairman ABDNOR and this subcommittee not only met the amount that was allocated to the subcommittee, but was a little bit below it before the amendment of the Senator from New Mexico.

Mr. HATFIELD. Exactly.

Mr. President, I want to touch on two other parts of this problem, namely, using the bench mark of outlays and, second, dealing with the deficit. I will reserve that until after the vote.

SUPERFUND IMPROVEMENT ACT OF 1985

The PRESIDING OFFICER (Mr. WILSON). Under the previous order, there will now be a vote on H.R. 2005, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2005) 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.

Mr. STAFFORD. Mr. President, I ask for the yeas and nays on the passage of the bill.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. 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 desiring to vote?

The result was announced—yeas 86, nays 13—as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—86

Abdnor	Glenn	Moynihan
Andrews	Gore	Murkowski
Armstrong	Gorton	Nickles
Baucus	Grassley	Nunn
Bentsen	Harkin	Packwood
Biden	Hart	Pell
Bingaman	Hatfield	Pressler
Boren	Hawkins	Proxmire
Boschwitz	Heinz	Pryor
Bradley	Hollings	Quayle
Bumpers	Humphrey	Riegle
Burdick	Inouye	Rockefeller
Byrd	Johnston	Roth
Chafee	Kassebaum	Rudman
Chiles	Kasten	Sarbanes
Cochran	Kennedy	Sasser
Cohen	Kerry	Simon
Cranston	Lautenberg	Simpson
D'Amato	Laxalt	Specter
Danforth	Leahy	Stafford
DeConcini	Levin	Stennis
Dixon	Long	Stevens
Dodd	Lugar	Thurmond
Domenici	Mathias	Trible
Durenberger	Matsunaga	Wallop
Eagleton	McConnell	Warner
Evans	Melcher	Weicker
Exon	Metzenbaum	Wilson
Ford	Mitchell	

NAYS—13

Denton	Hatch	McClure
Dole	Hecht	Symms
Garn	Heflin	Zorinsky
Goldwater	Helms	
Gramm	Mattingly	

NOT VOTING—1

East

So the bill (H.R. 2005), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2005) entitled "An Act to amend title II of the Social Security Act and related provisions of law to make minor improvements and necessary technical changes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

That this Act may be referred to as the "Superfund Improvement Act of 1985".

TITLE I

INDIAN TRIBES

SEC. 101. (a) Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by striking "and" at the end of paragraph (31), striking the period at the end of paragraph (32), and adding a new paragraph as follows:

"(33) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and";

(2) in paragraph (16) by striking "or" the last time it appears and by inserting before the semicolon at the end thereof the following: ", any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe".

(b) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by section 109 of this Act, is amended by adding at the end thereof the following: "In the case of remedial action to be taken on land or water held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe (if such land or water is subject to a trust restriction on alienation), or otherwise within the borders of an Indian reservation, the requirements of this paragraph for assurances regarding future maintenance and cost-sharing shall not apply, and the President shall provide the assurance required by this paragraph regarding the availability of a hazardous waste disposal facility.".

(c) Section 104(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by section 114 of this Act, is amended by inserting "or Indian tribe" after the phrase "political subdivision" each time that phrase occurs.

(d) Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) in subsection (a) by inserting "or an Indian tribe" after "State";

(2) in subsection (f) by inserting after "State" the third time that word appears the following: "and to any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation:"; by inserting "or Indian tribe" after "State" the fourth time that word appears; by adding before the period at the end of the first sentence the following: ", so long as, in the case of damages to an Indian tribe occurring pursuant to a Federal permit or license, the issuance of that permit or license was not inconsistent with the fiduciary duty of the United States with respect to such Indian tribe"; and by inserting "or the Indian tribe" after "State government";

(3) in subsection (i) by inserting "or Indian tribe" after "State" the first time it appears; and

(4) in subsection (j) by inserting "or Indian tribe" after "State" the first time it appears.

(e) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) in subsection (b) by inserting before the period at the end thereof the following: ", or by any Indian tribe or by the United States acting on behalf of any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation";

(2) in subsection (c)(2) by inserting "or Indian tribe" after "State";

(3) in subsection (f) by inserting "or Indian tribe" after "State"; and

(4) in subsection (i) by inserting after "State," the following: "and by the governing body of any Indian tribe having sustained damage to natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation,".

(f) Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new section:

"INDIAN TRIBES

"SEC. 116. The governing body of an Indian tribe shall be afforded substantially the same treatment as a State with respect to the provisions of section 103(a) (regarding notification of releases), section 104(c)(2) (regarding consultation on remedial actions), section 104(e) (regarding access to information), section 104(i) (regarding cooperation in establishing and maintaining national registries), and section 105 (regarding roles and responsibilities under the national contingency plan and submittal of priorities for remedial action, but not including the provision regarding the inclusion of at least one facility per State on the national priority list).".

DEDICATED DEFENSE PRODUCTION

SEC. 102. Section 101(20) of the Comprehensive, Environmental, Response, Compensation, and Liability Act of 1980 is amended by adding the following subparagraph:

"( ) in the case of a facility containing any hazardous substance resulting from manufacturing operations dedicated to the production of munitions or ordnance parts for the Department of Defense (or any subdivision thereof) using equipment owned by such Department or subdivision, the term 'owner or operator' shall include the United States Government;".

METHANE RECOVERY

SEC. 103. (a) Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following 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.

RESPONSE ACTION CONTRACTORS

SEC. 104. Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of of 1980 is amended by adding the following new subparagraph:

"( ) In the case of any person carrying out a written contract or agreement with any Federal agency, or any State (or any political subdivision thereof), or any responsible party to provide any response action or any services or equipment ancillary to such response action—

"(i) the term 'owner or operator' does not include any such person, and

"(ii) any such person shall not be considered to have caused or contributed to any release or to have arranged for disposal, treatment, or transport of hazardous substances, except to the extent that there is a release of a hazardous substance that was primarily caused by activities of such person. This subparagraph shall not apply to any person potentially responsible under section 106 or 107 other than those persons associated solely with the provision of response action or ancillary services or equipment;".

COMMUNITY RELOCATION

SEC. 105. (a) The second sentence of paragraph (23) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting after "not otherwise provided for," the phrase "costs of permanent relocation of residents where it is determined that such permanent relocation is cost effective or may be necessary to protect health or welfare," and by striking out the semicolon at the end thereof and inserting in lieu thereof a period and the following: "In the case of a business located in an area of evacuation or

relocation, the term may also include the payment of those installments of principal and interest on business debt which accrue between the date of evacuation or temporary relocation and thirty days following the date that permanent relocation is actually accomplished or, if permanent relocation is formally rejected as the appropriate response, the date on which evacuation or temporary relocation ceases. In the case of an individual unemployed as a result of such evacuation or relocation, it may also include the provision of assistance identical to that authorized by sections 407, 408, and 409 of the Disaster Relief Act of 1974: Provided, That the costs of such assistance shall be paid from the Trust Fund;".

(b) Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting before "authorized by subsection (b) of this section," the phrase "for permanent relocation or".

OFFSITE REMEDIAL ACTION

SEC. 106. Section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking the last sentence of the paragraph; striking the period after "welfare" the third time that word appears, and inserting a semicolon in lieu thereof, striking "or" before "contaminated materials" and inserting "and associated" in lieu thereof; and inserting before the period after "environment" the third time that word appears, the following: ", as well as the offsite transport and offsite storage, treatment, destruction, or secure disposition of hazardous substances and associated contaminated materials".

ALTERNATIVE WATER SUPPLIES

SEC. 107. Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, is amended by striking the period at the end of paragraph (30) and inserting in lieu thereof a semicolon; and by adding after new paragraph (33) the following new paragraph:

"(34) 'alternative water supplies' includes, but is not limited to, drinking water and household water supplies.".

LIABILITY LIMITS FOR OCEAN INCINERATION VESSELS

SEC. 108. (a) Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding the following new paragraph:

"( ) 'incineration vessel' means any vessel which carries hazardous substances for the purpose of incineration of such substances, so long as such substances or residues of such substances are on board.".

(b) Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended as follows:

(1) Subsection (a)(3) is amended by inserting "or incineration vessel" after "facility";

(2) Subsection (a)(4) is amended by inserting ", incineration vessels" after "facilities";

(3) Subparagraph (A) of subsection (c)(1) is amended by inserting ", other than an incineration vessel," after "vessel";

(4) Subparagraph (B) of subsection (c)(1) is amended by inserting "other than an incineration vessel," after "other vessel,";

(5) Subparagraph (D) of subsection (c)(1) is amended by inserting "any incineration vessel or" before "any facility".

(c) Section 108 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended as follows:

(1) Paragraph (1) is amended by inserting "to cover the liability prescribed under paragraph (1) of section 107(a) of this Act" after "whichever is greater)";

(2) Add a new paragraph to read as follows:

"(4) In addition to the financial responsibility provisions of paragraph (1) of this subsection, the President shall require additional evidence of financial responsibility for incineration vessels in such amounts, and to cover such liabilities recognized by law, as the President deems appropriate, taking into account the potential risks posed by incineration and transport for incineration, and any other factors deemed relevant.".

(d)(1) Section 105(g)(5) of the Marine Protection, Research and Sanctuaries Act of 1972 is amended by striking "The injunctive relief provided by this subsection shall not" and inserting in lieu thereof "Nothing in this Act, including the injunctive relief provided by this subsection, shall", and by inserting before the period ", including relief under title 42, United States Code, section 1983, or as a maritime tort".

(2) Section 107(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting ", under maritime tort law," after "with this section" and by inserting before the period "or the absence of any physical damage to the proprietary interest of the claimant".

IMPROVEMENTS IN NOTIFICATION AND PENALTIES

SEC. 109. (a) Section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by—

(1) inserting "(1)" after "immediately notify"; and

(2) inserting after "of such release" the following: ", and (2), in the case of any such release of a hazardous substance with a reportable quantity of one pound or less or any release of any other hazardous substance in a quantity determined by the President by regulation to potentially require emergency response, all State and local emergency response officials identified under any local contingency plan or otherwise likely to be affected by the release".

(b) Section 103(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by—

(1) inserting after "appropriate agency of the United States Government" the following: "(or, in the case of a release to which subsection (a)(2) applies, any appropriate State or local emergency response official)"; and

(2) striking "$10,000 or imprisoned for not more than one year, or both." and inserting in lieu thereof "$25,000 or imprisoned for not more than two years, or both (or in the case of a second or subsequent conviction, shall be fined not more than $50,000 or imprisoned for not more than five years, or both).".

(c) Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(g)(1) In addition to any other relief provided, whenever on the basis of any information available to the President the President finds that any person is in violation of subsection (a), (b), or (j) of this section the President may assess a civil penalty of not more than $10,000 for each failure to notify the appropriate agency. The penalty under this subsection shall increase to not more than $25,000 for a second violation by the same person, not more than $50,000 for a third violation by the same person, and not more than $75,000 for a fourth or subsequent violation by the same person.

"(2) No civil penalty may be assessed under this subsection unless the person accused of the violation is given notice and opportunity for a hearing with respect to the violation.

"(3) In determining the amount of any penalty assessed pursuant to this subsection, the President shall take into account the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require.

"(4) Any person against whom a civil penalty is assessed under this subsection may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the President. The President shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed. If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the United States, the President may request the Attorney General of the United States to institute a civil action in an appropriate district court of the United States to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In hearing such action, the court shall have authority to review the violation and the assessment of the civil penalty on the record.

"(5) The President may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(6) Action taken by the President pursuant to this subsection shall not affect or limit the President's authority to enforce any provision of this Act: Provided, however, That a failure to notify the appropriate agency which is penalized administratively under this subsection shall not be the subject of a criminal penalty under subsection (b) of this section.".

(d)(1) Section 103(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking "$20,000" and inserting "$25,000" in lieu thereof.

(2) Section 106(b) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking "$5,000" and inserting "$10,000" in lieu thereof.

HAZARDOUS SUBSTANCES INVENTORY

SEC. 110. 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) and 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 paragraph (1), (2), or (3) for particular chemical substances, based on the 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 operators 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 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, the 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, is further amended by inserting 'and section 103' after 'under this section' in the first sentence.".

MATERIAL SAFETY DATA SHEETS AND EMERGENCY INVENTORY

SEC. 111. (a) Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting the following new subsections:

"(i) MATERIAL SAFETY DATA SHEETS AND EMERGENCY INVENTORY.—(1) Each owner or operator of a facility at which a hazardous chemical is produced, used, or stored shall file a Material Safety Data Sheet and Emergency Inventory form, as published under paragraph (3) of this subsection, not later than 180 days after enactment of the Superfund Improvement Act of 1985 for such hazardous chemical with the emergency planning committee established under section 105(d), for the area in which such facility is located and the Governor of the State in which the facility is located. In addition, the Emergency Inventory form shall be filed with the Environmental Protection Agency. If no emergency planning committee exists for the area in which a facility is located, the Governor of the State in which the facility is located shall designate appropriate area officials to receive the Material Safety Data Sheet and Emergency Inventory form. The Governor of the State in which a facility is located shall notify owners and operators of facilities required to comply with the provisions of this subsection.

"(2) Whenever a Material Safety Data Sheet is revised (as required under regulations under the Occupational Safety and Health Act of 1970) each such facility owner or operator shall file, as promptly as practicable, but not later than 90 days after such revision, the revised material safety data sheet. On an annual basis, or whenever a significant change occurs in the amount or presence of the hazardous chemical located at the facility, such owner or operator shall file a new Emergency Inventory form with the recipients designated in paragraph (1).

"(3) The President shall publish the Emergency Inventory form in the Federal Register within 90 days of the enactment of the Superfund Improvement Act of 1985. The Emergency Inventory form shall provide for an estimate of the maximum amounts of the hazardous chemical present at the facility at any time during the preceding calendar year (in ranges), a brief description of the use or storage of the hazardous chemical at such facility, and the location of the hazardous chemical at such facility.

"(4) The Material Safety Data Sheets and Emergency Inventory forms shall be made available by the emergency planning committee to the public upon request. If no emergency planning committee exists for the area in which the facility is located, the Material Safety Data Sheets and Emergency Inventory forms shall be made available to the public by the Governor of the State in which the facility is located upon request.

"(5) Nothing in this subsection shall be construed to limit the ability of any State or locality to require submission or distribution of information related to hazardous substances.

"(6) The President may establish quantities for hazardous chemicals below which no facility at which a hazardous chemical is produced, used, or stored shall be subject to the provisions of this subsection.

"(7) The President may order a facility owner or operator to comply with this subsection. The United States district court for the district in which the facility is located shall have jurisdiction to enforce the order, and any person who violates or fails to obey such an order shall be liable to the United States for a civil penalty of not more than $25,000 for each day in which such violation occurs or such failure to comply continues.

"(j) EMERGENCY NOTIFICATION.—(1) The owner or operator of any facility at which a release occurs in an amount requiring a report under subsection (a) shall immediately provide notice of such release to the community emergency coordinator for the emergency planning committees, established pursuant to subsection 105(d), for any area likely to be affected by the release and to the Governor of any State likely to be affected by the release. If an emergency plan prepared pursuant to section 105(d) does not exist, an operator shall instead provide notice to the emergency response authority of the affected jurisdictions.

"(2) Notice under paragraph (1) shall include (to the extent known at the time of the notice)—

"(A) the chemical name or identity of any hazardous substance involved in the release;

"(B) an estimate of the quantity of any such hazardous substance that was released into the environment;

"(C) the time and duration of the release;

"(D) the medium or media into which the release occurred;

"(E) the nature of the health of safety hazard posed by any substance released to the population as a whole and to sensitive populations, and the likely symptoms of exposure at different levels and types of exposure (unless such information is readily available to the emergency coordinator pursuant to the emergency plan);

"(F) proper precautions to take as a result of the release, including evacuation (unless such information is readily available to the emergency coordinator pursuant to the emergency plan); and

"(G) the name and telephone number of the person or persons to be contacted for further information.

"(3) As soon as practicable after a release to which this subsection applies, such owner or operator shall provide a followup notice (or notices, as more information becomes available) updating the information required under paragraph (2), and including additional information with respect to—

"(A) actions taken to respond to and contain the release;

"(B) any known or anticipated acute or chronic health risks associated with the release; and

"(C) where appropriate, advice regarding medical attention necessary for exposed individuals.".

(b) Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding at the end thereof the following new paragraphs:

"(35) 'hazardous chemical' means, for purposes of section 103(i), any substance which is treated as a 'hazardous chemical' pursuant to the Occupational Safety and Health Administration's hazard communication standard (codified in July 1985 in 29 CFR 1910.1200), except that the following substances shall not be treated as a 'hazardous chemical' for such purposes:

"(A) any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration;

"(B) any manufactured item that contains a hazardous chemical present as a solid which does not result in exposure to the hazardous chemical under normal conditions of use;

"(C) any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public;

"(D) any substance to the extent it is used in a laboratory, hospital, or medical facility under the direct supervision of a technically qualified individual;

"(E) any substance to the extent it is used in routine agricultural operations; and

"(F) any substance to the extent it is regulated under the Hazardous Liquid Pipeline Safety Act of 1979 or the Natural Gas Pipeline Safety Act of 1968.

"(36) 'Material Safety Data Sheet' means a material safety data sheet developed for a hazardous chemical pursuant to the hazard communication regulations promulgated under the Occupational Safety and Health Act of 1970 (codified in July 1985 at 29 CFR 1910.1200).".

SCOPE OF PROGRAM

SEC. 112. (a) Section 104(a)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking that language between the word "environment" the third time it appears and the period and inserting in lieu thereof a period and the following: "The President shall give primary attention to those releases which may present a public health threat. The President may authorize the owner or operator of the vessel or facility from which the release or threat of release emanates, or any other responsible party, to perform the removal or remedial action if the President determines that such action will be done properly by the owner, operator, or responsible party".

(b) Section 104(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraphs:

"(3) The President shall not provide for a removal or remedial action under this section in response to a release or threat of release—

"(A) of a naturally occurring substance in its unaltered form, or altered solely through naturally occurring processes or phenomena, from a location where it is naturally found;

"(B) from products which are part of the structure of, and result in exposure within, residential buildings or business or community structures; or

"(C) into public or private drinking water supplies due to deterioration of the system through ordinary use.

"(4) Notwithstanding paragraph (3) of this subsection, to the extent authorized by this section the President may respond to any release or threat of release if in the President's discretion it constitutes a public health or environmental emergency and no other person with the authority and capability to respond to the emergency will do so in a timely manner.".

STATUTORY LIMITS ON REMOVALS

SEC. 113. (a) Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "six months" and inserting "one year" in lieu thereof and inserting before "obligations" the following: "or (C) continued response action is otherwise appropriate and consistent with permanent remedy,".

(b) Section 104(c) of such Act (as amended by sections 117 and 118 of this Act) is amended by adding at the end thereof the following new paragraph:

"(8) Nothing in this Act shall limit the President in taking such action as may be necessary to assure continuous remedial action or to institute interim remedial action when it becomes necessary to reopen bidding or otherwise recontract for the performance of remedial action.".

STATE CREDIT

SEC. 114. (a) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "The President shall grant the State a credit against the share" and all that follows down through the end of such section 104(c)(3) and inserting in lieu thereof the following: "In determining the portion of the costs referred to in this section which is required to be paid by a participating State, the President shall grant the State a credit for amounts expended or obligated by such State or by a political subdivision thereof after January 1, 1978, and before December 11, 1980, for any response action costs which are covered by section 111(a) (1) or (2) and which are incurred at a facility or release listed pursuant to section 105(8). Such credit shall have the effect of reducing the amount which the State would otherwise be required to pay in connection with assistance under this section.".

(b)(1) Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new sentence: "For the purposes of the last sentence of subsection (c)(3) of this section, the President may enter into a contract or cooperative agreement with a State under this paragraph under which such State will take response actions in connection with releases listed pursuant to section 105(8)(B), using non-Federal funds for such response actions, in advance of and without any obligation by the President of amounts from the Fund for such response actions.".

(2) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding the following sentence: "The President shall grant the State a credit against the share of costs for which it is responsible under this paragraph for any reasonable, documented, direct out-of-pocket non-Federal funds expended or obligated by the State under a contract or cooperative agreement under the last sentence of subsection (d)(1).".

FUNDING OF REMEDIAL ACTION AT FACILITY OPERATED BY A STATE OR POLITICAL SUBDIVISION

SEC. 115. Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by amending section 104(c)(3)(C)(ii) to read as follows:

"(ii) 50 per centum (or such greater amount as the President may determine appropriate, taking into account the degree of responsibility of the State or political subdivision for the release) of any sums expended in response to a release at a facility, that was operated by the State or a political subdivision thereof, either directly or through a contractual relationship or otherwise, at the time of any disposal of hazardous substances therein. For the purpose of subparagraph (C)(ii) of this paragraph, the term 'facility' does not include navigable waters or the beds underlying those waters."; and

(2) by adding at the end thereof the following: "In the case of any State which has paid, at any time after the date of the enactment of the Superfund Improvement Act of 1985, in excess of 10 per centum of the costs of remedial action at a facility owned but not operated by such State or by a political subdivision thereof, the President shall use money in the Fund to provide reimbursement to such State for the amount of such excess.".

SELECTION OF REMEDIAL ACTIONS

SEC. 116. Section 104(c)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(4)(A) The President shall select appropriate remedial actions determined to be necessary to carry out this section which, to the extent practicable, are in accordance with the national contingency plan and which provide for cost-effective response. In evaluating the cost-effectiveness of proposed alternative remedial actions, the President shall take into account the total short- and long-term costs of such actions, including the costs of operation and maintenance for the entire period during which such activities will be required.

"(B) Remedial actions in which treatment which significantly reduces the volume, toxicity or mobility of the hazardous substances is a principal element, are to be preferred over remedial actions not involving such treatment. The offsite transport and disposal of hazardous substances or contaminated materials without such treatment should be the least favored alternative remedial action, where practicable treatment technologies are available.

"(C) Remedial actions selected under this paragraph or otherwise required or agreed to by the President under this Act shall attain a degree of cleanup of hazardous substances, pollutants, and contaminants from the environment and of control of further release at a minimum which assures protection of human health and the environment. Such remedial actions shall be relevant and appropriate under the circumstances presented by the release or threatened release of such substance, pollutant, or contaminant.

"(D) No permit shall be required under subtitle C of the Solid Waste Disposal Act, section 402 or 404 of the Clean Water Act, or section 10 of the Rivers and Harbors Act of 1899, for the portion of any removal or remedial action conducted pursuant to this Act entirely onsite: Provided, That any onsite treatment, storage, or disposal of hazardous substances, pollutants, or contaminants shall comply with the requirements of subparagraph (C).

"(E) Subject to the requirements of this paragraph, the President shall select the appropriate remedial action which provides a balance between the need for protection of public health and welfare and the environment at the facility under consideration, and the availability of amounts from the Fund to respond to other sites which present or may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of such threats.".

STATE AND FEDERAL CONTRIBUTIONS TO OPERATION AND MAINTENANCE

SEC. 117. Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraphs:

"(5) For the purposes of paragraph (3) of this subsection, in the case of ground or surface water contamination, completed remedial action includes the completion of treatment or other measures, whether taken onsite or offsite, necessary to restore ground and surface water quality to a level that assures protection of human health and the environment. With respect to such measures, the operation of such measures for a period up to five years after the construction or installation and commencement of operation shall be considered remedial action. Activities required to maintain the effectiveness of such measures following such period or the completion of remedial action, whichever is earlier, shall be considered operation or maintenance.

"(6) During any period after the availability of funds received by the Trust Fund under sections 4611 and 4661 of the Internal Revenue Code of 1954 or section 221(b)(2) or section 303(b) of this Act, the Federal share of the payment of costs for operation and maintenance pursuant to paragraph (3)(C)(i) or paragraph (5) of this subsection shall be from funds received by the Trust Fund under section 221(b)(1)(B).".

SITING OF HAZARDOUS WASTE FACILITIES

SEC. 118. Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraph:

"(7) Effective three years after the date of enactment of the Superfund Improvement Act of 1985, the President shall not provide any remedial actions pursuant to this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the President providing assurances deemed adequate by the President that the State will assure the availability of hazardous waste treatment or disposal facilities acceptable to the President and in compliance with the requirements of subtitle C of the Solid Waste Disposal Act with adequate capacity for the destruction, treatment, or secure disposition of all hazardous wastes that are reasonably expected to be generated within the State during the twenty-year period following the date of such contract or cooperative agreement and to be disposed of, treated, or destroyed.".

COOPERATIVE AGREEMENTS

SEC. 119. Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking all of the existing paragraph (other than that added by this Act) and substituting the following:

"(d)(1) Where the President determines that a State or political subdivision has the capability to carry out any or all of the actions authorized in this section, the President may, in the discretion of the President and subject to such terms as the President may prescribe, enter into a contract or cooperative agreement and combine any existing cooperative agreements with such State or political subdivision (which may cover a specific facility or facilities) to take such actions in accordance with criteria and priorities established pursuant to section 105(8) of this title and to be reimbursed from the Fund for the reasonable response costs and related activities associated with the overall implementation, coordination, enforcement, training, community relations, site inventory and assessment efforts, and administration of remedial activities authorized by this Act. Any contract made hereunder shall be subject to the cost-sharing provisions of subsection (c) of this section.".

ACCESS AND INFORMATION GATHERING

SEC. 120. Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking "(2)" and inserting "(5)" in lieu thereof and by striking all of existing paragraph (1) and inserting in lieu thereof the following:

"(1) For the purposes of determining the need for response, or choosing or taking any response action under this title, or otherwise enforcing the provisions of this title, any officer, employee, or representative of the President, duly designated by the President, or any duly designated officer, employee, or representative of a State, is authorized where there is a reasonable basis to believe there may be a release or threat of release of a hazardous substance—

"(A) to require any person who has or may have information relevant to (i) the identification or nature of materials generated, treated, stored, transported to, or disposed of at a facility, or (ii) the nature or extent of a release or threatened release of a hazardous substance at or from a facility, to furnish, upon reasonable notice, information or documents relating to such matters. In addition, upon reasonable notice, such person either shall grant to appropriate representatives access at all reasonable times to inspect all documents or records relating to such matters or shall copy and furnish to the representatives all such documents or records, at the option of such person;

"(B) to enter at reasonable times any establishment or other place or property (i) where hazardous substances are, may be, or have been generated, stored, treated, disposed of, or transported from, (ii) from which or to which hazardous substances have been or may have been released, (iii) where such release is or may be threatened, or (iv) where entry is needed to determine the need for response or the appropriate response or to effectuate a response action under this title; and

"(C) to inspect and obtain samples from such establishment or other place or property or location of any suspected hazardous substance and to inspect and obtain samples of any containers or labeling for suspected hazardous substances. Each such inspection shall be completed with reasonable promptness. If the officer, employee, or representative obtains any samples, prior to leaving the premises, he shall give to the owner, operator, tenant, or other person in charge of the place from which the samples were obtained a receipt describing the sample obtained and, if requested, a portion of each such sample. If any analysis is made of such samples, a copy of the results of the analysis shall be furnished promptly to the

owner, operator, tenant, or other person in charge, if such person can be located.

"(2)(A) If consent is not granted regarding a request made by a duly designated officer, employee, or representative under paragraph (1), the President, upon such notice and an opportunity for consultation as is reasonably appropriate under the circumstances, may issue an order to such person directing compliance with the request, and the President may ask the Attorney General to commence a civil action to compel compliance.

"(B) In any civil action brought to obtain compliance with the order, the court shall, where there is a reasonable basis to believe there may be a release or threat of a release of a hazardous substance: (i) in the case of interference with entry or inspection, enjoin such interference or direct compliance with orders to prohibit interference with entry or inspection, unless under the circumstances of the case the demand for entry or inspection is arbitrary and capricious, an abuse of discretion, or not in accordance with law; and (ii) in the case of information or document requests, enjoin interference with such information or document requests or direct compliance with orders to provide such information or documents, unless under the circumstances of the case the demand for information or documents is arbitrary and capricious, an abuse of discretion, or not in accordance with law. The court may assess a civil penalty not to exceed $10,000 against any person who unreasonably fails to comply with the provisions of paragraph (1) or an order issued pursuant to paragraph (2).

"(3) Nothing in this subsection shall preclude the President from securing access or obtaining information in any other lawful manner.

"(4) Notwithstanding this subsection, entry to locations and access to information properly classified to protect the national security may be granted only to any officer, employee, or representative of the President who is properly cleared. Notwithstanding any other provision of law, all requirements of the Atomic Energy Act and all Executive orders concerning the handling of restricted data and national security information, including 'need to know' requirements, shall be applicable any grant of access to properly classified information under any provision of this Act, including section 103.

"(5) No person required to provide information or documents under this Act may claim that the information is entitled to protection under this section unless such claimant shows that—

"(A) the claimant has not disclosed the information to any other person, other than to an employee of the claimant or a person who is bound by a confidentiality agreement or to a person to whom the data has been supplied on a confidential basis in compliance with this Act, and the claimant has taken reasonable measures to protect the confidentiality of such information and intends to continue to take such measures;

"(B) the information could not reasonably be discovered by anyone other than such persons in the absence of disclosure; and

"(C) knowledge of such information gives the claimant an opportunity to obtain a significant advantage over competitors who do not know such information and disclosure of the information is likely to cause substantial harm to the claimant's competitive position.

"(6) The following information with respect to any hazardous substance as defined in section 101(14) shall not be entitled to protection under this section:

"(A) The chemical name, CAS number, trade name, and common name of the hazardous substances.

"(B) The physical properties of the substance, including its boiling point, melting point, flash point, specific gravity, vapor density, solubility in water, and vapor pressure at 20 degrees celsius.

"(C) The hazards to health and the environment posed by the substance, including physical hazards (such as explosion) and potential acute and chronic health hazards.

"(D) The potential routes of human exposure to the substance at the facility, establishment, place, or property being investigated, entered, or inspected under this subsection.

"(E) The location of disposal of any waste stream.

"(F) The identity and quantity of any waste stream.

"(G) Any monitoring data or analysis of monitoring data pertaining to disposal activities.

"(H) Any hydrogeologic or geologic data.

"(I) Any groundwater monitoring data.".

HEALTH-RELATED AUTHORITIES

SEC. 121. (a) Section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(1)" after "(i)", by redesignating paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D), and (E), and by adding the following new paragraphs:

"(2) The Agency for Toxic Substances and Disease Registry shall provide consultations upon request on health issues relating to exposure to hazardous or toxic substances, on the basis of available information, to the Environmental Protection Agency, State officials, and local officials. Such consultations to individuals may be provided by States under cooperative agreements established under this Act.

"(3)(A) The Administrator shall perform a health assessment for each release, threatened release or facility on the National Priority List established under section 105. Such health assessment shall be completed not later than two years after the date of enactment of the Superfund Improvement Act of 1985 for each release, threatened release or facility proposed for inclusion on such list prior to such date of enactment or not later than one year after the date of proposal for inclusion on such list for each release, threatened release or facility proposed for inclusion on such list after such date of enactment. The Administrator shall also perform a health assessment for each facility for which one is required under section 3019 of the Solid Waste Disposal Act and, upon request of the Administrator of the Environmental Protection Agency or a State, for each facility subject to this Act or subtitle C of the Solid Waste Disposal Act, where there is sufficient data as to what hazardous substances are present in such facility.

"(B) The Administrator may perform health assessments for releases or facilities where individual persons or licensed physicians provide information that individuals have been exposed to a hazardous substance, for which the probable source of such exposure is a release. In addition to other methods (formal or informal) of providing such information, such individual persons or licensed physicians may submit a petition to the Administrator providing such information and requesting a health assessment. If such a petition is submitted and the Administrator does not initiate a health assessment, the Administrator shall provide a written explanation of why a health assessment is not appropriate.

"(C) In determining sites at which to conduct health assessments under this paragraph, the Administrator of the Agency for Toxic Substances and Disease Registry shall give priority to those facilities or sites at which there is documented evidence of release of hazardous substances, at which the potential risk to human health appears highest, and for which in the judgment of the Administrator of such Agency existing health assessment data is inadequate to assess the potential risk to human health as provided in subparagraph (E).

"(D) Any State or political subdivision carrying out an assessment shall report the results of the assessment to the Administrator of such Agency, and shall include recommendations with respect to further activities which need to be carried out under this section. The Administrator of such Agency shall include the same recommendation in a report on the results of any assessment carried out directly by the Agency, and shall issue periodic reports which include the results of all the assessments carried out under this paragraph.

"(E) For the purposes of this subsection and section 111(c)(4), the term 'health assessments' shall include preliminary assessments of the potential risk to human health posed by individual sites and facilities, based on such factors as the nature and extent of contamination, the existence of potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size and potential susceptibility of the community within the likely pathways of exposure, the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants, and the comparison of existing morbidity and mortality data on diseases that may be associated with the observed levels of exposure. The assessment shall include an evaluation of the risks to the potentially affected population from all sources of such contaminants, including known point or nonpoint sources other than the site or facility in question. The Administrator of the Agency for Toxic Substances and Disease Registry shall use appropriate data, risk assessments, risk evaluations and studies available from the Administrator of the Environmental Protection Agency. A purpose of such preliminary assessments shall be to help determine whether full-scale health or epidemiological studies and medical evaluations of exposed populations shall be undertaken.

"(F) At the completion of each health assessment the Administrator shall provide the Administrator of the Environmental Protection Agency and each affected State with the results of such assessment, together with any recommendations for further action under this subsection or otherwise under this Act.

"(G) In any case in which a health assessment performed under this paragraph (including one required by section 3019 of the Solid Waste Disposal Act) discloses the exposure of a population to the release of a hazardous substance, the costs of such health assessment may be recovered as a cost of response under section 107 of this Act from persons causing or contributing to such release of such hazardous substance or, in the

case of multiple releases contributing to such exposure, to all such releases.

"(4) Whenever, in the judgment of the Administrator, it is appropriate on the basis of the results of a health assessment, the Administrator shall conduct a pilot study of health effects for selected groups of exposed individuals, in order to determine the desirability of conducting full scale epidemiological or other health studies of the entire exposed population. Whenever in the judgment of the Administrator it is appropriate on the basis of the results of such pilot study, the Administrator shall conduct such full scale epidemiological or other health studies as may be necessary to determine the health effects for the population exposed to hazardous substances in a release or suspected release.

"(5) In any case in which the results of a health assessment indicate a potential significant risk to human health, the Administrator shall consider whether the establishment of a registry of exposed persons would contribute to accomplishing the purposes of this subsection, taking into account circumstances bearing on the usefulness of such a registry, including the seriousness or unique character of identified diseases or the likelihood of population migration from the affected area.

"(6) The Administrator shall conduct a study, and report to the Congress within two years after the date of enactment of the Superfund Improvement Act of 1985, on the usefulness, costs, and potential implications of medical surveillance programs as a part of the health studies authorized by this section. Such study shall include, at a minimum, programs which identify diseases for which an exposed population is at excess risk, provide periodic medical testing to screen for such diseases in subgroups of the exposed population at highest risk, and provide for a mechanism to refer for treatment individuals who are diagnosed as having such diseases.

"(7) If a health assessment or other study carried out under this subsection contains a finding that the exposure concerned presents a significant risk to human health, the President shall take such steps as may be necessary to reduce such exposure and eliminate or substantially mitigate the significant risk to human health. Such steps may include the use of any authority under this Act, including, but not limited to—

"(A) provision of alternative water supplies, and

"(B) permanent or temporary relocation of individuals.

"(8) In any case which is the subject of a petition, a health assessment or study, or a research program under this subsection, nothing in this subsection shall be construed to delay or otherwise affect or impair the authority of the President or the Administrator of the Environmental Protection Agency to exercise any authority vested in the President or such Administrator under any other provision of law (including, but not limited to, the imminent hazard authority of section 7003 of the Solid Waste Disposal Act) or the response and abatement authorities of this Act.

"(9)(A) The Administrator shall, within six months after the date of enactment of the Superfund Improvement Act of 1985, jointly with the Administrator of the Environmental Protection Agency, prepare a list of at least one hundred hazardous substances which the Administrator, in his sole discretion, determines are those posing the most significant potential threat to human health due to their common presence at the location of responses under section 104 or at facilities on the National Priority List or in releases to which a response under section 104 is under consideration. Within twenty-four months after enactment, the Administrator, in consultation with the Administrator of the Environmental Protection Agency, shall prepare a list of an additional one hundred or more such hazardous substances. The Administrator, in consultation with the Administrator of the Environmental Protection Agency, shall not less often than once every year thereafter add to such list other substances which are frequently so found or otherwise pose a potentially significant threat to human health by reason of their physical, chemical, or biological nature.

"(B) For each such hazardous substance listed pursuant to subparagraph (A), the Administrator (in consultation with the Administrator of the Environmental Protection Agency and other agencies and programs of the Public Health Service) shall assess whether adequate information on the health effects of such substance is available. For any such substance for which adequate information is not available (or under development), the Administrator, in cooperation with the Director of the National Toxicology Program, shall assure the initiation of a program of research designed to determine the health effects (and techniques for development of methods to determine such health effects) of such substance. Where feasible, such program shall seek to develop methods to determine the health effects of such substance in combination with other substances with which it is commonly found. Such program shall include, but not be limited to—

"(i) laboratory and other studies to determine short, intermediate, and long-term health effects;

"(ii) laboratory and other studies to determine organ-specific, site-specific, and system-specific acute and chronic toxicity;

"(iii) laboratory and other studies to determine the manner in which such substances are metabolized or to otherwise develop an understanding of the biokinetics of such substances; and

"(iv) where there is a possibility of obtaining human data, the collection of such information.

"(C) In assessing the need to perform laboratory and other studies, as required by subparagraph (B), the Administrator shall consider—

"(i) the availability and quality of existing test data concerning the substance on the suspected health effect in question;

"(ii) the extent to which testing already in progress will, in a timely fashion, provide data that will be adequate to support the preparation of toxicological profiles as required by subparagraph (F) of this paragraph; and

"(iii) such other scientific and technical factors as the Administrator may determine are necessary for the effective implementation of this subsection.

"(D) In the development and implementation of any research program under this paragraph, the Administrator of the Agency for Toxic Substances and Disease Registry and the Administrator of the Environmental Protection Agency shall coordinate such research program implemented under this paragraph with the National Toxicology Program and with programs of toxicological testing established under the Toxic Substances Control Act and the Federal Insecticide, Fungicide and Rodenticide Act. The purpose of such coordination shall be to avoid duplication of effort and to assure that the hazardous substances listed pursuant to this subsection are tested thoroughly at the earliest practicable date. Where appropriate, in the discretion of the Administrator and consistent with such purpose, a research program under this paragraph may be carried out using such programs of toxicological testing.

"(E) It is the sense of the Congress that the costs of research programs under this paragraph be borne by the manufacturers and processors of the hazardous substance in question, as required in programs of toxicological testing under the Toxic Substances Control Act. Where this is not practical, the costs of such research programs should be borne by parties responsible for the release of the hazardous substance in question. To carry out such intention, the costs of conducting such a research program under this paragraph shall be deemed a cost of response for the purposes of recovery under section 107 of such costs from a party responsible for a release of such hazardous substance.

"(F) Based on all available information, including data developed and collected on the health effects of hazardous substances under this paragraph, the Administrator shall prepare toxicological profiles sufficient to establish the likely effect on human health of each of the substances listed pursuant to subparagraph (A). Such profiles shall be revised and republished as necessary, but no less often than once every five years. Such profiles shall be provided to the States and made available to other interested parties.

"(10) All studies and results of research conducted under this subsection (other than health assessments) shall be reported or adopted only after appropriate peer review. In the case of research conducted under the National Toxicology Program, such peer review may be conducted by the Board of Scientific Counselors. In the case of other research, such peer review shall be conducted by panels consisting of no less than three nor more than seven members, who shall be disinterested scientific experts selected for such purpose by the Administrator of the Agency for Toxic Substances and Disease Registry or the Administrator of the Environmental Protection Agency, as appropriate, on the basis of their reputation for scientific objectivity and the lack of institutional ties with any person involved in the conduct of the study or research under review. Support services for such panels shall be provided by the Agency for Toxic Substances and Disease Registry, or by the Environmental Protectioin Agency, as appropriate.

"(11) In the implementation of this subsection and other health-related authorities of this Act, the Administrator is authorized to establish a program for the education of physicians and other health professionals on methods of diagnosis and treatment of injury or disease related to exposure to toxic substances, through such means as the Administrator deems appropriate. Not later than two years after the date of enactment of the Superfund Improvement Act of 1985, the Administrator shall report to the Congress on the implementation of this paragraph.

"(12) For the purpose of implementing this subsection and other health-related authorities of this Act, the President shall provide adequate personnel to the Agency for Toxic Substances and Disease Registry, which

shall be no fewer than one hundred full time equivalent employees.

"(13) The activities described in this subsection and section 111(c)(4) shall be carried out by the Agency for Toxic Substances and Disease Registry established by paragraph (1), either directly, or through cooperative agreements with States (or political subdivisions thereof) in the case of States (or political subdivisions) which the Administrator of such Agency determines are capable of carrying out such activities. Such activities shall include the provision of consultations on health information, and the conduct of health assessments, including those required under section 3019 of the Solid Waste Disposal Act, health studies and registries.".

(b) Section 111(c)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by inserting "in accordance with subsection (n) of this section and section 104(i)," after "(4)"; and

(2) by striking "epidemiologic studies" and inserting in lieu thereof "epidemiologic and laboratory studies and health assessments".

(c) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(n) For fiscal year 1986 and for each fiscal year thereafter, not less than 5 per centum of all sums appropriated from the Trust Fund, shall be directly available to the Agency for Toxic Substances and Disease Registry and used for the purpose of carrying out activities described in subsection (c)(4) and section 104(i), including any such activities related to hazardous waste stored, treated, or disposed of at a facility having a permit under section 3005 of the Solid Waste Disposal Act. Any funds so made available which are not committed by the beginning of the fourth quarter of the fiscal year in which made available shall be made available in the Trust Fund for other purposes.".

(d) The last sentence of section 3019(b)(2) of the Solid Waste Disposal Act is amended to read as follows: "If so requested, the Administrator of such Agency shall conduct such health assessment.".

(e) Section 104(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by—

(1) striking "the Surgeon General of the United States" and inserting in lieu thereof "the Secretary of Health and Human Services";

(2) inserting in the second sentence thereof after "of said Agency" the following: "(hereinafter in this subsection referred to as 'the Administrator')";

(3) striking "chromosomal testing" in subparagraph (D) and inserting in lieu thereof "appropriate testing".

(f)(1) The Administrator of the Agency for Toxic Substances and Disease Registry shall, in consultation with the Administrator of the Environmental Protection Agency and other officials as appropriate, not later than March 1, 1986, submit to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives, a report on the nature and extent of lead poisoning in children from environmental sources. Such report shall include, at a minimum, the following information—

(A) an estimate of the total number of children, arrayed according to Standard Metropolitan Statistical Area or other appropriate geographic unit, exposed to environmental sources of lead at concentrations sufficient to cause adverse health effects;

(B) an estimate of the total number of children exposed to environmental sources of lead arrayed according to source or source types;

(C) a statement of the long term consequences for public health of unabated exposures to environmental sources of lead and including but not limited to, diminution in intelligence, increases in morbidity and mortality; and

(D) methods and alternatives available for reducing exposures of children to environmental sources of lead.

(2) Such report shall also score and evaluate specific sites at which children are known to be exposed to environmental sources of lead due to releases, utilizing the Hazard Ranking system of the National Priorities List.

(3) The costs of preparing and submitting the report required by this section shall be borne by the Hazardous Substances Response Fund.

(g) Section 111(c)(6) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by inserting at the end thereof the following: "Standards for health and safety protection of employees engaged in hazardous waste operations, including emergency response, shall be promulgated by the Secretary of Labor, under the Occupational Safety and Health Act, not later than one year after enactment of the Superfund Improvement Act of 1985. The cost of training such employees, in an amount not to exceed $10,000,000 per year, shall be considered a permissible cost of the program authorized by this paragraph.".

EXPEDITED REMEDIAL ACTION AGREEMENT PROCEDURES

SEC. 122. Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"( )(1) The President may enter into agreements pursuant to this subsection for the purpose of expediting remedial action with respect to a release or threatened release of a hazardous substance, in cases involving more than one potentially responsible party. As a matter of public policy, the President shall act to facilitate agreements under this Act, in order to protect human health and the environment by facilitating remedial action and to minimize litigation under this Act.

"(2)(A) At a date not later than that of the completion of the Remedial Investigation and Feasibility Study, the President shall provide all persons who are potentially responsible for a release or a threatened release—

"(i) the identity of any other potentially responsible parties who have been identified and served with notice of potential liability;

"(ii) a Nonbinding Preliminary Allocation of Responsiblity among all identifiable potentially responsible persons at a facility, including those parties which may be unknown, insolvent, or similarly unavailable. The allocation shall be based on the President's estimate and ranking of the volumetric contributions by such potentially responsible persons, and such additional factors, including, but not limited to, toxicity and mobility of the identified hazardous substances, as in the discretion of the President may be relevant to the preparation of such allocation;

"(iii) public information regarding successful agreements involving other facilities, as compiled beginning no later than January 1, 1987, and updated on a quarterly basis thereafter; and

"(iv) any other technical or scientific information, not otherwise privileged or attorney work product, which the President will utilize in determining whether to accept or reject an agreement offer under this section.

"(B) The information required by this paragraph (other than subparagraph (A)(ii)) shall be available in advance of such notice upon the request of a potentially responsible person in accordance with procedures established by the President.

"(C) The provision of subsection (e) of this section regarding protection of confidential information shall apply to information subject to distribution under this paragraph.

"(3)(A) The procedures of this subsection shall apply to each case of remedial action with respect to a release or threatened release of a hazardous substance involving more than one potentially responsible party, unless in the discretion of the President use of these procedures is inappropriate because:

"(i) sufficient information to effectively use these procedures is not available;

"(ii) there is an urgent need for response and enforcement action that could not be met if these procedures were used;

"(iii) the number of responsible parties who are not de minimis is so small that use of the procedures would not expedite settlement; or

"(iv) an equitable settlement could be more expeditiously or effectively achieved through other settlement or other alternative dispute resolution procedures.

"(B) If the President declines under this paragraph to use the procedures set forth in this subsection, the President shall notify potentially responsible parties at the facility of such decision and the reasons why use of such procedures is inappropriate.

"(4)(A) The President may not commence a remedial action under this section or take any action under section 106 until 180 days (or 90 days where the facility involves 9 or fewer potentially responsible parties) after providing notice of an intent to engage in the procedures under this subsection. Advance disclosure of information upon the request of a potentially responsible party under paragraph (2)(B) shall not commence the 180-day period (or 90 days where the facility involves 9 or fewer potentially responsible parties).

"(B) Nothing in this subsection shall limit the President's authority to undertake response action regarding a significant threat to public health or the environment within the negotiation period. The President may also commence any additional studies or investigations authorized under subsection (b) of this section, including remedial design, during the negotiation period.

"(5) To collect information necessary or appropriate for performing the allocation under paragraph (2)(A) of this subsection, the President may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions, and other information that the President deems necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy, failure or refusal of any person to obey any such subpoena, any district court of the United States in which venue is proper shall have jurisdiction to order any such person to comply with such subpoena. Any failure to obey such an order of the

court is punishable by the court as a contempt thereof.

"(6) the persons with whom the President reaches agreement under this subsection shall undertake or finance the remedial action and all previous costs of response, including operation and maintenance, or a discrete part of such remedial action, as provided by the agreement.

"(7)(A) The persons receiving notice under paragraph (2) of this subsection shall have 90 days (or 45 days in cases involving 9 or fewer potentially responsible parties) to make a proposal to the President for undertaking or financing the remedial action. In extraordinary cases, the President may grant a thirty-day extension of such period.

"(B) Where potentially responsible parties offer to provide payment or the undertaking of remedial action exceeding 50 per centum of the total shares as estimated by the President in the Nonbinding Preliminary Allocation of Responsibility, and such offer provides for response or costs of response for an amount equal to or greater than the cumulative total, under the Nonbinding Preliminary Allocation of Responsibility, of the potentially responsible persons making the offer, such an offer will be considered to be in 'good faith' and the Federal district court in the district in which the facility is located may order the President to accept the offer.

"(C) The President's decision to reject an offer shall not be subject to judicial review, unless such offer is considered good faith under this paragraph. Where the President rejects an offer meeting such criteria, such rejection shall be in writing and shall be reviewable in the Federal district court in the district in which the facility is located. In such cases the President shall have the burden of persuasion to establish that the rejection was not unreasonable, in light of additional information received after the completion of the Nonbinding Preliminary Allocation of Responsibility. The record for such appeal shall consist of the written notice of rejection, the documents and evidence referred to therein, all comments and evidence submitted by others in response to the written notice of rejection, the President's rationale for rejection, as well as any information of which the court may take judicial notice.

"(D) Judicial review under this subsection shall be limited to the President's decision to reject the good-faith offer and shall not include any other issues relating to the selection or scope of the remedy, the computation of costs associated with response action, or the Nonbinding Preliminary Allocation of Responsibility. Remedial action shall not be delayed solely because of such review.

"(E) Where the President's decision to reject a good faith offer under this paragraph is found to be unreasonable, the Fund shall be liable to the potentially responsible persons who brought suit, for any legal fees and other reasonable costs incurred during such judicial review.

"(F) Where the good faith offer of potentially responsible parties would include the entire share of cleanup allocated to all potentially responsible parties under the Nonbinding Preliminary Allocation of Responsibility (other than the shares allocated to unknown, insolvent or similarly unavailable parties under section 106), such offer, if accepted, shall be granted a "bonus" from the Fund representing 10 per centum of the cost of response action. Such bonus shall not be available in the case of facilities where there are three or fewer potentially responsible parties.

"(8) If, as part of any agreement, the President will be carrying out remedial action and the parties will be paying amounts to the President, the President may, notwithstanding any other provision of law, retain and use such funds for purposes of carrying out the agreement.

"(9) If an additional responsible party is identified during the negotiation period or after an agreement has been entered into under this subsection concerning a release or threatened release, the President may bring the additional party into the negotiation or enter into a separate agreement with such party.

"(10) The costs incurred by the President in producing the Nonbinding Preliminary Allocation of Responsibility shall be reimbursed by the potentially responsible parties whose offer is accepted by the President under this section. Where an offer under this section is not accepted, such costs shall be considered costs of response.

"(11) The Nonbinding Preliminary Allocation of Responsibility shall not be admissible as evidence in any proceeding under section 106 or 107 of this Act, and no court shall have jurisdiction to review the Nonbinding Preliminary Allocation of Responsibility in any action under section 106 or 107. The Nonbinding Preliminary Allocation of Responsibility shall not constitute an apportionment or other statement on the divisibility of harm or causation.

"(12)(A) If a good-faith proposal for undertaking or financing a remedial action has not been submitted within 90 days (or 45 days in cases involving 9 or fewer potentially responsible parties) of the provision of notice pursuant to this subsection, the President may thereafter commence a remedial action under this section or take an action against any person under section 106 of this Act.

"(B) If an agreement has been entered into under this subsection, the President may take any action under section 106 against any person who is not a party to the agreement, once the 90-day period (or 45 days in cases involving 9 or fewer potentially responsible parties) for submitting a proposal has expired.

"(13) Whenever the President has entered into an agreement for remedial action under this subsection, the liability under this Act of each party to the agreement, including any future liability arising from the release or threatened release that is the subject of the agreement, shall be limited as provided in the agreement.

"(14) Nothing in this subsection shall be construed to affect:

"(A) the liability of any person under section 106 or 107 with respect to any costs or damages which are not included in the agreement; or

"(B) the authority of the President to maintain an action under section 106 or 107 against any person who is not a party to the agreement.

"(15) The liability of any party to an agreement under this subsection for contribution shall be limited as provided in section 107(1)(3).

"(16) Whenever the President enters into an agreement under this subsection, the agreement, following approval by the Attorney General, shall be entered as a consent decree under section 106 of this Act. Any party failing to comply with an agreement shall be liable for a penalty not to exceed $25,000 for each day during which such failure continues.".

PUBLIC PARTICIPATION

SEC. 123. Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(j) Before selection of appropriate remedial action to be undertaken by the United States or a State or before entering into a covenant not to sue or to forebear from suit or otherwise settle or dispose of a claim arising under this Act, notice of such proposed action and an opportunity for a public meeting in the affected area, as well as a reasonable opportunity to comment, shall be afforded to the public prior to final adoption or entry. Notice shall be accompanied by a discussion and analysis sufficient to provide a reasonable explanation of the proposal and alternative proposals considered.".

LOVE CANAL PROPERTY ACQUISITION

SEC. 124. Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding a new subsection as follows:

"(k) In determining priorities among releases and threatened releases under the National Contingency Plan and in carrying out remedial action under this section, the Administrator shall establish a high priority for the acquisition of all properties (including nonowner occupied residential, commerical, public, religious, and vacant properties) in the area in which, before May 22, 1980, the President determined an emergency to exist because of the release of hazardous substances and in which owner occupied residences have been acquired pursuant to such determination.".

ADMINISTRATIVE ORDERS FOR SECTION 104(b) ACTIONS

SEC. 125. Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding a new subsection as follows:

"(l)(1) If the President determines that one or more responsible parties will properly carry out action under subsection (b) of this section, the President may enter into a consent administrative order with such party or parties for that purpose.

"(2) The United States district court for the district in which the release has occurred or threatens to occur shall have jurisdiction to enforce the order, and any person who violates or fails to obey such an order shall be liable to the United States for a civil penalty of not more than $10,000 for each day in which such violation occurs or such failure to comply continues.".

NATIONAL CONTINGENCY PLAN—HAZARD RANKING SYSTEM

SEC. 126. Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(a)" immedately following "105." and by adding the following at the end thereof:

"(b) Not later than twelve months after the date of enactment of the Superfund Improvement Act of 1985, the President shall revise the National Contingency Plan to reflect the requirements of such amendments. The portion of such Plan known as 'the National Hazardous Substance Response Plan' shall be revised to provide procedures and standards for remedial actions undertaken pursuant to this Act which are consistent with amendments made by the Superfund Improvement Act of 1985 relating to the selection of remedial action.

"(c) Not later than twelve months after the date of enactment of the Superfund Improvement Act of 1985 and after publication of notice and opportunity for submission of comments in accordance with section 553 of title 5, United States Code, the President shall by rule promulgate amendments to the hazard ranking system in effect on September 1, 1984. Such amendments shall assure, to the maximum extent feasible, that the hazard ranking system accurately assesses the relative degree of risk to human health and the environment posed by sites and facilities subject to review. The President shall establish an effective date for the amended hazard ranking system which is not later than eighteen months after the date of enactment of the Superfund Improvement Act of 1985 and such amended hazard ranking system shall be applied to any site or facility to be newly listed on the National Priority List after the effective date established by the President. Until such effective date of the regulations, the hazard ranking system in effect on September 1, 1984, shall continue to full force and effect.

"(d)(1) This subsection applies to facilities—

"(A) which as of July 1, 1985, were not included on, or proposed for inclusion on, the National Priorities List; and

"(B) at which special study wastes described in section 3001(b)(2)(B) or (3)(A) of the Solid Waste Disposal Act or any leachate from abandoned mine sites are present, including any such facility from which there has been a release of a special study waste or leachate, except that this subsection shall not apply to a facility which does not involve the presence of any such waste or leachate in any significant quantity.

"(2) Pending revision of the hazard ranking system under subsection (c), no facility to which this subsection applies may be added to the National Priorities List unless the Administrator makes the following specific findings, based on facility-specific data—

"(A) as to the status of studies by the Environmental Protection Agency on such waste under the Solid Waste Disposal Act and of regulation of such waste under subtitle C thereof;

"(B) as to the extent to which the hazard ranking system score for the facility is affected by the presence of any special study waste at, or any release from, such facility;

"(C) as to the quantity, toxicity, and concentration of hazardous substances that are constituents of any special study waste at, or release from such facility, the extent of or potential for release of such hazardous constituents, and the degree of risk to human health or the environment posed by the release of such hazardous constituents at such facility: Provided, That, the findings in this subparagraph shall be based on actual concentrations of hazardous substances and not on the total quantity of special study waste at such facility; and,

"(D) that based on the findings in subparagraph (C), the degree of risk to human health or the environment posed by such facility is equal to or greater than the risk posed by facilities at which no special study waste is present and which are proposed for inclusion on the National Priorities List.

A person may be subject to liability under section 106 or 107 under this Act for any waste or release referred to in paragraph (1) of this subsection at any facility to which this subsection applies only if the specific findings required under this paragraph with respect to that facility have been made and such suit against such person supports each specific finding with appropriate facility-specific data. This paragraph shall not apply to any facility that is included on the National Priorities List pursuant to a hazard ranking system revised in accordance with subsection (c) so as to incorporate the factors identified in subparagraph (C) and (D) of this paragraph.

"(3) Following the Administrator's completion of the applicable special study waste required under section 8002 (f), (m), (n), (o), or (p) of the Solid Waste Disposal Act, and the determination required under section 3001(b)(3)(C) or, in the case of a special study waste described in section 3001(b)(2)(B), the authorization of regulations by Congress pursuant to section 3001(b)(2)(B)), of such Act, if a special study waste is not a hazardous waste listed under section 3001 of the Solid Waste Disposal Act, the waste stream, or one of the constituents thereof, may not be deemed to be a hazardous substance unless such waste, at the facility in question, has one of the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act.

"(4) Nothing in this subsection shall be construed to limit the authority of the Administrator to remove any facility which as of July 1, 1985, is included on the National Priorities List from such List, or not to list any facility which as of such date is proposed for inclusion on such list.

"(5) Nothing in this subsection shall be construed to limit the authority of the Administrator or the Attorney General from seeking abatement of an imminent and substantial endangerment under section 106(a).".

EMERGENCY PLANNING

SEC. 127. Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(d) EMERGENCY PLANNING.—(1)(A) The President shall publish a list of extremely hazardous substances, taking into account the toxicity, reactivity, volatility, flammability, and usage of such substances. For the purposes of the preceding sentence, the term 'toxicity' shall include any acute or chronic health effect which may result from an acute exposure to the substance. The President shall review, and modify as necessary, such list not less often than every two years. Such list shall identify each extremely hazardous substance and shall establish a quantity of each such substance which, if released at a facility, would likely pose an imminent and substantial endangerment to the public health or to the environment. Facilities that have present such a quantity of such a substance shall notify the Governor in accordance with paragraph (2)(A).

"(B) Within 30 days after enactment of the Superfund Improvement Act of 1985, the President shall publish an initial list of substances and quantities as described in subparagraph (A), which shall be the same as substances and quantities listed by the Council of the European Communities in its 'Council Directive of June 24, 1982, on the Major Accident Hazards of Certain Industrial Activities, Annex III,' published in the Official Journal of the European Communities, August 5, 1982.

"(2)(A) Not later than 90 days after the date of enactment of the Superfund Improvement Act of 1985, or not later than 60 days after any revision of the list, each owner or operator of a facility (other than motor vehicles, rolling stock, or aircraft) that has present a quanitity of a substance that requires notification under paragraph (1) shall notify the Governor of the State in which such facilitly is located that such facility is subject to the requirements of this subsection. The Governor may designate additional facilities that shall be subject to the provisions of this subsection.

"(B) Not later than 180 days after the date of enactment of the Superfund Improvement Act of 1985, the Governor of each State shall designate emergency planning districts in order to facilitate preparation and implementation of emergency plans. Where appropriate, the Governor may designate existing political subdivisions or multijurisdictional planning organizations as such districts. In emergency planning areas that involve more than one State, the Governors of each potentially affected State may designate emergency planning districts and emergency planning committees by agreement. In making such designation, the Governor shall indicate which facilities designated under subparagraph (A) are within such emergency planning district.

"(C) Not later than 210 days after such date of enactment, the Governor shall appoint members of an emergency planning committee for each emergency planning district. Each Committee shall include representatives of the public, appropriate State and local organizations, and owners and operators of facilities designated under subparagraph (A). In making such appointments, the Governor shall consider persons who would be expected to play a major role in the event of a release of an extremely hazardous substance, such as elected officials, law enforcement and firefighting personnel, public health, medical, hospital, and environmental protection personnel, civil defense personnel, transportation officials, and representatives of broadcast and print media. Interested persons may petition the Governor to modify the membership of such committee. Such committee shall appoint a chairperson and shall establish rules by which the committee shall function. Such rules shall include provisions for public notification of committee activities, public meetings to discuss the emergency plan, public comments, response to such comments by the committee, and distribution of the emergency plan.

"(D) Each emergency planning committee shall complete preparation of emergency plans in accordance with this subsection not later than two years after such date of enactment. The committee shall review such plan at least annually, or as changed circumstances in the community or at any facility may require.

"(E) Each emergency planning committee shall evaluate the need for resources necessary to develop, implement, and exercise the emergency plan, and shall make recommendations with respect to additional resources that may be required, and the means for providing such additional resources.

"(F) Each emergency plan shall include (but is not limited to)—

"(i) identification of facilities designated pursuant to subparagraph (A) that are within the emergency planning district, and identification of routes likely to be used for the transportation of substances listed pursuant to subparagraph (A);

"(ii) methods and procedures to be followed by facility owners and operators and local emergency and medical personnel to respond to any release of such substances;

"(iii) designation of a community emergency coordinator and a facility emergency

coordinator, who shall make determinations necessary to implement the plan;

"(iv) procedures providing reliable, effective, and timely notification by the facility emergency coordinator and the community emergency coordinator to persons designated in the emergency plan, and to the public, that a release has occurred (consistent with the emergency notification requirements under section 103(j));

"(v) methods for determining the occurrence of a release, and the area or population likely to be affected by such release;

"(vi) evacuation plans, including provisions for a precautionary evacuation and alternative traffic routes;

"(vii) training programs, including schedules for training of local emergency response and medical personnel; and

"(viii) methods and schedules for exercising such plan.

"(G) The owner or operator of each facility designated pursuant to subparagraph (A) shall—

"(i) within 210 days after such date of enactment, notify the emergency planning committee for the emergency planning district in which such facility is located that a facility representative will participate in the emergency planning process;

"(ii) promptly inform the emergency planning committee of any relevant changes occurring at such facility as such changes occur or are expected to occur; and

"(iii) upon request from the emergency planning committee, promptly provide information to such committee necessary for developing and implementing the emergency plan.

"(H) The National Response Team shall publish guidance documents for preparation and implementation of emergency plans. Such documents shall be published not later than 150 days after such date of enactment.

"(I) The Regional Response Teams shall review and comment upon such emergency plans or other issues related to preparation, implementation, or exercise of such plan upon request of the emergency planning committee. Such review shall not delay implementation of such plans.

"(3) The President may order a facility owner or operator to comply with paragraphs (2) (A) and (G) of this subsection. The United States district court for the district in which the facility is located shall have jurisdiction to enforce the order, and any person who violates or fails to obey such an order shall be liable to the United States for a civil penalty of not more than $25,000 for each day in which such violation occurs or such failure to comply continues.".

NATIONAL CONTINGENCY PLAN

SEC. 128. (a) Section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as redesignated by this Act, is amended by striking "at least four hundred of" when it appears.

(b) Section 105(8)(B) is further amended by striking the phrase "at least" following the word "facilities" the second time it appears and by inserting "A State shall be allowed to designate its highest priority facility only once." after the third full sentence thereof.

DE MINIMIS CONTRIBUTOR SETTLEMENT PROVISIONS

SEC. 129. Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding the following new subsection:

"(d) The President shall consider, but may accept or reject, good-faith offers of settlement under this section or section 107 from any person potentially liable under such sections, and in the discretion of the President is authorized to accept such offers if the offer does not constitute a substantial portion of the costs of response, if—

"(1) the amount of the hazardous substances contributed to the release by the party making the offer, and

"(2) the toxic or other hazardous effects of the substances contributed to the release by the party making the offer are minimal in comparison with contributions to the release by other potentially responsible parties. For the purposes of this subsection, a good faith offer is one which is reasonable based on the objective evidence. Not later than March 1, 1986, the President shall publish guidance documents defining what would constitute de minimis contributions under this section.".

MIXED FUNDING

SEC. 130. Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(c) The President may use monies from the Fund to pay for that portion of the response costs (or of a remedy to be performed jointly with responsible parties) which is attributable to the contribution of hazardous substances from parties who are determined by the President, on the record, to be unknown or insolvent, or similarly unavailable.".

RELEASES FROM LIABILITY

SEC. 131. Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(e)(1) The President may provide any person with a covenant not to sue concerning any future liability under this Act resulting from a future release or threatened release of hazardous substances addressed by a remedial action, whether that action is onsite or offsite, if this covenant not to sue would expedite response action consistent with the National Contingency Plan under section 105 of this Act, and—

"(A) the person is in full compliance with an administrative order or consent decree under this section for response to the release or threatened release of hazardous substances, and

"(B) this response action has been approved by the President.

"(2)(A) In assessing the appropriateness of a covenant not to sue, the President shall consider whether the covenant is in the public interest, taking into account whether the cleanup will be done, in whole or in significant part, by the responsible parties themselves. To the extent that private parties perform the cleanup and are in full compliance with an administrative order or consent decree approved by the President, such parties shall receive a more expansive covenant not to sue than if the cleanup were performed entirely by the Government. However, this section is not intended to limit the President's discretion in settling with de minimis contributors under subsection (d) of this section.

"(B) Factors to be taken into account in the President's consideration of the public interest under this subsection include, but are not limited to, the following:

"(i) the effectiveness and reliability of the remedy, in light of the other alternative remedies considered for the facility;

"(ii) the nature of the risks remaining at the facility after completion of the remedy;

"(iii) the extent to which performance standards are included in the order of decree;

"(iv) the extent to which the response action provides a complete remedy for the facility, including the elimination of the hazardous nature of the substances at the facility; and

"(v) whether the Fund or other sources of funding, including other responsible parties, would be available for any additional response actions that may become necessary for the facility.

"(3) In the case of remedial actions undertaken jointly by the President and responsible parties, any governmental entity taking part in such remedial action shall be subject to future liability as a private responsible party. Any future response actions arising at the same facility, and which give rise to further liability, shall obligate the Fund to the extent of the obligation of the President under the earlier remedial action responsibility. The President's contribution to such future response actions may be made through Fund expenditures or through payment, following settlement or enforcement action, by parties who were not signatories to the original agreement.

"(4) The President is authorized to include any provision allowing future enforcement action under this section or section 107 that in the discretion of the President is necessary and appropriate to assure protection of public health, welfare, and the environment.

"(5) In the case of any person to whom the President is authorized under paragraph (1) of this subsection to provide a convenant not to sue, for the portion of remedial action—

"(A) which involves the transport and secure disposition offsite of hazardous substances in a facility meeting the requirements of sections 3004 (c), (d), (e), (f), (g), (m), (o), (p), (u), and (v) and 3005(c) of the Solid Waste Disposal Act, where the President has rejected a proposed remedial action that is consistent with the National Contingency Plan that does not include such offsite disposition and has thereafter required offsite disposition; or

"(B) which involves the treatment of hazardous substances so as to destroy, eliminate or permanently immobilize the hazardous constituents of such substances, such that in the judgment of the President the substances no longer present any current or currently foreseeable future significant risk to public health, welfare or the environment, no byproduct of the treatment or destruction process presents any significant hazard to public health, welfare or the environment, and all byproducts are themselves treated, destroyed, or contained in a manner which assures that such byproducts do not present any current or currently foreseeable future significant risk to public health, welfare or the environment,

the President shall provide such person with a covenant not to sue with respect to future liability under this Act for a future release or threatened release of hazardous substances from such facility, and a person provided such convenant not to sue shall not be liable under section 106 or 107 with respect to such release or threatened release at any future time. The President is authorized to include in such convenant not to sue a provision allowing future enforcement action under this section or section 107, in the case of any fraud or misrepresentation by such person.

"(6) Any convenant not to sue provided by the President under this subsection shall be

effective only when approved by a Federal District Court, upon the application of the President, after consideration of the conditions and factors specified in this subsection.".

FOREIGN VESSELS

SEC. 132. Section 107(a)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "(otherwise subject to the jurisdiction of the United States)".

STATE AND LOCAL GOVERNMENT LIABILITY

SEC. 133. (a) Section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(1)" after "(d)" and adding the following new language:

"(2) No State or local government shall be liable under this title for costs or damages as a result of non-negligent actions taken in response to an emergency created by the release or threatened release of a hazardous substance, pollutant, or contaminant generated by or from a facility owned by another person.".

(b) Section 101(20) is amended by inserting immediately before the semicolon at the end of clause (A) the following: "nor does such term include a unit of State or local government which acquired ownership or control involuntarily through bankruptcy, foreclosure, tax delinquency, abandonment, or similar means of alienation".

(c) Section 101(20) is further amended by deleting clause (iii) and substituting the following:

"(iii) in the case of any facility, title, or control of which was conveyed due to abandonment, bankruptcy, foreclosure, tax delinquency or similar means to a unit of State or local government, any person who owned, operated or otherwise controlled activities at such facility immediately beforehand.".

NATURAL RESOURCE DAMAGE CLAIMS

SEC. 134. (a) Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(1)" after "(f)" and by adding at the end thereof the following new paragraphs:

"(2)(A) The President shall designate in the National Contingency Plan published under section 105 of this Act the Federal officials who shall act on behalf of the public as trustees for natural resources under this Act and section 311 of the Clean Water Act. Such officials shall assess damages to natural resources for the purposes of this Act and section 311 of the Clean Water Act for those resources under their trusteeship, and may upon request of and reimbursement from a State and at the Federal officials' discretion, assess damages for those natural resources under a State's trusteeship.

"(B) The Governor of each State shall designate the State officials who may act on behalf of the public as trustees for natural resources under this Act and section 311 of the Clean Water Act and shall notify the President of such designations. Such State officials shall assess damages to natural resources for the purposes of this Act and section 311 of the Clean Water Act for those resources under their trusteeship.

"(C) Any determination or assessment of damages to natural resources for the purposes of this Act and section 311 of the Clean Water Act made by a Federal or State trustee in accordance with the regulations promulgated under section 301(c) of this Act shall have the force and effect of a rebuttable presumption on behalf of the trustee in any judicial proceeding under this Act or section 311 of the Clean Water Act.

"(D) The President shall promulgate the regulations required under section 301 of this Act not later than six months after the enactment of the Superfund Improvement Act of 1985.".

(b) Section 111(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following: "No money in the Fund may be used for the payment of any claim under subsection (a)(3) or subsection (b) of this section in any fiscal year for which the President determines that all of the Fund is needed for response to threats to public health from releases or threatened releases of hazardous substances.".

(c) Section 111(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is repealed.

CONTRIBUTION AND PARTIES TO LITIGATION

SEC. 135. Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding a new subsection to read as follows:

"(l)(1) Any person may seek contribution from any other person who is liable or potentially liable under subsection (a), during or following any civil action under section 106 or under such subsection (a). Such claims shall be brought in accordance with section 113 and the Federal Rules of Civil Procedure, and shall be governed by Federal law. In resolving contributions claims, the court shall allocate response costs among liable parties using such equitable factors as the court determines are appropriate. Nothing in this subsection shall diminish the right of any person to bring an action for contribution or indemnification in the absence of a civil action under section 106 or this section.

"(2) When a person has resolved its liability to the United States or a State in a judicially approved good faith settlement, such person shall not be liable for claims for contribution regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially liable persons unless its terms so provide, but it reduces the potential liability of the others to the extent of any amount stipulated by the settlement.

"(3) Where the United States or a State has obtained less than complete relief from a person who has resolved its liability to the United States or the State in a good faith settlement, the United States or the State may bring an action against any person who has not so resolved its liability. A person that has resolved its liability to the United States or a State in a good faith settlement may, where appropriate, maintain an action for contribution or indemnification against any person that was not a party to the settlement. In any action under this paragraph, the rights of any person that has resolved its liability to the United States or a State shall be subordinate to the rights of the United States or the State. Any contribution action brought under this paragraph shall be brought in accordance with section 113, and shall be governed by Federal law.".

FEDERAL LIEN

SEC. 136. Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(m)(1) All costs and damages for which a person is liable to the United States under subsection (a) of this section shall constitute a lien in favor of the United States upon all real property and rights to such property belonging to such person that are subject to or affected by a removal or remedial action.

"(2) The lien imposed by this subsection shall arise at the time costs are first incurred by the United States with respect to a response action under this Act and shall continue until the liability for the costs (or a judgment against the person arising out of such liability) is satisfied or becomes unenforceable through operation of the statute of limitations provided in section 113(e).

"(3) The lien imposed by this subsection shall not be valid as against any purchaser, holder of a security interest, or judgment lien creditor until notice of the lien has been filed in the appropriate office within the State (or county or other governmental subdivision), as designated by State law, in which the real property subject to the lien is physically located. If the State has not by law designated one office for the receipt of such notices of liens, the notice shall be filed in the office of the clerk of the United States district court for the district in which the real property is physically located. For purposes of this subsection, the terms 'purchaser' and 'security interest' shall have the definitions provided in section 6323(h) of title 26, United States Code. This paragraph does not apply with respect to any person who has or reasonably should have actual notice or knowledge that the United States has incurred costs giving rise to a lien under paragraph (1) of this subsection.

"(4) The costs constituting the lien may be recovered in an action in rem in the United States district court for the district in which the removal or remedial action is occurring or has occurred. Nothing in this subsection shall affect the right of the United States to bring an action against any person to recover all costs and damages for which such person is liable under subsection (a) of this section.".

DIRECT ACTION

SEC. 137. (a) Section 108 (c) and (d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(c) In any case where a person liable under section 107 is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code, or where with reasonable diligence jurisdiction in the Federal Courts cannot be obtained over a person liable under section 107 likely to be solvent at the time of judgment, any claim authorized by section 107 or 111 may be asserted directly against the guarantor providing evidence of financial responsibility for that person. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the person liable under section 107 if any action had been brought against such person by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by such person.

"(d) The total liability under this Act of any guarantor shall be limited to the aggregate amount of the monetary limits of the policy of insurance, guarantee, surety bond, letter of credit, or similar instrument provided by the guarantor to the person liable under section 107: Provided, That nothing in the subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to the person liable under section 107 including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim: Provided further, That

nothing in this subsection shall be construed, interpreted or applied to diminish the liability of any person under section 107 or 111 of the Act or other applicable law.".

(b) Section 108(b)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following: "Financial responsibility may be established by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this section, the President is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.".

LEAD CONTAMINATION

SEC. 138. Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as amended by this Act) is amended by adding at the end thereof the following new paragraph:

"(8) payment of the cost, not to exceed $15,000,000, of a pilot program for the removal of lead-contaminated soil in one to three different metropolitan areas.".

TECHNICAL ASSISTANCE GRANTS

SEC. 139. Section 111(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding the following new paragraph:

"( ) Subject to such amounts as are provided in appropriation Acts, the costs of a program of technical assistance grants, in accordance with rules promulgated by the President, to community organizations or groups of individuals potentially affected by a release or threatened release at any facility listed on the National Priorities List, not to exceed $75,000 per facility. Such grants may be used to obtain technical assistance in interpreting information with regard to the nature of the hazard, remedial investigation and feasibility study, record of decision, remedial design, selection and construction of remedial action, operation and maintenance, or removal action at such facility.".

FUND USE OUTSIDE FEDERAL PROPERTY BOUNDARIES

SEC. 140. Section 111(e)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting before the period a colon and the following: "Provided, That money in the Fund shall be available for the provision of alternative water supplies (including the reimbursement of costs incurred by a municipality) in any case involving groundwater contamination outside the boundaries of a federally owned facility in which the federally owned facility is not the only potentially responsible party".

STATE MATCHING GRANTS

SEC. 141. Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(o)(1) Notwithstanding any other provision of this section, the President is authorized to provide up to $1,000,000 per year to each State, out of the Fund, to be matched by an equivalent expenditure by such State, up to a cumulative national total from the Fund of $50,000,000 per year, for State-administered and designed programs for the cleanup and stabilization of facilities contaminated by releases of hazardous substances.

"(2) The following conditions shall be attached to monies provided by the Fund as State Matching Grants—

"(A) no monies may be expended for any litigation-related expenses;

"(B) there shall be no liability of the Fund or the United States (including third party claims of any type) arising from such response action;

"(C) monies expended under this subsection may be used at any facility, as determined by the State, in consultation with the President, to be appropriate; and

"(D) facilities selected for cleanup with such monies shall be facilities for which there is no reasonable likelihood of recovery of costs under existing authority.

"(3) In determining whether a substance is a hazardous substance, pollutant, or contaminant for purposes of this subsection, the exclusion of petroleum under the last sentences of sections 101(14) and 104(a)(2) shall not apply.".

STATUTE OF LIMITATIONS

SEC. 142. (a) Section 112 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking subsection (d) and relettering the following subsection.

(b) Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(e)(1) No claim may be presented, nor may any action be commenced under this title—

"(A) for the cost of response, unless that claim is presented or action commenced within six years after the date of completion of the response action: Provided, however, That within the limitation period set out herein a State or the United States may commence an action under this title for recovery of any cost or costs at any time after such cost or costs have been incurred;

"(B) for damages under subparagraph (C) of section 107(a), unless that claim is presented or action commenced within six years after the date on which final regulations are promulgated under section 301(c) or within three years after the date of the discovery of the loss and its connection with the release in question or the date of enactment of this Act, whichever is later; or

"(C) for any other damages, unless that claim is presented or action commenced within three years after the date of discovery of the loss and its connection with the release in question or the date of enactment of this Act, whichever is later: Provided, however, That the time limitations contained in this paragraph shall not begin to run against a minor until he reaches eighteen years of age or a legal representative is duly appointed for him, nor against an incompetent person until his incompetency ends or a legal representative is duly appointed for him nor against an Indian tribe until the United States, in its capacity as trustee for the tribe, gives written notice to the governing body of the tribe that it will not present a claim or commence an action on behalf of the tribe or fails to present a claim or commence an action within the time limitations specified in this subsection. No claim may be presented or action be commenced under this subparagraph for any damages, if prior to the date of enactment of the Superfund Improvement Act of 1985, the statute of limitations which would otherwise apply under this paragraph has expired.

"(2) No action for contribution may be commenced under section 107 more than three years after the date of entry of judgment or the date of the good-faith settlement.

"(3) No action based on rights subrogated pursuant to section 112 by reason of payment of a claim may be commenced under this title more than three years after the date of payment of such claim.".

JUDICIAL REVIEW

SEC. 143. Section 113(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"SEC. 113. (a)(1) Review of any regulation promulgated under this Act may be had upon application by any interested person in the Circuit Court of Appeals of the United States for the District of Columbia or in any United States court of appeals for a circuit in which the applicant resides or transacts business which is directly affected by such regulation. Any such application shall be made within one hundred and twenty days from the date of promulgation of such regulation, or after such date only if such application is based solely on grounds which arose after such one hundred and twentieth day. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of response costs.

"(2)(A) If applications for review of the same agency action have been filed in two or more United States courts of appeals and the President has received written notice of the filing of the first such application more than thirty days before receiving written notice of the filing of the second application, then the record shall be filed in that court in which the first application was filed. If applications for review of the same agency action have been filed in two or more United States courts of appeals and the President has received written notice of the filing of one or more applications within thirty days or less after receiving written notice of the filing of the first application, then the President shall promptly advise in writing the judicial panel on multidistrict litigation authorized by section 1407 of title 28, United States Code, that applications have been filed in two or more United States courts of appeals, and shall identify each court for which he has written notice that such applications have been filed within thirty days or less of receiving written notice of the filing of the first such application. Pursuant to a system of random selection devised for this purpose, and within three business days after receiving such notice from the President, the judicial panel on multidistrict litigation thereupon shall select the court in which the record shall be filed from among those identified by the President. Upon notification of such selection, the President shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the President, the record shall be filed in the United States court of appeals which remanded such action.

"(B) Where applications have been filed in two or more United States courts of appeals with respect to the same agency action and the record has been filed in one of such courts pursuant to subparagraph (A), the other courts in which such applications have been filed shall promptly transfer such applications to the United States court of appeals in which the record has been filed.

Pending selection of a court pursuant to subparagraph (A), any court in which an application has been filed may postpone the effective date of the agency action until fifteen days after the judicial panel on multidistrict litigation has selected the court in which the record shall be filed.

"(C) Any court in which an application with respect to any agency action has been filed, including any court selected pursuant to subparagraph (A), may transfer such application to any other United States court of appeals for the convenience of the parties or otherwise in the interest of justice.".

PRE-ENFORCEMENT REVIEW

SEC. 144. (a) Section 113(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking the word "subsection" and inserting in lieu thereof the words "subsections," and inserting "and (f)" after "(a)".

(b) Section 113 is further amended by adding at the end thereof the following new subsections:

"(f) No court shall have jurisdiction to review any challenges to response action selected under section 104 or any order issued under section 104(b), or to review any order issued under section 106(a), in any action other than (1) an action under section 107 to recover response costs or damages or for contribution or indemnification; (2) an action to enforce an order issued under section 104(b) or 106(a) or to recover a penalty for violation of such order; or (3) an action for reimbursement under section 106(b)(2).

"(g) In any judicial action under section 106 or 107, judicial review of any issues concerning the adequacy of any response action taken or ordered by the President shall be limited to the administrative record. The objections which may be raised in any such judicial action under section 106 or 107 must be based upon the comments received and the evidence contained in the record. In considering such objections, the court shall uphold the President's decision in selecting the response action unless the objecting party can demonstrate, on the administrative record, that the decision was not reasonably justified under the criteria set forth in the national contingency plan, including the cost effectiveness of such action, or that the decision was otherwise not in accordance with law. If the court finds that the President's decision in selecting the response action was not reasonably justified under the criteria set forth in the national contingency plan, including the cost effectiveness of such action, or that the decision was otherwise not in accordance with law, the court shall award only the response costs or damages or other relief being sought to the extent that such relief is not inconsistent with the national contingency plan. In reviewing alleged procedural errors, the court may disallow costs or damages only if the errors were so serious and related to matters of such central relevance to the action that the action would have been significantly changed had such errors not been made.

"(h) The President shall promulgate regulations in accordance with chapter 5 of title 5, United States Code, commonly known as the Administrative Procedure Act, establishing procedures for the appropriate participation of interested persons in the development of the adminisrative record on which judicial review of the reponse actions will be based. For remedial actions, such regulations shall include procedures for providing, before adoption of any plan for remedial action to be undertaken by the United States or a State or any other person under section 104 or section 106 of this Act—

"(1) notice to potentially affected persons and the public, which shall be accompanied by a brief analysis of the plan and alternative plans that were considered;

"(2) a reasonable opportunity to comment and provide information regarding the plan;

"(3) an opportunity for a public meeting in the affected area;

"(4) a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations under such procedures; and

"(5) agency support for the basis and purpose of the selected action.

The administrative record shall include the items developed and received pursuant to the procedures established under this subsection.".

(c) Section 106(b) of such Act is amended by—

(1) inserting "(1)" after "(b)";

(2) striking out "who willfully" and inserting in lieu thereof "who, without sufficient cause, willfully"; and

(3) adding at the end thereof the following new paragraph:

"(2)(A) Any person who receives and complies with the terms of any order issued under subsection (a) may, within sixty days of completion of the required action, petition the President for reimbursement from the Fund for the reasonable costs of such action, plus interest. Any interest payable under this paragraph shall accrue on the amounts expended from the date of expenditure at the same rate that applies to investments of the Fund under section 223(b) of this Act.

"(B) If the President refuses to grant all or part of a petition made under this paragraph, the petitioner may within thirty days of receipt of such refusal file an action against the President in the appropriate United States district court seeking reimbursement from the Fund.

"(C) To obtain reimbursement, the petitioner must establish by a preponderance of the evidence that it is not liable for response costs under section 107(a) and that costs for which it seeks reimbursement are reasonable in light of the action required by the relevant order: Provided, however, That a petitioner who is liable for response costs under section 107(a) may recover its reasonable costs of response to the extent that it can demonstrate, on the administrative record, that the President's decision in selecting the response action ordered was not reasonably justified under the criteria set forth in the national contingency plan, including the requirement for cost effectiveness of such action, or was otherwise not in accordance with law. In any such case, the petitioner shall be awarded all reasonable response costs incurred by the petitioner pursuant to the portions of the order found to be not reasonably justified under the criteria set forth in the national contingency plan, including the requirement for cost effectiveness of such action, or was otherwise not in accordance with law.".

NATIONWIDE SERVICE OF PROCESS

SEC. 145. Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by this Act, is amended by adding the following new subsection:

"(h) In any action by the United States under section 104, 106, or 107, process may be served in any district where the defendant is found, or resides, or transacts business, or has appointed an agent for the service of process.

"(i) Any litigation relating to permits of the Administrator issued pursuant to the Clean Air Act, the Clean Water Act, the Solid Waste Disposal Act, the Toxic Substances Control Act, and this Act, and for which such permitted facilities would guarantee the availability of treatment, incineration, or disposal capacity of at least 25 per centum for Superfund wastes shall be afforded priority consideration over other civil litigation by the respective United States Court of Appeals having jurisdiction over the litigation. It shall be the duty of the Court of Appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the extent possible the disposition of any matter covered by this subsection.".

NOTICE OF COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT ACTIONS

SEC. 146. Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(i) NOTICE OF ACTIONS.—Whenever any action is brought under this Act in a court of the United States by a plaintiff other than the United States, the plaintiff shall provide a copy of the complaint to the Attorney General of the United States and to the Administrator.".

PREEMPTION

SEC. 147. Section 114 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking subsection (c) and relettering the following subsection accordingly.

FEDERAL FACILITIES CONCURRENCE

SEC. 148. Section 115 of the Comprehensive Environmental, Compensation, and Liability Act of 1980 is amended by inserting before the period at the end thereof a colon and the following: "Provided, That with respect to a Federal facility or activity for which such duties or powers are delegated to an officer, employee or representative of the department, agency or instrumentality which owns or operates such facility or conducts such activity, unless the Administrator has entered into a memorandum of understanding with the head of such department, agency or instrumentality, the concurrence of the Administrator (and the responsible State official where a cooperative agreement has been entered into) shall be required for the selection of appropriate remedial action and the administrative order authorities of section 106(a) are hereby delegated to the Administrator".

FEDERAL FACILITIES COMPLIANCE

SEC. 149. Title I of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96-510) is amended by adding at the end thereof the following new section:

"FEDERAL FACILITIES

"SEC. 117. (a) FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET.—The Administrator shall establish a special Federal Agency Hazardous Waste Compliance Docket which shall contain all information submitted under section 3016 of the Solid Waste Disposal Act regarding any Federal facility and notice of each subsequent action taken under this Act with respect to the facility. Such docket shall be available for public inspection at reasonable times. Three months after establishment of the docket and every three months thereafter, the Administrator shall publish in the Feder-

al Register a list of the Federal facilities which have been included in the docket during the immediately preceding three-month period. Such publication shall also indicate where in the appropriate regional office of the Environmental Protection Agency additional information may be obtained with respect to any facility on the docket. The Administrator shall establish a program to provide information to the public with respect to facilities which are included in the Docket under this subsection.

"(b) ASSESSMENT AND EVALUATION.—Not later than eighteen months after the date of enactment of the Superfund Improvement Act of 1985, the Administrator shall take steps to assure that a preliminary assessment is conducted for each facility for which information is required under section 3016 of the Solid Waste Disposal Act. Following such preliminary assessment, the Administrator shall where appropriate—

"(1) evaluate such facilities in accordance with the criteria established in accordance with section 105 under the National Contingency Plan for determining priorities among releases.

"(2) include such facilities on the National Priorities List maintained under such plan. Such evaluation and listing shall be completed not later than twenty months after such date of enactment.

"(c) RIFS AND INTERAGENCY AGREEMENT.—

"(1) RIFS.—Not later than six months after the inclusion of any facility on the National Priorities List (NPL), or within six months of the enactment of the Superfund Improvement Act of 1985, whichever is later, the department, agency, or instrumentality which owns or operates such facility shall enter into an agreement with the Administrator and appropriate State authorities under which such department, agency, or instrumentality will carry out a remedial investigation and feasibility study for such facility. The agreement shall provide for a timetable and deadlines for commencement and expeditious completion of such investigation and study.

"(2) INTERAGENCY AGREEMENT.—(A) Within six months after completion of each such remedial investigation and feasibility study, the Administrator shall review the results of such investigation and study and shall enter into an interagency agreement with the head of the department, agency, or instrumentality concerned for the expeditious completion by such department, agency, or instrumentality of all necessary remedial action at such facility. All such intergency agreements shall comply with the public participation requirements of section 104(j). Such agreement shall require that substantial continuous physical onsite remedial action is commenced at each facility which is the subject of such an agreement within twelve months after the completion of remedial design.

"(B) Each interagency agreement under this paragraph shall include, but shall not be limited to—

"(i) a review of alternative remedial actions and selection of a remedial action plan by the Administrator;

"(ii) a schedule for the completion of each such remedial action; and

"(iii) arrangements for long term operation and maintenance of the facility.

"(3) COMPLETION OF REMEDIAL ACTIONS.—Remedial actions at facilities subject to interagency agreements under this section shall be completed as expeditiously as practicable from the date the interagency agreement was entered into. Each agency shall include in its annual budget submissions to the Congress a review of alternative agency funding which could be used to provide for the costs of remedial action. The budget submission shall also include a statement of the hazard posed by the facility to human health, welfare and the environment and identify the specific consequences of failure to begin and complete remedial action.

"(4) ANNUAL REPORT.—Each department, agency, or instrumentality responsible for compliance with this section shall furnish an annual report to the Congress concerning its progress in implementing the requirements of this section. Such reports shall include, but shall not be limited to—

"(A) a report on the progress in reaching interagency agreements under this section;

"(B) the specific cost estimates and budgetary proposals involved in each interagency agreement;

"(C) a brief summary of the public comments regarding each proposed interagency agreement; and

"(D) a description of the instances in which no agreement was reached.

With respect to instances in which no agreement was reached within the required time period, the department, agency, or instrumentality filing the report under this paragraph shall include in such report an explanation of the reasons why no agreement was reached. The annual report required by this paragraph shall also contain a detailed description on a State-by-State basis of the status of each facility subject to this section, including a description of the hazard presented by each facility, plans and schedules for initiating and completing response action, enforcement status (where appropriate), and an explanation of any postponements or failure to complete response action. Such reports shall also be submitted to the affect States.

"(d) ACTION BY OTHER PARTIES.—If the Administrator in consultation with the head of the relevant department, agency, or instrumentality of the United States, determines that a remedial investigation and feasibility study or remedial action will be done properly at the federal facility by another potentially responsible party within the deadlines provided in paraghraphs (1), (2), and (3) of subsection (c), the Administrator may enter into an agreement with such party providing for assumption of the responsibilities set forth in these paragraphs. Following approval of the agreement by the Attorney General, the agreement shall be entered in the appropriate United States district court as a consent decree under section 106 of this Act.

"(e) STATE AND LOCAL PARTICIPATION.—

"(1) the Administrator shall consult with the relvant officials of the State and locality in which the facility is located and shall consider their views in selecting the remedial action to be carried out at the facility.

"(2) Each department, agency, or instrumentality responsible for compliance with this section shall afford to relevent State and local officials the opportunity to participate in the planning and formulation of the remedial action, including but not limited to the review of all applicable data as it becomes available and the development of studies, reports, and action plans.

"(f) TRANSFER OF AUTHORITIES.—Except for authorities which are delegated by the Administrator to an officer or employee of the Environmental Protection Agency, no authority vested in the Administrator under this section may be transferred, by Executive order of the President or otherwise, to any other office or employee of the United States or to any other person.

"(g) APPLICATION OF REQUIREMENTS TO FEDERAL FACILITIES.—All guidelines, rules, regulations, and criteria which are applicable to preliminary assessments carried out under this Act for facilities at which hazardous substances are located, applicable to evaluations of such facilities under the National Contingency Plan, applicable to inclusion on the National Priority List, or applicable to remedial actions at such facilities shall also be applicable to facilities which are owned and operated by a department, agency, or instrumentality of the United States in the same manner and to the extent as such guidelines, rules, regulations, and criteria are applicable to other facilities, except for any requirements relating to bonding, insurance, or financial responsibility. No department, agency, or instrumentality of the United States may adopt or utilize any such guidelines, rules, regulations, or criteria which are inconsistent with the guidelines, rules, regulations, and criteria established by the Administrator under this Act. The President may exempt any site or facility of any department, agency, or instrumentality in the Executive branch from compliance with any such guidelines, rules, regulations or criteria if the President determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with the reason for granting each such exemption.

"(h) FEDERAL AGENCY SETTLEMENTS.—The head of each department, agency, or instrumentality or his designee may consider, compromise, and settle any claim or demand under this Act arising out of activities of his agency, in accordance with regulations prescribed by the Attorney General. Any award, compromise, or settlement in excess of $25,000 shall be made only with the prior written approval of the Attorney General or his designee. Any such award, compromise, or settlement shall be paid by the agency concerned out of appropriations available to that agency.".

CITIZEN SUITS

SEC. 150. Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new section:

"CITIZEN SUITS

"SEC. 118. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on such person's behalf—

"(1) against any person, including the United States and any other governmental instrumentality or agency, to the extent permitted by the Eleventh Amendment to the Constitution, who is alleged to be in violation of any standard, regulation, condition, requirement, or order which has become effective pursuant to this Act; or

"(2) against the President for failure to perform any act or duty under this Act which is not discretionary with the President.

Any action under this subsection shall be brought in the district court for the district in which the alleged violation occurred. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such requirement, to order the President to perform such act or duty, as the case may be, or to order such person in violation, of any standard, regulation, condition, requirement, or order to take such action as may be necessary to correct the violation or to apply appropriate civil penalties under this Act: Provided, however, That no district court shall have jurisdiction under this section to review any challenges to response action selected under section 104 or any order issued under section 104, or to review any order issued under section 106(a).

"(b) No action may be commenced under subsection (a) of this section (1) prior to ninety days after the plaintiff has given notice of the violation (A) to the President; (B) to the State in which the alleged violation occurs; and (C) to any alleged violator of a standard, regulation, condition, requirement, or order; or (2) if the President or State has commenced and is diligently prosecuting an action under this Act or the Solid Waste Disposal Act to require compliance with such standard, regulation, condition, requirement, or order.

"(c) In any action commenced by the President or a State, under this Act or under the Solid Waste Disposal Act, in a court of the United States, any person may intervene as a matter of right when the applicant claims an interest relating to the subject of the action and such applicant is so situated that the disposition of the action may, as a practical matter, impair or impede such applicant's ability to protect that interest, unless the President or the State shows that the applicant's interest is adequately represented by existing parties.

"(d) In any action under this section, the United States or the State may intervene as a matter of right.

"(e) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or the substantially prevailing party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(f) Nothing in this Act shall restrict or expand any right which any person (or class of persons) may have under any Federal or State statute or common law to seek enforcement of any standard or requirement relating to hazardous substances or to seek any other relief (including relief against the President or a State agency).".

HAZARDOUS SUBSTANCE RESEARCH AND TRAINING

SEC. 151. (a) Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new section:

"HAZARDOUS SUBSTANCE RESEARCH AND TRAINING

"SEC. . (a) AUTHORITIES.—The Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency may each, consistent with their respective missions, support the following health-related activities through grants, cooperative agreements, and contracts—

"(1) Research (including epidemiologic and ecologic studies) in—

"(A) advanced techniques for the detection, assessment, and evaluation of the effects on human health of hazardous substances;

"(B) methods to assess the risks to human health presented by hazardous substances, including workplace hazard assessment;

"(C) methods and technologies to detect hazardous substances in the environment and methods and technologies to reduce the amount and toxicity of hazardous substances, including recycling, incinceration, biodegradation, chemical inactivation, and encapsulation; and

"(D) improved health and safety practices in, and equipment for the handling and disposal of hazardous substances.

"(2) Training, including—

"(A) short courses and continuing education for State and local health and environment agency personnel and other personnel engaged in the handling of hazardous substances, in the management of facilities at which hazardous substances are located, and in the evaluation of the hazards to human health presented by such facilities; and

"(B) graduate training in environmental and occupational health and in the public health aspects of hazardous waste control.

"(b) AWARDS.—A grant, cooperative agreement, or contract may be made or entered into under this section by the Administrator of the Environmental Protection Agency or the Secretary of Health and Human Services (through the National Institute of Environmental Health Sciences or other appropriate agency or, in the case of training, through the National Institute for Occupational Safety and Health or other appropriate agency), with an accredited institution of higher education, a research institution, a State or local health agency, or other entity as the Secretary or the Administrator deems appropriate. Awards under this subsection shall be subject to peer review in a manner substantially similar to that of section 475 of the Public Health Service Act.

"(c) ADVISORY COUNCIL.—To assist in the implementation of this section, the Secretary and the Administrator may each, or they may jointly, appoint an advisory council. Such council(s) shall be representative of the relevant Federal Government agencies, the chemical industry, the toxic waste management industry, institutions of higher education, State and local health and environmental agencies, and the general public.

"(d) PLANNING.—Within one year after the enactment of the Superfund Improvement Act of 1985, the Secretary and the Administrator shall complete a joint plan for the implementation of this section and shall report to the Congress on the plan and the implementation. The head of the Agency for Toxic Substances and Disease Registry shall coordinate the plan, which shall be drawn up with the participation of the Directors of the National Institute of Environmental Health Sciences and the National Institute for Occupational Safety and Health, and other officials as the Secretary and the Administrator deem appropriate.".

(b) Section 111(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraph:

"( ) the cost of carrying out the research and training program under section , to the extent that such costs do not exceed $5,000,000 for fiscal year 1986; $10,000,000 for fiscal year 1987; $20,000,000 for fiscal year 1988; $35,000,000 for fiscal year 1989; and $40,000,000 for fiscal year 1990;".

CONTRACTOR INDEMNIFICATION

SEC. 152. Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new section:

"INDEMNIFICATION OF CONTRACTORS

"SEC. . (a)(1) The President shall, in contracting, or arranging for response action to be undertaken pursuant to contracts or cooperative agreements in accordance with section 104(d)(1) of this Act, and funded in accordance with section 111 of this Act, agree to hold harmless and indemnify a contracting or subcontracting party against claims, including the expenses of litigation or settlement, by third persons for death, bodily injury or loss of or damage to property arising out of performance of a cleanup agreement to the extent not covered by available insurance and to the extent that any such damages awarded do not arise out of the negligence, recklessness, or intentional misconduct of the contracting or subcontracting party.

"(2) The President may, in the President's discretion, agree to hold harmless and indemnify a contracting or subcontracting party against such claims to the extent not covered by available insurance and to the extent that any such damages awarded do not arise out of the gross negligence, recklessness, or intentional misconduct of the contracting or subcontracting party, so long as such indemnification is in the public interest.

"(b)(1) Amounts expended pursuant to this section shall be considered costs of response to the release with respect to which resulted in liability. Costs incurred in the defense of suits against indemnified parties under subsection (a)(1) may be paid to such contractor in a timely manner, in quarterly or other increments, unless and until such contracting or subcontracting party is proven negligent in a court or such contractor accepts liability for negligent action. The United States shall not otherwise participate, directly or indirectly, in the defense of contracting parties unless the United States is named as a first party defendant. No other amounts shall be expended pursuant to this section until after entry of a judgment or a final order.

"(2) Indemnification contracts entered into pursuant to this section shall not be subject to section 1301 or 1340 of title 31 or section 11 of title 41 of the United States Code.".

SEC. 153 (a) Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new section:

"ALTERNATIVE OR INNOVATIVE TREATMENT TECHNOLOGY RESEARCH

"SEC. 119. (a)(1) The President is authorized and directed to carry out a program of research, evaluation, testing, development, and demonstration of alternative or innovative treatment technologies that may be utilized in response actions under section 104 or section 106 of this Act to achieve more permanent protection of the public health and welfare and the environment.

"(2) In carrying out the program established by this section, the President shall conduct a technology transfer program, including the development, collection, evaluation, coordination and dissemination of information relating to the utilization of al-

ternative or innovative treatment technologies for response actions. The President shall establish and maintain a central reference library for such information. The information maintained by the President shall be made available to the public.

"(3) In carrying out activities under subsection (1), the President is authorized to enter into contracts and cooperative agreements with, and make grants to, any persons including public entities, accredited institutions of higher learning, and nonprofit private entities (as defined by 26 U.S.C. 501(c)(3)). The President shall, to the maximum extent possible, enter into appropriate cost-sharing arrangements under this section.

"(b)(1) The President may, consistent with the provisions of this section, provide assistance or information to any persons, including public entities, accredited institutions of higher learning, and nonprofit private entities who wish to have alternative and innovative treatment technologies tested or evaluated for utilization in response activities.

"(2) The President may arrange for the use of sites, either wholly or in part, listed as national priority sites under section 105(a)(8)(B), or at which a response is taken pursuant to section 104 or 106, for the purposes of research, testing, evaluation, development, and demonstration under such terms and conditions as the President shall require to assure the protection of human health and the environment.

"(3) Nothing in this section shall be construed to affect the provisions of the Solid Waste Disposal Act.

"(c) To carry out the program authorized by this section, the President shall, within 2 years after the date of enactment of this section, and after notice and an opportunity for public comment, designate at least 10 sites listed under section 105(a)(8)(B) as appropriate for field demonstrations of alternative or innovative treatment technologies, after analyzing sites for potential response actions. If the President determines that 10 sites cannot be designated consistent with the criteria of this subsection, the President shall within the 2-year period report to the Environment and Public Works Committee of the Senate, and the Science and Technology Committee, the Energy and Commerce Committee, and the Public Works and Transportation Committee of the House of Representatives explaining the reasons for the failure to designate such sites. Other funding priorities shall not be deemed sufficient explanation under this subsection for failure to designate such sites. Not later than 12 months after designation of a site under this section, the President shall begin or cause to begin a demonstration of alternatives or innovative treatment technologies at such site. In designating such sites under this section, the President shall, consistent with the protection of human health and the environment, consider each of the following criteria:

"(1) The potential for contributing to solutions to those waste problems that pose the greatest threat to human health, which cannot be adequately controlled with present technologies, or which otherwise pose significant management difficulties.

"(2) The availability of technologies that have been sufficiently developed for field demonstration and which are likely to be cost-effective and reliable.

"(3) The suitability of the sites for demonstrating such technologies, taking into account the physical, biological, chemical, and geological characteristics of the sites, the extent and type of contamination found at the sites, the capability to conduct demonstrations in such a manner as to assure the protection of human health and the environment, and the comments of the public.

"(4) The likelihood that the data to be generated from the demonstration at the site will be applicable to other sites.

"(d) In selecting alternative or innovative treatment technologies for use in response actions under this title, the President shall determine that response actions incorporating such technologies provide for cost-effective response if their life cycle cost does not exceed the life cycle of the most effective alternative by more than 300 per centum.

"(e) For the purposes of this section, the term 'alternative or innovative treatment technologies' means those technologies that permanently alter the composition of hazardous waste through chemical, biological or physical means so as to signficantly reduce the toxicity, mobility, or volume (or any combination thereof) of the hazardous waste or contaminated materials being treated. This term also includes technologies that characterize or assess the extent of contamination or the chemical or physical character of the contaminents at such sites.

"(f) REPORTS TO CONGRESS.—(1) At the time of the submission of the annual budget request to Congress, the President shall submit a report to the Environment and Public Works Committee of the Senate and the Science and Technology Committee; the Energy and Commerce Committee, and the Public Works and Transportation Committee of the House of Representatives on the progress of the research, development, and demonstration program authorized by this Act, including an evaluation of the demonstration projects undertaken, findings with respect to the efficacy of such demonstrated technologies in achieving permanent and significant reductions in risk from hazardous substances, the costs of such demonstrations, and the potential applicability of, and projected costs for, such technologies at other hazardous substance sites.

"(2) If the total estimated Federal contribution to the cost of any field demonstration project under section (a) exceeds $5,000,000, the President shall provide a full and comprehensive report on the proposed demonstration project to the Environment and Public Works Committee of the Senate, and the Science and Technology Committee, the Energy and Commerce Committee, and the Public Works and Transportation Committee of the House of Representatives, and no funds may be expended for such project under the authority granted by this section prior to the expiration of 30 calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain) from the date on which the President's report on the proposed project is received by the Congress.

"(g) The President shall, to the maximum extent practicable, provide adequate opportunity for small business participation in the activities authorized under this Act.".

(b) Section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended as follows:

(1) Strike out "and" at the end of paragraph (8)(B).

(2) Strike out the period at the end of paragraph (9) and substitute "; and".

(3) Add the following new paragraph at the end thereof:

"(10) standards and testing procedures by which alternative or innovative treatment technologies can be determined to be appropriate for utilization in response actions authorized by this Act.".

(c) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"( ) There is authorized to be appropriated for each of the fiscal years 1986, 1987, 1988, 1989, and 1990, from sums appropriated or transferred to the Hazardous Substance Response Trust Fund under section 9505(b)(1)(c) of the Internal Revenue Code of 1954, not more than $25,000,000 to be used for purposes of carrying out the research, development and demonstration program for alternative or innovative technologies authorized under section 116. Amounts made available under this subsection shall remain available until expended.".

(d) Within 4 years from the date of the enactment of this section, the President shall transmit to Congress a study of the effects of the standards of liability and financial responsibility requirements imposed by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 on the cost of, and incentives for, developing and demonstrating alternative and innovative treatment technologies.

ADMINISTRATIVE CONFERENCE RECOMMENDATION

SEC. 154. The Congress finds that recommendation 84-4 of the Administrative Conference of the United States (adopted June 29, 1984) is generally consistent with the goals and purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and that the Administrator should consider such recommendation and implement it to the extent that the Administrator determines that such implementation will expedite the cleanup of hazardous substances which have been released into the environment.

PROCUREMENT PROCEDURES

SEC. 155. Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new section at the end thereof:

"PROCUREMENT PROCEDURES

"SEC. . Notwithstanding any other provision of law, any executive agency may use competitive procedures or procedures other than competitive procedures to procure the services of experts for use in preparing or prosecuting a civil or criminal action under this Act, whether or not the expert is expected to testify at trial. The executive agency need not provide any written justification for the use of procedures other than competitive procedures when procuring such expert services under this Act and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.".

RADON PROTECTION AT CURRENT NATIONAL PRIORITIES LIST SITES

SEC. 156. 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 offset 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.

PROPOSED RECOMMENDED MAXIMUM CONTAMINANT LEVELS OF ORGANIC AND INORGANIC CHEMICALS

Sec. 157. 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.

CENTERS TO STUDY THE BIOLOGICAL AND GENETIC EFFECTS OF WASTES AND MATERIALS FOUND IN THE ENVIRONMENT

SEC. 158. Section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following: "develop and construct regional centers at appropriately qualified universities, research and medical institutions for the study of the biological and genetic effects of wastes and materials found in the environment".

CENTERS FOR THE STUDY OF BIOLOGICAL AND GENETIC EFFECTS ON HUMANS, ANIMALS AND PLANTS OF WASTES AND MATERIALS FOUND IN THE ENVIRONMENT

SEC. 159. Section 111(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following: "subject to such amounts as are provided in appropriations Acts, all costs necessary to develop and construct regional centers for study of the biological and genetic effects on humans, animals and plants of wastes and materials found in the environment".

REVIEW OF EMERGENCY SYSTEMS

SEC. 160. (a) The Administrator of the Environmental Protection Agency is directed to initiate, not later than thirty days after enactment of this Act, a comprehensive review of emergency systems for monitoring, detecting, and preventing releases of extremely hazardous substances at representative domestic facilities that produce, use, or store extremely hazardous substances. The Administrator may select representative extremely hazardous substances for the purposes of this review. Such extremely hazardous substances shall be the same substances and quantities listed by the Council of the European Communities in its "Council Directive of June 24, 1982, on the Major Accident Hazards of Certain Industrial Activities, Annex III", published in the official Journal of the European Communities, August 5, 1982. The Administrator shall report interim findings to the Congress not later than two hundred and ten days after such date of enactment, and issue a final report of findings and recommendations to the Congress not later than three hundred sixty five days after such date of enactment. Such report shall be prepared in consultation with the States and appropriate Federal agencies.

(b) The report required by this section shall include the Administrator's findings regarding:

(1) the status of current technological capabilities to: (A) monitor, detect, and prevent, in a timely manner, significant releases of extremely hazardous substances, (B) determine the magnitude and direction of the hazard posed by each release, (C) identify specific chemicals, (D) provide data on the specific chemical composition of such releases, and (E) the relative concentrations of the constituent chemicals;

(2) the status of public emergency alert devices or systems for providing timely and effective public warning of an accidental release of extremely hazardous substances to the environment, including: releases into the atmosphere, surface water, or groundwater, from facilities that produce, store, or use significant quantities of such extremely hazardous substances; and

(3) the technical and economic feasibility of establishing, maintaining, and operating perimeter alert systems for detecting releases of such extremely hazardous substances to the atmosphere, surface water, or groundwater, at facilities that manufacture, use, or store significant quantities of such substances.

(c) The report required by this section shall also include the Administrator's recommendations for:

(1) initiatives to support the development of new or improved technologies or systems that would facilitate the timely monitoring, detection, and prevention of releases of extremely hazardous substances, and

(2) improving devices or systems for effectively alerting the public in a timely manner, in the event of an accidental release of such extremely hazardous substances.

POST CLOSURE LIABILITY PROGRAM STUDY, REPORT TO CONGRESS AND SUSPENSION OF LIABILITY TRANSFERS

SEC. 161. (a) Subsection (k) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new paragraphs:

"(5)(A) The Administrator shall conduct a study of options for a program to finance the post-closure maintenance of hazardous waste treatment, storage, and disposal sites in a manner which complements the policies set forth in the Hazardous and Solid Waste Amendments of 1984 and assures the protection of human health and the environment.

"(B) A report setting forth the conclusions of such study and recommendations of the Administrator shall be submitted to the Congress not later than March 1, 1988.

"(C) The study shall include assessments of treatment, storage, and disposal facilities which have been or are likely to be issued a permit under section 3005 of the Solid Waste Disposal Act and the likelihood of future insolvency on the part of owners and operators of such facilities. Separate assessments shall be made for different classes of facilities, and for different classes of land disposal facilities, and shall include but not be limited to—

"(i) the current and future financial capabilities of facility owners and operators;

"(ii) the current and future costs associated with facilities, including the costs of routine monitoring and maintenance, compliance monitoring, corrective action, natural resource damages, and liability for damages to third parties; and

"(iii) the availability of mechanisms by which owners and operators of such facilities can assure that current and future costs, including post-closure costs, will be financed.

"(D) The recommendations of the Administrator shall include assessments of various mechanisms and combinations of mechanisms to complement the policies set forth in the Hazardous and Solid Waste Amendments of 1984 and to assure that the current and future costs associated with hazardous waste facilities, including post-closure costs, will be adequately financed and, to the greatest extent possible, borne by the owners and operators of such facilities. Mechanisms to be considered include, but are not limited to—

"(i) revisions to closure, post-closure, and financial responsibility requirements under subtitles C and I of the Solid Waste Disposal Act;

"(ii) voluntary risk pooling by owners and operators;

"(iii) legislation to require risk pooling by owners and operators; and

"(iv) modification of the Post-Closure Liability Trust Fund previously establish by section 232 of this Act, and the conditions for transfer of liability under this subsection, including limiting the transfer of some or all liability under this subsection only in the case of insolvency of owners and operators.

"(6) Notwithstanding the provisions of paragraphs (1), (2), (3), and (4) of this subsection and subsection (j) of section 111 of this Act, no liability shall be transferred to or assumed by the Post-Closure Liability Fund previously established by section 232 of this Act prior to completion of the study required under paragraph (5) of this subsection, transmission of such study and report to both Houses of Congress, and authorization of such a transfer or assumption by Act of Congress following receipt of such study and report.".

DEPARTMENT OF DEFENSE ENVIRONMENTAL RESTORATION PROGRAM

SEC. 162. (a) ENVIRONMENTAL RESTORATION PROGRAM.—

(1) IN GENERAL.—The Secretary of Defense (hereafter in this section referred to as the "Secretary") shall carry out a program of environmental restoration at facilities under the jurisdiction of the Secretary. The program shall be known as the "Defense Environmental Restoration Program".

(2) APPLICATION OF SECTION 117.—The program shall be carried out subject to section 117 (relating to Federal facilities).

(3) DESIGNATION OF ADMINISTRATIVE OFFICE WITHIN OSD.—The Secretary shall identify an office within the Office of the Secretary which shall have the responsibility for carrying out the program.

(b) PROGRAM GOALS.—Goals of the program shall include the following:

(1) The identification, investigation, research and development, and cleanup of contamination from hazardous substances and wastes.

(2) Correction of other environmental damage, such as detection and disposal of unexploded ordinance, which creates an imminent and substantial endangerment to the public health or welfare, or to the environment.

(3) Demolition and removal of unsafe buildings and structures, including buildings and structures of the Department of Defense at sites formerly used by or under the jurisdiction of the Secretary.

(c) RESPONSIBILITY FOR RESPONSE ACTIONS.—

(1) BASIC RESPONSIBILITY.—The Secretary shall carry out (in accordance with the provisions of and this title) all response action for which the Secretary is responsible with respect to releases of hazardous substances from each of the following:

(A) Each facility or site owned by, leased to, or otherwise possessed by the United States and under the administrative jurisdiction of the Secretary.

(B) Each facility or site which was under the administrative jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination by hazardous substances.

(C) Each vessel of the Department of Defense, including vessels owned or bareboat chartered and operated.

(2) STATE FEES AND CHARGES.—The Secretary shall pay all fees and charges imposed by State authorities for permit services for the storage or disposal (or both) of hazardous substances on lands which are under the administrative jurisdiction of the Secretary to the same extent that nongovernmental entities are subject to fees and charges imposed by State authorities for permit services. This requirement shall not apply where such payment is the responsibility of a lessee, contractor, or other private person.

(d) SERVICES OF OTHER AGENCIES.—The Secretary may enter into agreements with any other Federal agency, and on a reimbursable or other basis with any State or local government agency, to obtain the services of that agency to assist the Secretary in carrying out any of his responsibilities under this section. Services which may be obtained under this subsection include the identification, investigation, and cleanup of any offsite contaminations possibly resulting from the release of a hazardous substance or waste at a facility under the Secretary's administrative jurisdiction.

(e) ENVIRONMENTAL RESTORATION TRANSFER ACCOUNT.—

(1) ESTABLISHMENT OF TRANSFER ACCOUNT.—

(A) ESTABLISHMENT.—There is hereby established an annual appropriation account for the Department of Defense to be know as the "Environmental Restoration, Defense" account (hereinafter in this section referred to as the "transfer account"). All sums appropriated to carry out the functions of the Secretary relating to environmental restoration under this or any other Act shall be appropriated to the transfer account.

(B) REQUIREMENT OF AUTHORIZATION OF APPROPRIATION.—No funds may be appropriated to the transfer account unless such sums have been specifically authorized by law.

(C) AVAILABILITY OF FUNDS IN TRANSFER ACCOUNT.—Amounts appropriated to the transfer account shall remain available until transferred under paragraph (2).

(2) AUTHORITY TO TRANSFER TO OTHER DOD ACCOUNTS.—Amounts in the transfer account shall be available to be transferred by the Secretary to any other appropriation account or fund. Funds so transferred shall be merged and available for the same purposes and for the same period as the account or fund to which transferred.

(3) OBLIGATION OF TRANSFERRED AMOUNTS.—Funds transferred under subsection (b) and subsection (e)(2) may only be obligated or expended from the account or fund to which transferred in order to carryout the functions of the Secretary under this Act of environmental restoration functions under any other Act, including functions for removal of unsafe buildings or debris of the Department of Defense at sites formerly used by the Department of Defense.

(4) LIMITATION ON EXPENDITURES.—

(A) GENERAL RULE.—The Secretary may not obligate or expend funds for purposes of this Act or any other purpose relating to environmental restoration other than funds transferred from the transfer account.

(B) EXCEPTION FOR EMERGENCY RESPONSE ACTION.—The Secretary may obligate or expend funds which are available to the Secretary for operation and maintenance to carry out emergency response actions authorized under this Act whenever the Secretary determines that such obligation or expenditure is necessary to protect the public health or welfare, or the environment. In any such case, the operation and maintenance account concerned shall be reimbursed from the transfer account.

(C) REPROGRAMMING.—Any reprogramming request relating to environmental restoration into the transfer account must be forwarded to the Senate Armed Services Committee, the House Armed Services Committee, the Senate Appropriations Committee and the House Appropriations Committee on a notification basis. The request for reprogramming will be considered approved unless action to the contrary is taken by any one of those committees within a twenty-one-day period beginning on the date of the notification is received by those committees (or after each such committee has approved the reprogramming request, if the committees approved the request before the end of that period).

(5) AMOUNTS RECOVERED UNDER SUBTITLE A.—Amounts recovered under section 107 for response actions of the Secretary shall be credited to the transfer account (if appropriated by Congress for that purpose).

(f) MILITARY CONSTRUCTION FOR RESPONSE ACTION.—

(1) AUTHORITY.—Subject to subsection (b), the Secretary may carry out a military construction project not otherwise authorized by law if necessary to carry out a response action under this Act.

(2) CONGRESSIONAL NOTICE-AND-WAIT.—

(A) NOTICE TO CONGRESS.—When a decision is made to carry out a military construction project under this section, the Secretary shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include the following:

(i) The justification for the project and the current estimate of the cost of the project.

(ii) The justification for carrying out the project under this section.

(iii) A statement of the source of the funds to be used to carry out the project.

(B) OVERSIGHT PERIOD.—The project may then be carried out only after the end of the twenty-one-day period beginning on the date of the notification is received by those committees (or after each such committee has approved the project, if the committees approved the project before the end of that period).

REPORT TO CONGRESS BY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY AND THE ATTORNEY GENERAL

SEC. 163. Section 301 of the Comprehensive Environmental Response, Compensation, and Liability Act is amended by adding the following new subsections:

"( ) The Administrator of the Environmental Protection Agency and the Attorney General shall submit to Congress annually on the first day of January a report including:

"(1) the rules, guidelines, criteria and procedures used to determine which potentially responsible parties to include as defendants in a judicial or administrative enforcement action under this Act;

"(2) the rules, guidelines, criteria, and procedures used to develop facts and information regarding potentially responsible parties at priority sites and to provide such information to potentially responsible parties in order to assist the settlement process;

"(3) the rules, guidelines, criteria and procedures used to determine whether, to what extent, and on what basis to use Fund resources for removal or remedial actions in connection with a settlement or voluntary cleanup.".

HAZARDOUS MATERIALS TRANSPORTATION

SEC. 164. (a) Section 306(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "within ninety days after the date of enactment of this Act" in the first sentence and inserting in lieu thereof "by June 1, 1986,"; and by inserting the words "and regulate" before the words "as a hazardous material".

"(b) Section 306(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting the words "and regulation" after "prior to the effective date of the listing".

TITLE II—AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

SEC. 201. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This title may be cited as the "Superfund Revenue Act of 1985".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. 5-YEAR EXTENSION OF TAX ON PETROLEUM AND CERTAIN CHEMICALS; CERTAIN EXEMPTIONS.

(a) 5-YEAR EXTENSION; TERMINATION IF FUNDS UNSPENT OR $7,500,000,000 COLLECTED.—

(1) IN GENERAL.—Subsection (d) of section 4611 (relating to termination) is amended to read as follows:

"(d) TERMINATION.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the tax imposed by this subsection shall not apply after September 30, 1990.

"(2) NO TAX IF UNOBLIGATED BALANCE IN FUND IS MORE THAN CERTAIN AMOUNT.—If, on September 30, 1988, or September 30, 1989—

"(A) the unobligated balance in the Hazardous Substance Superfund exceeds $2,225,000,000 or $3,000,000,000, and

"(B) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed $2,225,000,000 or $3,000,000,000 on September 30, 1989, or September 30, 1990, respectively, if no tax is imposed under section 4001, 4611, or 4661 during calendar year 1989 or 1990, respectively,

then no tax shall be imposed under this section during calendar year 1989 or 1990, as the case may be.

"(3) NO TAX IF AMOUNTS COLLECTED EXCEED $7,500,000,000.—

"(A) ESTIMATES BY SECRETARY.—The Secretary as of the close of each calendar quarter (and at such other times as the Secretary determines appropriate) shall make an estimate of—

"(i) the amount of taxes which will be collected under sections 4001, 4611, and 4661 and credited to the Hazardous Substance Superfund, and

"(ii) the amount of interest which will be credited to such Fund under section 9602(b)(3),

during the period beginning October 1, 1985, and ending September 30, 1990.

"(B) TERMINATION IF $7,500,000,000 CREDITED BEFORE SEPTEMBER 30, 1990.—If the Secretary estimates under subparagraph (A) that more than $7,500,000,000 will be credited to the Fund before September 30, 1990, no tax shall be imposed under this section after the date on which the Secretary estimates $7,500,000,000 will be so credited to the Fund.

"(4) PROCEDURES FOR TERMINATION.—The Secretary shall by regulation provide procedures for the termination under paragraph (2) or (3) of the tax under this section and section 4661.".

(2) CONFORMING AMENDMENT.—Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (relating to expiration of revenue provisions) is repealed.

(b) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

(1) IN GENERAL.—Section 4662 (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

"(1) TAX-FREE SALES.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) CREDIT OR REFUND WHERE TAX PAID.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) a tax under section 4661 was paid with respect to any taxable chemical, and

"(ii) such chemical was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that such person—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical, or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.".

(2) REFUND OR CREDIT.—Paragraph (1) of section 4662(d) (relating to refund or credit for certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section" in subparagraph (B) and inserting in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" in the last sentence and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (e) of this section)".

(c) EXEMPTION FOR CERTAIN RECYCLED CHEMICALS.—

(1) IN GENERAL.—Section 4662(b) (relating to exceptions and other special rules) is amended by adding at the end thereof the following new paragraph:

"(7) RECYCLED CHROMIUM, COBALT, AND NICKEL.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any chromium, cobalt, or nickel which is diverted or recovered from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

"(B) EXCEPTION FOR IMPORTS.—This paragraph shall not apply to the sale of any chromium, cobalt, or nickel which is diverted or recovered outside the United States and then imported into the United States.

"(C) CERTAIN PERSONS NOT ELIGIBLE.—

"(i) IN GENERAL.—This paragraph shall not apply to any taxpayer during any period during which the taxpayer is a potentially responsible party for a site which is listed on the National Priorities List published by the Environmental Protection Agency under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, except that such period shall not begin until the Administrator of the Environmental Protection Agency notifies the taxpayer that the taxpayer is such a party.

"(ii) EXCEPTION WHERE TAXPAYER IS IN COMPLIANCE.—Clause (i) shall not apply to any portion of the period during which the taxpayer is in compliance with each order, decree, or judgment issued against the taxpayer with respect to the site in any action or proceeding under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Solid Waste Disposal Act, or both.

"(D) SOLID WASTE.—For purposes of this paragraph, the term 'solid waste' has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal.".

(2) CREDIT OR REFUND.—Paragraph (1) of section 4662(d), as amended by subsection (b)(2), is amended by inserting "(b)(7) or" before "(e)" in the last sentence thereof.

(d) TAX EXEMPTION FOR ANIMAL FEED SUBSTANCES.—

(1) IN GENERAL.—Subsection (b) of section 4662 (relating to definitions and special rules with respect to the tax on certain chemicals), as amended by subsection (c)(1), is amended by adding at the end thereof the following paragraph:

"(8) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

"(A) IN GENERAL.—In the case of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(i) used in a qualified animal feed use by the manufacturer, producer or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.".

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(4) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(8), and

"(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(8) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.".

(e) CERTAIN EXCHANGES BY TAXPAYERS NOT TREATED AS SALES.—Subsection (c) of section 4662 (relating to use by manufacturers) is amended to read as follows:

"(c) USE AND CERTAIN EXCHANGES BY MANUFACTURER, ETC.—

"(1) USE TREATED AS SALE.—Except as provided in subsection (b), if any person manufactures, produces, or imports any taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.

"(2) SPECIAL RULES FOR INVENTORY EXCHANGES.—

"(A) IN GENERAL.—Except as provided in this paragraph, in any case in which a manufacturer, producer, or importer of a taxable chemical exchanges such chemical as part of an inventory exchange with another person—

"(i) such exchange shall not be treated as a sale, and

"(ii) such other person shall, for purposes of section 4661, be treated as the manufacturer, producer, or importer of such chemical.

"(B) EXCEPTION FOR EXCHANGES WHERE RECIPIENT NOT TAXABLE.—Subparagraph (A) shall not apply to any inventory exchange if the person receiving the taxable chemical would not be subject to tax on the sale of such chemical (other than by reason of subsection (b)).

"(C) REGISTRATION REQUIREMENT.—Subparagraph (A) shall not apply to any inventory exchange unless—

"(i) both parties are registered with the Secretary as manufacturers, producers, or importers of taxable chemicals, and

"(ii) the person receiving the taxable chemical has, at such time as the Secretary may prescribe, notified the manufacturer, producer, or importer of such person's registration number and the internal revenue district in which such person is registered.

"(D) INVENTORY EXCHANGE.—For purposes of this paragraph, the term 'inventory exchange' means an exchange in which a person exchanges property which, in the hands of such person, is property described in section 1221(1) for property of another person which, in such other person's hands, is so described.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by

this section shall take effect on October 1, 1985.

(2) INVENTORY EXCHANGES.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amendment made by subsection (e) shall apply as if included in the amendments made by section 211 of the Hazardous Substance Response Revenue Act of 1980.

(B) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (e) shall not apply if the manufacturer, producer, or importer treated such exchange as a sale for purposes of section 4661 of the Internal Revenue Code of 1954 and paid the tax imposed by such section.

(C) REGISTRATION REQUIREMENTS.—Section 4662(c)(2)(C) of such Code (as added by subsection (e)) shall apply to exchanges made after December 31, 1985.

SEC. 203. IMPOSITION OF SUPERFUND EXCISE TAX.

(a) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting before chapter 31 the following new chapter:

"CHAPTER 30—SUPERFUND EXCISE TAX

"SUBCHAPTER A. Imposition of tax.

"SUBCHAPTER B. Taxable transaction.

"SUBCHAPTER C. Taxable amount; exempt transactions; credit against tax.

"SUBCHAPTER D. Administration.

"SUBCHAPTER E. Definitions; special rules.

"Subchapter A—Imposition of Tax

"Sec. 4001. Imposition of tax.

"Sec. 4002. Termination.

"SEC. 4001. IMPOSITION OF TAX.

"(a) GENERAL RULE.—A tax is hereby imposed on each taxable transaction.

"(b) AMOUNT OF TAX.—Except as otherwise provided in this chapter, the amount of the tax shall be .08 percent of the taxable amount.

"SEC. 4002. TERMINATION.

"(a) IN GENERAL.—No tax shall be imposed under this section after December 31, 1990.

"(b) NO TAX IF FUNDS UNSPENT OR $7,500,000,000 COLLECTED.—No tax shall be imposed under subsection (a) during any period during which no tax is imposed under section 4611(a) by reason of paragraph (2) or (3) of section 4611(d), except that section 4611(d)(3) shall, for purposes of this subsection, be applied by substituting 'December 31, 1990' for 'September 30, 1990' each place it appears.

"(c) PROCEDURES FOR TERMINATION.—

"(1) PRORATION OVER TAXABLE PERIOD.—In the case of any taxable period which begins before and ends after the date of any termination under this section, the tax imposed by section 4001 (and the credit allowable under section 4013) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined without regard to the termination) as—

"(A) the number of days in such taxable period up to and including the date of termination, bears to

"(B) the number of days in such taxable period.

"(2) OTHER PROCEDURES.—The Secretary shall by regulation provide such procedures for a termination under this section as the Secretary determines necessary.

"SUBCHAPTER B—TAXABLE TRANSACTION

"Sec. 4003. Taxable transaction.

"Sec. 4004. Taxable person.

"SEC. 4003. TAXABLE TRANSACTION.

"(a) IN GENERAL.—For purposes of this chapter, the term 'taxable transaction' means—

"(1) the sale or leasing of tangible personal property in the United States by a taxable person in connection with a trade or business, or

"(2) the importing of tangible personal property into the customs territory of the United States by a taxable person.

"(b) EXEMPT TRANSACTIONS.—For exempt transactions, see section 4012.

"SEC. 4004. TAXABLE PERSON.

"Except as otherwise provided in this chapter, for purposes of this chapter, the term 'taxable person' means—

"(1) in the case of a taxable transaction described in paragraph (1) of section 4003(a)—

"(A) the manufacturer of the tangible personal property, or

"(B) any person who included the costs of the tangible personal property in such person's qualified inventory costs, and

"(2) in the case of a taxable transaction described in paragraph (2) of section 4003(a), the importer of the tangible personal property.

"SUBCHAPTER C—TAXABLE AMOUNT; EXEMPT TRANSACTIONS; CREDIT AGAINST TAX

"Sec. 4011. Taxable amount.

"Sec. 4012. Exempt transactions.

"Sec. 4013. Credit against tax on sales and leases.

"SEC. 4011. TAXABLE AMOUNT.

"(a) SALE.—For purposes of this chapter, the taxable amount for any sale shall be the price (in money or fair market value of other consideration) charged the purchaser of the property by the seller thereof—

"(1) including items payable to the seller with respect to such transaction, but

"(2) excluding the tax imposed by section 4001 with respect to such transaction.

"(b) IMPORTS.—For purposes of this chapter, the taxable amount in the case of any import shall be—

"(1) the customs value plus customs duties and any other duties which may be imposed, or

"(2) if there is no such customs value, the fair market value (determined as if the importer had sold the property).

"(c) LEASES.—For purposes of this chapter, the taxable amount in the case of any lease shall be the gross payments under the lease.

"(d) CONTAINERS, PACKING AND TRANSPORTATION CHARGES; CONSTRUCTIVE SALES PRICE.—Under regulations, rules similar to the rules of subsections (a) and (b) of section 4216 (relating to containers, packing and transportation charges, etc., and constructive sales price) shall apply in computing the taxable amount.

"(e) SPECIAL RULE WHERE SALE OR LEASE PAYMENTS RECEIVED IN MORE THAN 1 TAXABLE PERIOD.—

"(1) SALES.—In the case of a sale where the consideration is received by the seller in more than 1 taxable period, the taxable amount for each such taxable period shall include that portion of the taxable amount which is includible in the gross income of the taxable person for purposes of chapter 1 for taxable years ending with or within such taxable period (or would be so includible if it were not excludable from gross income).

"(2) LEASES.—In the case of a lease with a term which includes more than 1 taxable period, the taxable amount for each such taxable period shall include the gross lease payments received by the taxable person during such taxable period.

"SEC. 4012. EXEMPT TRANSACTIONS.

"(a) IMPORTS OF $10,000 OR LESS.—No tax shall be imposed under section 4001 on any tangible personal property imported into the customs territory of the United States as part of a shipment (within the meaning of section 498(1) of the Tariff Act of 1930; 19 U.S.C. 1498(1)) the aggregate taxable amount of which is $10,000 or less.

"(b) EXPORTS.—Under regulations, no tax shall be imposed under section 4001 on the sale of any property which is to be exported outside the United States.

"(c) GOVERNMENTAL ENTITIES AND EXEMPT ORGANIZATIONS EXEMPT FROM TAX ON SALES AND LEASES.—

"(1) GOVERNMENTAL ENTITIES.—No tax shall be imposed under section 4001 on the sale or leasing of any tangible personal property by the United States, any State or political subdivision, the District of Columbia, a Commonwealth or possession of the United States, or any agency or instrumentality of any of the foregoing.

"(2) EXEMPT ORGANIZATIONS.—No tax shall be imposed under section 4001 on the sale or leasing of any tangible personal property by any organization which is exempt from taxation under chapter 1 by reason of section 501(a), unless the taxable transaction is part of an unrelated trade or business (within the meaning of section 513).

"SEC. 4013. CREDIT AGAINST TAX ON SALES AND LEASES.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by section 4001 for any taxable period on taxable transactions described in paragraph (1) of section 4003(a) an amount equal to the greater of—

"(1) .08 percent of the qualified inventory costs of the taxable person for the taxable period, or

"(2) the amount of the tax imposed by section 4001 on such taxable transactions, to the extent such amount does not exceed $4,000.

"(b) LIMITATION BASED ON TAX LIABILITY; CARRYFORWARD OF EXCESS CREDIT.—

"(1) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by subsection (a) for any taxable period shall not exceed the liability for tax imposed by section 4001 for such period.

"(2) CARRYFORWARD OF EXCESS CREDIT.—If the credit allowable under subsection (a) for any taxable period exceeds the limitation imposed by paragraph (1), such credit shall be carried to the succeeding taxable period and added to the credit allowable under subsection (a) for such succeeding taxable period.

"(c) QUALIFIED INVENTORY COSTS.—For purposes of this chapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'qualified inventory costs' means, with respect to any taxable period, the costs of tangible personal property which—

"(A) are allocable to the inventory of a manufacturer under the full absorption method of accounting under section 471, and

"(B) are paid or incurred by the taxable person during such taxable period.

"(2) SPECIAL RULES.—For purposes of this subsection—

"(A) EXPENSING RATHER THAN DEPRECIATION OR AMORTIZATION.—The qualified inventory costs of any taxpayer for any taxable period shall, in lieu of any allowance for depreciа-

tion or amortization, include any amount paid or incurred during such taxable period for tangible personal property acquired or leased incident to, and necessary for, production or manufacturing operations or processes.

"(B) TAXPAYERS USING METHODS OF ACCOUNTING OTHER THAN THE FULL ABSORPTION METHOD.—In the case of a taxable person using a method of accounting other than the full absorption method used in determining the inventory of a manufacturer under section 471, the qualified inventory costs of such person shall, except as provided in regulations, include only those costs included in the inventory of a manufacturer under such full absorption method.

"(C) PROPERTY MANUFACTURED FOR LEASE BY MANUFACTURER.—For purposes of computing qualified inventory costs, any tangible personal property which is manufactured for lease by the manufacturer shall be treated in the same manner as property which is manufactured for sale by the manufacturer.

"(d) SPECIAL RULE FOR TAXPAYERS UNDER COMMON CONTROL.—

"(1) IN GENERAL.—All persons which are—

"(A) members of the same controlled group of corporations (within the meaning of section 52(a)), or

"(B) under common control (within the meaning of section 52(b)),

shall be treated as 1 person for purposes of applying the $4,000 amount under subsection (a)(2).

"(2) ALLOCATION OF $4,000.—The $4,000 amount under subsection (a)(2) shall be allocated among persons described in paragraph (1) in such manner as the Secretary may prescribe by regulations.

"Subchapter D—Administration

"Sec. 4021. Liability for tax.

"Sec. 4022. Return requirement; taxable period; depositary requirements.

"Sec. 4023. Regulations.

"SEC. 4021. LIABILITY FOR TAX.

"The taxable person shall be liable for the tax imposed by section 4001.

"SEC. 4022. RETURN REQUIREMENT; TAXABLE PERIOD; DEPOSITARY REQUIREMENTS.

"(a) RETURN REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in this subsection, each taxable person shall file a return of the tax imposed by section 4001 for any taxable period not later than—

"(A) the due date (including extensions) for filing the taxpayer's return of tax under chapter 1, or

"(B) if there is no return of tax under chapter 1, the due date (including extensions) under chapter 1 for a taxable year which is the calendar year.

"(2) EXCEPTION FOR SALES OR LEASES OF $5,000,000 OR LESS.—A taxable person shall not be required to file a return for any taxable period for taxable transactions described in paragraph (1) of section 4003(a) if the aggregate taxable amount for such transactions is $5,000,000 or less.

"(3) OTHER EXCEPTIONS.—The Secretary may by regulation exempt any taxable person from the requirement of paragraph (1).

"(b) TAXABLE PERIOD.—For purposes of this chapter, the term 'taxable period' means—

"(1) the taxable person's taxable year for purposes of chapter 1, or

"(2) if there is no taxable year for purposes of chapter 1, the calendar year.

"(c) DEPOSITARY REQUIREMENTS.—

"(1) IN GENERAL.—In the case of any person with respect to whom a tax is imposed under section 4001 for any taxable period on any taxable transaction described in paragraph (1) of section 4003(a), such person shall make quarterly deposits of the estimated amount of such tax for the succeeding taxable period.

"(2) SPECIAL RULE FOR 1ST TAXABLE PERIOD.—Notwithstanding paragraph (1), a deposit shall be required for the first taxable period of any taxable person to which this chapter applies if the gross receipts of such person during the first taxable year ending before such taxable period from the sale or leasing of tangible personal property manufactured by such person exceed $50,000,000.

"SEC. 4023. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this chapter.

"Subchapter E—Definitions; Special Rules

"Sec. 4031. Definitions; special rules.

"SEC. 4031. DEFINITIONS; SPECIAL RULES.

"(a) MANUFACTURING.—For purposes of this chapter—

"(1) PRODUCTION INCLUDED.—The term 'manufacturing' includes the production of tangible personal property, including raw materials.

"(2) CERTAIN ACTIVITIES NOT INCLUDED IN MANUFACTURING.—The term 'manufacturing' does not include—

"(A) the furnishing of services incidental to storage or transportation of property,

"(B) the preparation of food in a restaurant or other retail food establishment, or

"(C) the incidental preparation of property by a retailer or wholesaler (including routine assemblage).

"(b) MANUFACTURER.—For purposes of this chapter, the term 'manufacturer' includes any producer of tangible personal property (including raw materials), but does not include any person conducting an activity described in subsection (a)(2).

"(c) PERSON.—For purposes of this chapter, the term 'person' includes any governmental entity.

"(d) UNITED STATES.—For purposes of this chapter, the term 'United States', when used in a geographical sense, includes a Commonwealth and any possession of the United States.

"(e) TANGIBLE PERSONAL PROPERTY.—For purposes of this chapter, the term 'tangible personal property' does not include unprocessed agricultural products or unprocessed food products.

"(f) UNPROCESSED AGRICULTURAL PRODUCTS.—For purposes of this chapter, the term 'unprocessed agricultural product' includes timber and fish.

"(g) CUSTOMS TERRITORY OF THE UNITED STATES.—For purposes of this chapter, the term 'customs territory of the United States' has the meaning given such term by headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States (19 U.S.C. 1202).

"(h) TAX ON IMPORT IN ADDITION TO DUTY.—The tax imposed by section 4001 on the importing of any tangible personal property shall be in addition to any duty imposed on such importation.

"(i) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 and any similar provision of law which requires an internal revenue tax collected by the United States to be paid to a Commonwealth or possession of the United States shall not apply to any tax imposed by section 4001.

"(j) SPECIAL RULE FOR SHORT TAXABLE PERIODS.—In the case of a taxable period which is less than 1 calendar year, there shall be substituted for the $4,000 amounts in subsections (a) and (d) of section 4013 and the $5,000,000 amount in section 4022(a)(2) the amount which bears the same ratio to such amounts as the number of days in the taxable period bears to 365.

"(k) SALE TO INCLUDE CERTAIN EXCHANGES AND TRANSFERS.—For purposes of this chapter, except as provided in regulations, the term 'sale' includes any exchange or transfer other than a gift (within the meaning of section 102 or section 170).".

(b) APPLICATION OF CERTAIN PENALTIES.—

(1) FAILURE TO FILE RETURN OR PAY TAX.—Paragraph (1) of section 6651(a) (relating to addition to tax) is amended by inserting "section 4022 (relating to Superfund excise tax)," before "subchapter A of chapter 51".

(2) NEGLIGENCE PENALTY.—Section 6653(a) (relating to negligence or intentional disregard of rules and regulations) is amended—

(A) by inserting ", by chapter 30 (relating to Superfund excise tax)," after "subtitle B" in paragraph (1) thereof, and

(B) by striking out "Windfall Profit" in the heading thereof and inserting in lieu thereof "Certain Excise".

(3) FAILURE TO MAKE DEPOSITS.—Section 6656 (relating to failure to make deposit of taxes or overstatement of deposits) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR SUPERFUND EXCISE TAX.—For purposes of subsection (a), in the case of the tax imposed by section 4001, the tax required to be deposited shall be equal to the lesser of—

"(1) 90 percent of the tax imposed by section 4001 during the taxable period on taxable transactions described in paragraph (1) of section 4003(a), or

"(2) the amount of such tax imposed during the preceding taxable period (determined on an annual basis).

Paragraph (2) shall not apply if no tax was imposed during the preceding taxable period.".

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by inserting before the item relating to chapter 31 the following new item:

"CHAPTER 30. Superfund excise tax.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply with respect to taxable amounts received in taxable periods beginning after December 31, 1985.

(2) SPECIAL RULE FOR IMPORTS.—In the case of imports, the amendments made by this section shall apply to articles entered, or withdrawn from warehouse, for consumption after December 31, 1985.

(3) SPECIAL RULE FOR TAXABLE PERIOD INCLUDING JANUARY 1, 1986.—In the case of any taxable period which begins before January 1, 1986, and ends after January 1, 1986, the tax imposed by section 4001 of the Internal Revenue Code of 1954 (and the credit allowable under section 4013 of such Code) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined as if such tax and credit had been in effect for the entire taxable period) as—

(A) the number of days in such taxable period after December 31, 1985, bears to

(B) the number of days in such taxable period.

SEC. 204. HAZARDOUS SUBSTANCE SUPERFUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to establishment of trust funds) is amended by adding at the end thereof the following new section:

"SEC. 9505. HAZARDOUS SUBSTANCE SUPERFUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Hazardous Substance Superfund' (hereinafter in this section referred to as the 'Superfund'), consisting of such amounts as may be—

"(1) appropriated to the Superfund as provided in this section, or

"(2) credited to the Superfund as provided in section 9602(b).

"(b) TRANSFERS TO SUPERFUND.—

"(1) IN GENERAL.—There are hereby appropriated to the Superfund amounts equivalent to—

"(A) the taxes received in the Treasury under section 4001 (relating to Superfund excise tax),

"(B) the taxes received in the Treasury under section 4611 or 4661 (relating to taxes on petroleum and certain chemicals),

"(C) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as 'CERCLA'),

"(D) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

"(E) penalties assessed under title I of CERCLA, and

"(F) punitive damages under section 107(c)(3) of CERCLA.

"(2) TRANSFER OF CERTAIN OTHER FUNDS.—There shall be transferred to the Superfund—

"(A) the amounts appropriated under section 504(b) of the Clean Water Act during any fiscal year, and

"(B) the unobligated balance in the Post-closure Liability Trust Fund as of October 1, 1985.

"(c) EXPENDITURES FROM THE SUPERFUND.—

"(1) IN GENERAL.—Amounts in the Superfund shall be available in connection with releases or threats of releases of hazardous substances into the environment only for purposes of making expenditures which are described in section 111 of CERCLA (other than subsection (j) thereof) as in effect on the date of the enactment of the Superfund Improvement Act of 1985, including—

"(A) response costs,

"(B) claims asserted and compensable but unsatisfied under section 311 of the Clean Water Act,

"(C) claims for injury to, or destruction or loss of, natural resources, and

"(D) related costs described in section 111(c) of CERCLA (other than paragraph (7) thereof).

"(2) LIMITATIONS ON EXPENDITURES.—At least 85 per centum of the amounts appropriated to the Superfund shall be reserved—

"(A) for the purposes specified in paragraphs (1), (2), and (4) of section 111(a) of CERCLA, and

"(B) for the repayment of advances made under subsection (d), other than advances subject to the limitation of subsection (d)(2)(B).

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

"(2) LIMITATIONS ON ADVANCES TO SUPERFUND.—

"(A) AGGREGATE ADVANCES.—The maximum aggregate amount of repayable advances to the Superfund which is outstanding at any one time shall not exceed an amount which the Secretary estimates will be equal to the sum of the amounts described in paragraph (1) of subsection (b) which will be transferred to the Superfund during the following 12 months.

"(B) ADVANCES FOR CERTAIN COSTS.—The maximum aggregate amount advanced to the Superfund which is outstanding at any one time for purposes of paying costs other than costs described in section 111 (a)(1), (2), or (4) of CERCLA shall not exceed 15 percent of the amount of the estimate made under subparagraph (A).

"(C) FINAL REPAYMENT.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before December 31, 1990.

"(3) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund (or when required by paragraph (2)(C)).

"(B) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(e) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Improvement Act of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund is unable (by reason of paragraph (1)) to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.".

(b) CONFORMING AMENDMENTS.—

(1) Subtitle B of the Hazardous Substance Response Revenue Act of 1980 (relating to establishment of Hazardous Substance Response Trust Fund) is hereby repealed.

(2) Paragraph (11) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(11) 'Fund' or 'Trust Fund' means the Hazardous Substance Superfund established by section 9505 of the Internal Revenue Code of 1954;".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9505. Hazardous Substance Superfund.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1985.

(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.

SEC. 205. REPEAL OF POST-CLOSURE TAX AND TRUST FUND.

(a) REPEAL OF TAX.—

(1) Subchapter C of chapter 38 (relating to tax on hazardous wastes) is hereby repealed.

(2) The table of subchapters for such chapter 38 is amended by striking out the item relating to subchapter C.

(b) REPEAL OF TRUST FUND.—Section 232 of the Hazardous Substance Response Revenue Act of 1980 is hereby repealed.

(c) REFUND OF UNOBLIGATED BALANCE.—An amount equal to the unobligated balance in the Post-Closure Liability Trust Fund as of October 1, 1985, which is transferred into the Hazardous Substance Superfund pursuant to section 9505(b)(2) of the Internal Revenue Code of 1954, shall be paid out from such Superfund, effective March 1, 1989, as refunds of the taxes paid under section 4681 of such Code (as in effect prior to October 1, 1985), unless, prior to March 1, 1989, congressional action has been taken pursuant to section 107(k)(6) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Such refunds shall be paid on a proportional basis to the amounts of such taxes paid, and without interest.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1985.

SEC. 206. INDUSTRIAL DEVELOPMENT BONDS FOR HAZARDOUS WASTE TREATMENT FACILITIES.

(a) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

(1) by inserting ", facilities subject to final permit requirements under subtitle C of title II of the Solid Waste Disposal Act for the treatment of hazardous waste," after "solid waste disposal facilities" in subparagraph (E), and

(2) by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the terms 'treatment' and 'hazardous waste' have the meanings given to such terms by section 1004 of the Solid Waste Disposal Act.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 207. REPORT ON METHODS OF FUNDING SUPERFUND.

Not later than January 1, 1988, the Comptroller General of the United States or his delegate shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to various methods of funding the Hazardous Substances Superfund, including a study of the

effect of taxes on the generation and disposal of hazardous wastes.

SEC. 208. CERTAIN COSTS OF PRIVATE FOUNDATION IN REMOVING HAZARDOUS SUBSTANCES TREATED AS QUALIFYING DISTRIBUTIONS.

(a) IN GENERAL.—In the case of any taxable year beginning after December 31, 1982, the distributable amount of a private foundation for such taxable year for purposes of section 4942 of the Internal Revenue Code of 1954 shall be reduced by any amount paid or incurred (or set aside) by such private foundation for the investigatory costs and direct costs of removal or taking remedial action with respect to a hazardous substance released at a facility which was owned or operated by such private foundation.

(b) LIMITATIONS.—Subsection (a) shall apply only to costs—

(1) incurred with respect to hazardous substances disposed of at a facility owned or operated by the private foundation but only if—

(A) such facility was transferred to such foundation by bequest before December 11, 1980, and

(B) the active operation of such facilitly by such foundation was terminated before December 12, 1980, and

(2) which were not incurred pursuant to a pending order issued to the private foundation unilaterally by the President or the President's assignee under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, or pursuant to a judgment against the private foundation issued in a governmental cost recovery action under section 107 of such Act.

(c) HAZARDOUS SUBSTANCE.—For purposes of this section, the term "hazardous substance" has the meaning given such term by section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act.

SEC. 209. SENSE OF THE SENATE RELATING TO THE VALUE ADDED TAX.

(a)(1) The Value Added Tax is a regressive tax which places the burden of paying for pollution on persons other than those responsible for it.

(2) The Value Added Tax on H.R. 2005 represents a dangerous shift toward the principle of a broad-based tax on sales.

(3) The Value Added Tax has escalated rapidly in virtually every country in which it has been implemented.

(4) The administration has stated, in a September 16, 1985, Statement of Administration Policy the "(t)he President's senior advisors will recommend disapproval of any legislation containing a value-added or other broad-based tax".

(5) The House of Representatives is expected to adopt a financing mechanism for the Superfund bill which will not include the Value Added Tax.

(6) The Administration will not be prepared to release its alternative to the Value Added Tax until after the Senate has completed action on the Superfund legislation.

(7) Prolonged debate on the floor of the Senate concerning an alternative to the Value Added Tax would unduly delay, consideration of this legislation.

(b) The sense of the Senate that the committee on conference on H.R. 2005 or such other comparable Superfund reauthorization legislation as shall be approved by both Houses of Congress should report legislation containing a reliable financing mechanism for the Superfund program which does not include the Value Added Tax.

TITLE III—LEAD FREE DRINKING WATER

SHORT TITLE

SEC. 301. This title may be cited as the "Lead Free Drinking Water Act."

SAFE DRINKING WATER ACT AMENDMENTS

SEC. 302. (a) IN GENERAL.—Part B of title XIV of the Public Health Service Act is amended by adding at the end thereof the following new section:

"PROHIBITION ON USE OF LEAD PIPES, SOLDER, AND FLUX

"SEC. 1417. (a) IN GENERAL.—

"(1) PROHIBITION.—Any pipe, solder, or flux, which is used after date of enactment of the Safe Drinking Water Act of 1985, in the installation or repair of—

"(A) any public water system, or

"(B) any plumbing in a residential or nonresidential facility providing water for human consumption which is connected to a public water system,

must be lead free (as defined in subsection (d)). This paragraph shall not apply to leaded joints necessary for the repair of cast iron pipes.

"(2) PUBLIC NOTICE OF ADVERSE EFFECTS.—Each community public water system shall provide notice, developed in consultation with the Administrator, to all users of the system with respect to—

"(A) the adverse health effects of exposure to lead, including a description of those populations which may be particularly sensitive to such exposure; and

"(B) any means reasonably available to such users for mitigating lead exposure from drinking water, taking into consideration the need to conserve water.

"(b) STATE ENFORCEMENT.—

"(1) ENFORCEMENT OF PROHIBITION.—The requirements of subsection (a)(1) shall apply to all States effective 24 months after the date of the enactment of this section. States shall enforce such requirements through State or local plumbing codes, or such other means of enforcement as the State may determine to be appropriate.

"(2) ENFORCEMENT OF PUBLIC NOTICE REQUIREMENTS.—The requirements of subsection (a)(2) shall apply to all States effective 24 months after the date of the enactment of this section.

"(c) PENALTIES.—If the Administrator determines that a State is not enforcing the requirements of subsection (a) as required pursuant to subsection (b), the Administrator may commence a civil action under section 1414(b).

"(d) DEFINITION OF LEAD FREE.—For purposes of this section, 'lead free' means solders and flux containing not more than 0.2 percent lead, and pipes and pipe fittings containing not more than 6.0 percent lead.".

(b) CIVIL ACTION.—Section 1414(b) of the Public Health Service Act is amended—

(1) in the matter preceding paragraph (1), by inserting ", or with section 1417," after "or 1416"; and

(2) in paragraph (1), by inserting ", or under section 1417" after "subsection (a)".

(c) NOTIFICATION TO STATES.—The Administrator of the Environmental Protection Agency shall notify all States with respect to the requirements of section 1417 of the Public Health Service Act within 90 days after the date of the enactment of this Act.

BAN ON LEAD WATER PIPES, SOLDER, AND FLUX IN VA AND HUD INSURED OR ASSISTED PROPERTY

SEC. 303. (a) PROHIBITION.—(1) The Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs may not insure or guarantee a mortgage or furnish assistance with respect to newly constructed residential property which contains a potable water system unless such system uses only lead free pipe, solder, and flux.

(2) For purposes of paragraph (1), "lead free" means solders and flux containing not more than 0.2 percent lead, and pipes and pipe fittings containing not more than 6.0 percent lead.

(b) EFFECTIVE DATE.—Subsection (a) shall become effective 24 months after the date of the enactment of this Act.

LEAD SOLDER AS A HAZARDOUS SUBSTANCE

SEC. 304. (a) IN GENERAL.—Section 2(f)(1) of the Federal Hazardous Substances Act is amended by adding at the end thereof the following:

"(E) Any solder which has a lead content in excess of 0.2 percent.".

(b) LABELING.—Section 4 of the Federal Hazardous Substances Act is amended by adding at the end thereof the following:

"(k) The introduction or delivery for introduction into interstate commerce of any lead solder which has a lead content in excess of 0.2 percent which does not prominently display a warning label stating the lead content of the solder and warning that the use of such solder in the making of joints or fittings in any private or public potable water supply system is prohibited.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 24 months after the date of the enactment of this Act.

TITLE IV—POLLUTION INSURANCE

AMENDMENTS RELATED TO THE INSURANCE OF POLLUTION LIABILITY

SEC. 401. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following at the end thereof:

"TITLE IV—POLLUTION INSURANCE

"SEC. 401. This title may be cited as the 'Pollution Liability Insurance and Risk Retention Act'.

"DEFINITIONS

"SEC. 402. (a) As used in this title—

"(1) 'insurance' means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under applicable State or Federal law;

"(2) 'pollution liability' means liability for injuries arising from the release of hazardous substances, pollutants or contaminants;

"(3) 'risk retention group' means any corporation or other limited liability association taxable as a corporation, or as an insurance company, formed under the laws of any State—

"(A) whose primary activity consists of assuming and spreading all, or any portion, of the pollution liability or of its group members;

"(B) which is organized for the primary purpose of conducting the activity described under subparagraph (A);

"(C) which is chartered or licensed as an insurance company and authorized to engage in the business of insurance under the laws of any State; and

"(D) which does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person.

"(4) 'purchasing group' means any group of persons which has as one of its purposes

the purchase of pollution liability insurance on a group basis; and

"(5) 'State' means any State of the United States or the District of Columbia.

"(b) Nothing in this title shall be construed to affect either the tort law or the law governing the interpretation of insurance contracts of any State, and the definitions of pollution liability and pollution liability insurance under any State law shall not be applied for the purposes of this Act, including recognition or qualification of risk retention groups or purchasing groups.

"(c) The authority to offer or to provide insurance under this title shall be limited to coverage of pollution liability risks and this title does not authorize a risk retention group or purchasing group to provide coverage of any other line of insurance.

"RISK RETENTION GROUP EXEMPT FROM STATE LAWS

"SEC. 403. (a) Except as provided in this section, a risk retention group is exempt from any State law, rule, regulation, or order to the extent that such law, rule, regulation, or order would—

"(1) make unlawful, or regulate, directly or indirectly, the operation of a risk retention group except that the jurisdiction in which it is chartered may regulate the formation and operation of such a group and any State may require such a group to—

"(A) comply with the unfair claim settlement practices law of the State;

"(B) pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on admitted insurers and surplus line insurers, brokers, or policyholders under the laws of the State;

"(C) participate, on a nondiscrimatory basis, in any mechanism established or authorized under the law of the State for the equitable apportionment among insurers of pollution liability insurance losses and expenses incurred on policies written through such mechanism;

"(D) submit to the appropriate authority reports and other information required of licensed insurers under the laws of a State relating solely to pollution liability insurance losses and expenses;

"(E) register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process, and, upon request, furnish such commissioner a copy of any financial report submitted by the risk retention group to the commissioner of the chartering or licensing jurisdiction;

"(F) submit to an examination by the State insurance commissioner in any State in which the group is doing business to determine the group's financial condition, if—

"(i) the commissioner has reason to believe the risk retention group is in a financially impaired condition; and

"(ii) the commissioner of the jurisdiction in which the group is chartered has not begun or has refused to initiate an examination of the group; and

"(G) comply with a lawful order issued in a delinquency proceeding commenced by the State insurance commissioner if the commissioner of the jurisdiction in which the group is chartered has failed to initiate such a proceeding after notice of a finding of financial impairment under subparagraph (F) of this paragraph;

"(2) require or permit a risk retention group to participate in any insurance insolvency guaranty association to which an insurer licensed in the State is required to belong;

"(3) require any insurance policy issued to a risk retention group or any member of the group to be countersigned by an insurance agent or broker residing in that State; or

"(4) otherwise discriminate against a risk retention group or any of its members, except that nothing in this section shall be construed to affect the applicability of State laws generally applicable to persons or corporations.

"(b) The exemptions specified in subsection (a) apply to—

"(1) pollution liability insurance coverage provided by a risk retention group for—

"(A) such group; or

"(B) any person who is a member of such group;

"(2) the sale of pollution liability insurance coverage for a risk retention group; and

"(3) the provision of insurance related services or management services for a risk retention group or any member of such a group.

"(c) A State may require that a person acting, or offering to act, as an agent or broker for a risk retention group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

"PURCHASING GROUPS

"SEC. 404. (a) Except as provided in this section, a purchasing group is exempt from any State law, rule, regulation, or order to the extent that such law, rule, regulation, or order would—

"(1) prohibit the establishment of a purchasing group;

"(2) make it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its member, advantages, based on their loss and expense experience, not afforded to other persons with respect to rates, policy forms, coverages, or other matters;

"(3) prohibit a purchasing group or its members from purchasing insurance on the group basis described in paragraph (2) of this subsection;

"(4) prohibit a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time;

"(5) require that a purchasing group must have a minimum number of members, common ownership or affiliation, or a certain legal form;

"(6) require that a certain percentage of a purchasing group must obtain insurance on a group basis;

"(7) require that any insurance policy issued to a purchasing group or any members of the group be countersigned by an insurance agent or broker residing in that State; or

"(8) otherwise discriminate against a purchasing group or any of its members.

"(b) The exemptions specified in subsection (a) apply to—

"(1) pollution liability insurance, and comprehensive general liability insurance which includes this coverage, provided to—

"(A) a purchasing group; or

"(B) any person who is a member of a purchasing group; and

"(2) the sale of—

"(A) pollution liability insurance, and comprehensive general liability coverage;

"(B) insurance related services; or

"(C) management services;

to a purchasing group or member of the group.

"(c) A State may require that a person acting, or offering to act, as an agent or broker for a purchasing group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

"APPLICABILITY OF SECURITIES LAWS

"SEC. 405. (a) The ownership interests of members in a risk retention group shall be—

"(1) considered to be exempted securities for purposes of section 5 of the Securities Act of 1933 and for purposes of section 12 of the Securities Exchange Act of 1934; and

"(2) considered to be securities for purposes of the provisions of section 17 of the Securities Act of 1933 and the provisions of section 10 of the Securities Exchange Act of 1934.

"(b) A risk retention group shall not be considered to be an investment company for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

"(c) The ownership interests of members in a risk retention group shall not be considered securities for purposes of any State blue sky law.".

TITLE V—INDOOR AIR QUALITY RESEARCH

SEC. 501. SHORT TITLE.—This title may be cited as the "Indoor Air Quality Research Act of 1985".

SEC. 502. FINDINGS.—The Congress finds that—

(1) indoor air exposures account for a significant portion of total human exposures to hazardous pollutants and contaminants in the environment;

(2) various scientific studies have suggested that indoor air pollution, including exposure to naturally occurring chemical elements such as radon, poses a significant public health and environmental risk;

(3) high levels of radon have been measured within structures throughout the country and within the Reading Prong;

(4) existing Federal indoor air quality research programs are fragmented and underfunded;

(5) the Environmental Protection Agency's programs on indoor air quality and radon have been hindered by a lack of clear statutory authority for conducting research on indoor air quality; and

(6) an adequate information base concerning potential indoor air quality problems, including exposure to radon, does not currently exist and should be developed by the Federal Government.

SEC. 503. INDOOR AIR QUALITY RESEARCH PROGRAM.—

(a) DESIGN OF PROGRAM.—The Administrator of the Environmental Protection Agency shall establish a research program with respect to indoor air quality, including radon. Such program shall be designed to—

(1) gather data and information on all aspects of indoor air quality in order to contribute to the understanding of health problems associated with the existence of air pollutants in the indoor environment;

(2) coordinate Federal, State, local, and private research and development efforts relating to the improvement of indoor air quality; and

(3) assess appropriate Federal Government actions to mitigate the environmental and health risks associated with indoor air quality problems.

(b) PROGRAM REQUIREMENTS.—The research program required under this section shall include—

(1) research and development concerning the identification, characterization, and monitoring of the sources and levels of

indoor air pollution, including radon, which includes research and development relating to—

(A) the measurement of various pollutant concentrations and their strengths and sources,

(B) high-risk building types, and

(C) instruments for indoor air quality data collection;

(2) research relating to the effects of indoor air pollution and radon on human health;

(3) research and development relating to control technologies or other mitigation measures to prevent or abate indoor air pollution (including the development, evaluation, and testing of individual and generic control devices and systems);

(4) demonstrations of methods for reducing or eliminating indoor air pollution and radon, including sealing, venting, and other methods that the Administrator determines may be effective;

(5) research, to be carried out in conjunction with the Secretary of Housing and Urban Development, for the purpose of developing—

(A) methods for assessing the potential for radon contamination of new construction, including (but not limited to) consideration of the moisture content of soil, porosity of soil, and the radon content of soil; and

(B) design measures to avoid indoor air pollution; and

(6) the dissemination of information to assure the public availabililty of the findings of the activities under this section.

(c) ADVISORY COMMITTEES.—The Administrator shall establish a committee comprised of individuals representing Federal agencies concerned with various aspects of indoor air quality and an advisory group comprised of individuals representing the States, the scientific community, industry, and public interest organizations to assist him in carrying out the research program for indoor air quality.

(d) IMPLEMENTATION PLAN.—Not later than ninety days after the date of the enactment of this Act, the Administrator shall submit to the Congress a plan for implementation of the research program under this section. Such plan shall also be submitted to the EPA Science Advisory Board, which shall, within a reasonable period of time, submit its comments on such plan to Congress.

(e) INTERIM REPORT.—No later than one year after the date of this Act, the Administrator shall prepare an interim report providing—

(A) a preliminary identification of the locations and amounts of radon in structures across the United States, and

(B) guidance and information materials based on the findings of research of methods for mitigating radon.

(f) REPORT.—

(1) Not later than two years after the date of enactment of this Act, the Administrator shall, in consultation with advisory committees and groups identified in subsection (c), submit to the Congress a report assessing—

(A) the state of knowledge concerning the risks to human health associated with indoor air pollution, including naturally occurring chemical elements such as radon;

(B) the locations and amounts of indoor air pollutants, including radon, in residential, commercial, and other structures throughout the country;

(C) the existing standards for indoor air pollutants, including radon, suggested by Federal or State Governments or scientific organizations and the risk to human health associated with such standards;

(D) the research needs and relative priority of these needs;

(E) the potential effectiveness of possible government actions necessary to mitigate the environmental and health risks associated with indoor air quality problems, including radon, in existing and in future structures,

and making such recommendations as may be appropriate.

(2) In developing such report, the Administrator shall consult with the National Academy of Sciences on the scientific issues regarding the quality of indoor air and the risks to human health associated with indoor air pollution.

(g) CONSTRUCTION OF SECTION.—Nothing in this section shall be construed to authorize the Administrator to carry out any regulatory program or any activity other than research, development, and the related reporting, information dissemination, and coordination activities specified in this section. Nothing in this section shall be construed to limit the authority of the Administrator or of any other agency or instrumentality of the United States under any other authority of law.

(h) AUTHORIZATIONS.—There are authorized to be appropriated to carry out the activities under this section not to exceed $3,000,000 for each of the fiscal years 1986 and 1987.

Amend the title so as to read: "An Act to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.".

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. STAFFORD. Mr. President, I ask unanimous consent that H.R. 2005, as passed by the Senate, be printed.

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

Mr. STAFFORD. I should like to express my deep appreciation to Senator BENTSEN, to the staff of the Committee on Environment and Public Works, to the staff of the Committee on the Judiciary, to the staff of the Committee on Finance, and to the chairman of the latter committee, Senator PACKWOOD, for their assistance in getting this bill passed, as a team effort among all of us.

Mr. BRADLEY. Mr. President, I should like to offer my congratulations and express my appreciation to the distinguished chairman of the Committee on Environment and Public Works for delivering on his promise in obtaining action on this bill, to get some of the toxic dumps around the country cleaned up. I salute him for his leadership on this issue and express my appreciation.

Mr. STAFFORD. I thank the gracious Senator from New Jersey for his kind words. It was his help, along with that of others, that made this possible.

SOUTH AFRICA CONFERENCE REPORT

(Earlier in the day the following proceedings occurred:)

Mr. DOLE. Mr. President, last evening, the conference report on the South Africa bill was returned to the desk. Since the minority leader will make a statement later in the day on the conference report, I would like to make a few brief remarks.

Very simply, the conference report was removed from the desk by the chairman of the Foreign Relations Committee. The Senate had decided in 4 separate votes over a 5-day period of time to take no further action on the South Africa bill. As a result, the majority leader made the judgment that it was time to move on to other business.

Taking of the conference papers was absolutely within the rules.

It was not our intention to preempt any further discussion on the topic of South Africa. In fact, numerous attempts were made to accommodate Senators and to establish a time in the future, when we in the Senate could again consider the conference report. Unfortunately there was no interest in any agreement on the Democratic side.

The issue had become totally politicized and it was the majority leader's view that we could best serve the interests of the people of South Africa by turning to other business.

SETTING THE SENATE'S AGENDA

Setting the Senate's agenda, is the issue we should focus on at this time. Historically, the right to set the agenda of the Senate is the right of the majority leader. If this long established precedent were honored, there would be no necessity to remove the conference report from the desk. However, certain events during the year have been puzzling to say the least.

During the debate on the nomination of Mr. Meese, there was an attempt by a Senator to recess the Senate, normally the right of the majority leader. I might note, however, that the minority leader was not present at the time, and therefore unable to prevent this form occurring.

Moreover, there was an attempt in the spring, during the consideration of the budget resolution to not only recess the Senate but set the agenda in an extraordinary way, namely to provide that the Senate immediately vote on an amendment not then before the Senate, not in order to be before the Senate, and not even at the desk. Even more extraordinary, the amendment was to be decided without debate. In other words, majority cloture was to be imposed upon the Senate through the use of this nondebatable motion to recess. The Chair, quite properly, ruled the motion not in order. As appeal was taken and 45

democratic Senators voted to overturn the ruling of the Chair. Every vote to overturn the Chair came from the other side of the aisle, not including, I should note, either the vote of the distinguished minority leader or that of the senior Senator from Louisiana [Mr. LONG]; 96 percent of the Senators voting on the other side of the aisle chose to vote for this imposition of majority cloture upon the motion of an individual Senator without debate.

We witnessed a third such intrusion into the normal prerogatives of the majority leader when the distinguished minority leader on September 10 himself moved to proceed to consideration of the South Africa conference report. The minority leader then filed a cloture motion on the motion to proceed, even though the motion to proceed was not debatable.

Controlling the agenda of the Senate, as I understand it, is the prerogative of the majority leader, as documented in the well known work of parliamentarian emeritus of the Senate, Floyd M. Riddick. On page 26 it states:

In addition to the above organizational motions offered at the beginning of a new Congress, the responsibility for making motions essential to the day-to-day operation of the Senate has devolved upon the leadership. For example, the majority leader or someone acting for him almost invariably (a) offers motions to recess or adjourn from day to day; (b) calls up the sine die adjournment resolution and other resolutions relating to adjournment including resolutions and motions to adjourn for periods of several days; (c) makes motions to proceed to the consideration of all proposed legislation (bills and resolutions); and (d) proffers routine requests to accommodate the Senate, including orders to permit standing committees to meet while the Senate is in session, notwithstanding the provisions of the rule.

Mr. President, again I appreciate the concerns of the minority leader but want to reassure him that the actions that were taken were well within our rights. To help avoid this confusion in the future, perhaps we would best be served by an amendment to rule XXVII that would state quite clearly that it is the prerogative of the majority leader or his designee to proceed by a nondebatable motion to the reports of committees of conference which, once filed, become part of the official papers retained at the desk of the Senate.

Mr. BYRD. Mr. President, will the Senator from New Mexico yield?

Mr. DOMENICI. I am pleased to yield.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, I ask the distinguished majority leader if he has any objection to asking that his statement appear at a different place in the RECORD, so that all the statements will be joined.

Mr. DOLE. On this issue?

Mr. BYRD. Yes.

Mr. DOLE. Mr. President, I ask unanimous consent that my statement proceed the remarks of the distinguished Senator from West Virginia and other Senators who may speak on this subject this afternoon. I may have parliamentary inquiries at that time, but I cannot be present during that discussion.

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

Mr. BYRD. I thank the distinguished majority leader, and I thank the distinguished Senator from New Mexico.

(Conclusion of earlier proceedings.)

RECOGNITION OF SENATOR BYRD

The PRESIDING OFFICER. Under the previous order, the Senate minority leader is recognized for 3 hours.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order. Senators desiring to converse will please conduct their conversations off the floor.

The distinguished minority leader is recognized.

Mr. BYRD. Mr. President, the distinguished majority leader, very thoughtfully and courteously, entered an order yesterday to allow me to control time for 3 hours, beginning now. In view of the fact that certain things have happened in the meantime, I should like to call to the attention of Senators on both sides that it is not my intent nor my desire to take the full 3 hours. I do not believe there will be a need for it.

At the moment, I will retain the authority to use 3 hours; but I hope that the managers of the appropriations bill and other bills will be assured that we may be able to proceed with other business sooner than that.

THE SOUTH AFRICA CONFERENCE REPORT

Mr. BYRD. Mr. President, several weeks ago, both Houses, by overwhelming votes, adopted the South Africa sanctions bill, H.R. 1460.

The conference report on H.R. 1460 was adopted by the House of Representatives by an overwhelming vote on August 1. The vote was 380 to 48, almost 8 to 1 in support of the conference report.

The conference report then was called up in the Senate by the distinguished chairman of the Foreign Relations Committee, Mr. LUGAR, and the Senate proceeded to consider it.

A motion was made by Mr. WEICKER to table the conference report, and he himself voted against the motion. The vote was, as I recall, unanimous in support of not tabling the conference report. Mr. WEICKER explained his reasons for making the motion, namely that he felt that before the Senate went out for the August recess there should be a strong showing of support in the Senate Chamber for the conference report.

A cloture motion was entered on the conference report, and the cloture motion, I believe, was signed by Senators on both sides of the aisle.

The distinguished Senator from New Mexico, Mr. DOMENICI, secured unanimous consent that the Senate be deemed to have been in session the following day so that it would be possible for the Senate to vote on the cloture motion as early as September 9, the day that the Senate would be returning from its August recess. That unanimous consent was given. Therefore, the Senate did not have to come in the next day in order to fulfill the requirement under rule XXII for an interim day between the day of offering the motion on cloture and the day of voting on the cloture motion.

On September 9, when the Senate returned following the August recess, the vote on cloture occurred and it failed by 7 votes to secure the required 60 votes under the rule. Thirteen Senators were absent on that vote necessarily. It was felt by Senators who were supporting the conference report that there should be another cloture vote in view of the fact, as I have said, it failed by 7 votes and 13 Senators were absent.

So, another cloture motion was introduced providing for a second cloture vote on September 11, 2 days after the cloture motion was introduced. The cloture vote on that occasion failed by only 3 votes, 57 votes for cloture.

I believe it was on that day that I changed my vote in order to qualify under the rule to move to reconsider the vote, and I made the motion to reconsider. The yeas and nays were ordered thereon. In that situation only a majority vote was necessary, as it did not require 60 votes to reconsider. The vote failed by a vote of 50 to 48. Later, I made a motion to proceed to the conference report because it had been taken down in the meantime by one way or another, and I offered a cloture motion on the motion to proceed. The vote occurred in due course on that cloture motion and it failed.

Immediately prior to that vote, I asked the distinguished majority leader if he would be willing to give consent that it be in order to order the yeas and nays on the conference report, but he indicated that he would not be willing right at that moment. He indicated that he would consider the matter during the rollcall vote. Following the rollcall vote, I again asked the majority leader if he would agree to a unanimous consent request that it be in order to order the yeas

and nays on the conference report. He indicated that by that time the Senate copy of the conference report had been removed from the desk by the distinguished Senator, Mr. LUGAR, chairman of the committee.

I said that, of course, what that meant was that the Senate cannot proceed to further consideration of the conference report because the Senate copy of the conference report had been removed.

So, Mr. President, the removal of the Senate copy of the conference report made it impossible for any Member of the Senate, including the majority leader, to call up the conference report again.

The matter has been a matter of concern to me daily since that time. I was concerned that a very dangerous precedent had been set, one which could come back to haunt Senators on both sides of the aisle. I discussed the matter in conference with my colleagues—I am referring to the weekly conferences—and I also discussed it privately with various Senators in my office. It was a matter of great concern to my colleagues on this side of the aisle—not so much that we wanted again at this particular time to get into the South Africa sanctions matter. The President through the recess had issued an Executive order which applied some sanctions, not necessarily enough insofar as some of our colleagues were concerned, but the President's Executive order did serve to delay any further action on that matter at this particular time.

We were told that if after a while the President's sanctions did not work or the administration weakened in its efforts to enforce the sanctions the matter could be revisited on this floor and probably would be.

But the matter of removing the Senate copy of the conference report was one which, generically, in my own mind and in the mind of each of my Democratic colleagues was of serious import.

So, the day before yesterday I visited with Mr. DOLE, the majority leader, in his office and expressed to him my concern and the concern of my colleagues that this precedent was extremely dangerous in that, as I said to him, "It dilutes your prerogative as majority leader to do the scheduling of work in the Senate." If at any time the chairman of any committee wished to deprive the Senate of the opportunity to work its will on a conference report, if this precedent were allowed to stand, it would only be for that Senator to walk up to the desk and ask the clerk, who has possession of the papers, for the conference report and walk out with it, go home with it, do whatever he wants to, stick it in his pocket, put it in the safe, whatever. In any event, this would dilute the prerogative of the majority leader to call up the conference report and it would thwart the right of any other Senator to call up a conference report.

It is customary for the chairman of a committee to call up the conference report. So, if the chairman and the majority leader happened to be at odds on a conference report, the chairman, if this precedent were allowed to stand, could take the papers and thwart the will of the majority leader, and it could go to various other extremes if allowed to stand.

The distinguished majority leader responded by saying he would discuss this with Mr. LUGAR, the chairman, and, as a result, on yesterday afternoon the Senate copy of the conference report was returned to the desk where it now reposes.

So for the time being, insofar as H.R. 1460 is concerned, the matter is resolved.

But, I think, Mr. President, it is important that we make the record on this matter. I hope to introduce a resolution to require in the rules that the chairman of a conference, in the future, promptly deliver conference papers to the desk and, if he does not do so, that within 5 days after a majority of the committee notifies the Secretary of the Senate that they have signed a paper requiring the conference report to be entered at the desk, such conference report will be so entered.

So I say now that I do not wish to impugn or to appear to impugn the integrity of the chairman of the Senate Foreign Relations Committee. I do not wish to impugn the integrity of the majority leader. Far be it. I think they both acted under the impression that this had frequently been done before; that is, that there were precedents for this action. I do not believe that, at the moment, they realized the gravity of the action and what it could lead to in the future if it were allowed to stand. I have the utmost respect for both the majority leader and for the chairman of the Committee on Foreign Relations.

However, I wish to say at this point, if this were permitted to stand, it could have various ramifications. In addition to taking away from the majority leader his prerogative on a particular conference report, of calling it up, it could constitute an effective, an absolute veto on the part of the President. If the President were opposed to a piece of legislation and if he had a willing chairman who would assist him in thwarting the will of both Houses, it could be effectively done simply by the chairman's going to the desk there and picking up the Senate copy of the conference report and not returning it. This would be the same as an absolute veto of the bill without it's ever having reached the President's desk. It would also deprive the Congress of the right to try to override, which, by the Constitution, it has in the case of a veto of legislation by the President.

More than that, it would really be the application of cloture by one person, by one individual here. He can close off all debate, all action—even before it begins—on a given conference report.

Looking at it another way, it could be a very successful and new type of filibuster on the part of one individual who would never have to get up and speak a word. But far more, far more effective than the use of a filibuster, a chairman of a committee could use this blocking action with no immediate recourse for his colleagues here in the Senate on both sides of the aisle.

So here was a situation in which both Houses had voted by large majorities on a given piece of legislation. The conferees of both Houses had met and after several hours had agreed and the House had approved the conference report. The Senate had not completed its work on that conference report. The chairman of the Foreign Relations Committee then took away the Senate copy of the conference report. Of course, if the chairman says, "I want to see the Senate copy of the conference report," and walks off with it, the clerks would not feel that they had any power to stop him from doing that.

But, by so doing, he has effectively blocked, singlehandedly, the Senate from acting on the conference report. Mr. President, I do not believe there is any Senate precedent on all fours with the action that was taken by the chairman of the Foreign Relations Committee.

May I ask the Chair, if, indeed, there is any precedent in this book on Senate procedure, which is our book on precedents, on all fours with the action that was taken, namely, the removal of the Senate copy of a conference report after the other body had acted thereon and with no unanimous-consent order by the Senate having been entered authorizing the removal of that copy from the desk and without any immediate substitution of another, let us say, corrected Senate copy of the report?

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that there is nothing in the way of a Senate precedent that would deal with this situation because the taking into custody by a chairman of a report or papers is not a parliamentary action and there is a distinction to be drawn between that and withdrawal of a conference report. There are precedents in the latter case. And in that latter case, the withdrawal of the conference report, action is required from the floor.

Mr. BYRD. Is that a precedent that is set forth in the book on Senate procedure?

The PRESIDING OFFICER. There are three instances that are cited in the book of procedure.

The recorded debate having to do with those three instances offers the following guidance.

Various assertions were made in two instances during debate. Senator Blackburn stated that the conference report was the property of the two Houses and could not be withdrawn except by unanimous consent, and even stated that it could not be recommitted. Senator Carter stated that "the uniform practice of the Senate, independent of any rule, sustains the right of the conferees who make the report in the first instance to the Senate to withdraw that report at any time before the Senate takes action upon it." The issue was resolved when Senator Beveridge stated "in order to avoid any controversy, which I did not anticipate would arise upon my request to withdraw the report, I move that leave be granted to withdraw the report." The question was put by the Vice President and the motion was agreed to and the report withdrawn. In April of 1906 the Vice President made this statement: "The Chair understands that the Senator from Minnesota, as Chairman of the conferees on the part of the Senate, has the right to withdraw the conference report in the absence of the yeas and nays having been ordered." To which the Senator from Minnesota replied: "I did withdraw it." The Senate proceeded immediately to other business.

Mr. BYRD. Is that not a different situation, may I ask, in that case? In this case, not all of the papers were withdrawn. Only the Senate copy of the conference report was withdrawn. The Senate still was in the possession of the House message, and the House copy of the conference report. And although the Senate could not in this instance proceed to the consideration of the conference report by virtue of the removal of the Senate copy of the conference report, the Senate could very well have moved to take up the House message and moved to strike the Senate amendment to the House message which would have paved the way for the immediate transmittal to the White House for the President's signature. What the Chair has said here, is that there was withdrawal of the conference report in the instance cited, and under leave of the Senate to do so.

The PRESIDING OFFICER. That is precisely the difference between the instance of the withdrawal of the report and taking custody of the report.

Mr. BYRD. Further comment: Has there been an instance, any instance, in which the chairman of a committee removed the Senate copy of a conference report and proceeded to keep the Senate copy of such conference report without consent, without an order, or without a motion permitting such withdrawal?

The PRESIDING OFFICER (Mr. DENTON). With the indulgence of the Democratic leader, I was taking the chair. I would like to understand the question. Would the Senator mind repeating it, please, sir?

Mr. BYRD. I am asking whether or not there is any precedent under which a Senator withdrew the Senate copy of a conference report from the possession of the clerk, retained the copy, removed it from the Senate Chamber without consent, without approval by the Senate?

The PRESIDING OFFICER. The hypothetical case stated by the Senator does not involve the Chair in any regard. Although the Parliamentarian is aware of instances like this occurring as a matter of course, those experiences are not the precedents of the Senate.

Mr. BYRD. Let us look at the precedents of the Senate. As I gather, there are three precedents of sorts—of sorts—that are in the book on Senate procedure. Am I correct?

The PRESIDING OFFICER. There are no precedents involving taking custody of a conference report, as there could not be because that is not a parliamentary action.

Mr. BYRD. How did these other precedents get in the book?

The PRESIDING OFFICER. These were actions from the floor by the chairman of the conferees.

Mr. BYRD. And does any one of them stand on all fours with the circumstances surrounding the conference report on H.R. 1460?

The PRESIDING OFFICER. There was no floor action with regard to H.R. 1460, with regard to either the papers or the Senate conference report.

Mr. BYRD. The chair has not answered my question. Is there any precedent in this book, the book of precedents titled "Senate Procedure," or in the recollection of the chair, and through the chair the Parliamentarian, of any instance on all fours with that which surrounded the removal of the Senate copy of the conference report on H.R. 1460?

The PRESIDING OFFICER. The point being made does appear to answer the question in that the chair has not been involved but the action has precedence which has been here outlined.

Mr. BYRD. The precedent has not been outlined of any such action on all fours with what we are talking about. What is the chair talking about?

The PRESIDING OFFICER. Such actions are not written into the book of "Senate Procedures" since they are not floor actions.

Mr. BYRD. They are not floor actions?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. What is this I am reading on page 415 of the "Senate Procedure?"

A conference report, when made first to the Senate and upon which the House has not acted, may be withdrawn on leave, which may be granted by a majority vote of the Senate. The chairman of the conferees on the part of the Senate has authority to withdraw a conference report in the absence of the ordering of the yeas and nays and to submit immediately in lieu thereof a second report.

The PRESIDING OFFICER. These are instances in which the chairman did formally withdraw the report as an action, as a floor action.

Mr. BYRD. Yes; but immediately, in that instance, substituted another copy. Perhaps there had been spelling errors or it could be that additional signatures to the conference report needed to be added. Whatever the reason, he picked up the copy right there at that desk and immediately turned in another copy, which is certainly not on all fours with what we have witnessed here.

The PRESIDING OFFICER. That is not the fact patent of these precedents. Under those precedents, the Senator stood and was recognized and made the statement that he withdrew the conference report.

Mr. BYRD. For what reason?

The PRESIDING OFFICER. The RECORD is being checked for the answer.

The Parliamentarian at the time, Mr. Watkins, gave no reason in one instance. Evidently, no reason was necessary.

Mr. BYRD. No reason for what?

The PRESIDING OFFICER. The Senator asked for what reason. Whatever that question was is the question answered.

It was with three precedents, one on which unanimous consent was granted to withdraw portions for the purpose of correcting an error.

Mr. BYRD. But that would not be applied here because unanimous consent was given in that instance, if I understood the chair.

The PRESIDING OFFICER. The chair is informed that none of these precedents can be applied here because they have no application.

Mr. BYRD. I thank the chair. It is pretty obvious that there is no precedent here in this book titled "Senate Procedure" that is applicable to the circumstances in this instance; am I correct?

The PRESIDING OFFICER. In the instance of the South Africa bill, there was no attempt to formally withdraw the conference report.

Mr. BYRD. There was not. There was no unanimous consent asked for. The chairman of the Foreign Relations Committee simply walked up there to the desk, took it, and walked away with it.

I will ask the chair this: Was there any way, under the customs, traditions, precedents, and rules of the

Senate, that the Senate could have acted upon this conference report once the Senate copy had been taken by the committee chairman from the Senate desk and not returned?

The PRESIDING OFFICER. The Senate's copy is a prerequisite for Senate action.

Mr. BYRD. Then is the chair saying that, a copy of the conference report not being at the desk or otherwise available, the Senate could not proceed to consider the conference report?

The PRESIDING OFFICER. Only the chairman of the committee that submitted the report could again place the Senate back on the conference report.

Mr. BYRD. So the chairman of the committee, who had in his possession the Senate copy of the conference report, only he could put the Senate back in the position of calling up that conference report and acting upon it?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. The majority leader could not call up the conference report and have the Senate act upon it because a copy of that conference report had been removed from the Chamber by a Senator. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Does the Chair recall any parallel situation in which, by action of a Senator, the Senate copy of a conference report was removed, not returned, removed not by unanimous consent, removed not by approval of the Senate, thus depriving the Senate of its authority and power to act on that conference report?

The PRESIDING OFFICER. That is common practice.

Mr. BYRD. What is common practice?

The PRESIDING OFFICER. The question to which the Senator just alluded.

Mr. BYRD. Is there any precedent that the Chair can point to in this book of precedents—and that is all we Senators have—we have the Senate rules. We know it is not there. This is all we have. With the appendix it has 1,287 pages.

Is there any precedent in which the Senate, having had votes not directly on a conference report but in relation thereto by way of cloture votes, tabling motions, whatever, in which having gone that far the chairman of the committee has gone to the desk and removed from the desk the Senate copy of the conference report, thus denying the Senate any way in which it could proceed to act finally on that conference report? Is there any precedent of that kind?

The PRESIDING OFFICER. The factual statement the Senator outlined does not make the conference report the property of the Senate. No action was pending upon that conference report and the action of removal by the chairman is a common one.

Mr. BYRD. I say to the Chair, I just cannot believe that. I just cannot believe it. It is not common. I have been in the Senate 27 years and I have never seen it happen. I did not come here yesterday. I have read this book through time and time and time again, every word of it. I make it a practice to read it once a year.

And I always use a new book when I read it so that the notations I might have in it in one instance are not there the second time or the third time. I do not recall this situation having occurred heretofore once—not once. And I am just amazed, if I may say, at the Chair's reluctance to come to grips with and deal head-on with the questions I am asking.

I respect the Chair. But I have not gotten any straight answer to this question I have been asking. I am amazed that the Chair now tells me that this is a "common practice."

Mr. President, I would have to be a Rip Van Winkle, asleep here for 27 years, to believe that.

When does the Senate take control? When does control vest with respect to a conference report in the Senate?

The PRESIDING OFFICER. The ordering of the yeas and nays on the conference report and the making of a motion with regard to the conference report actually pending—both of those would vest control on the part of the Senate.

Mr. BYRD. Is the Chair saying that, as in this instance, if the chairman of a committee calls up a conference report, it is stated by the clerk, there is a vote on a motion to table it; the vote fails; a cloture motion is entered thereon; 2 days later, the Senate votes on cloture; the motion to invoke cloture fails to secure the required number of votes; another cloture motion is entered and voted thereon, the Senate has not taken control of the conference report?

Is it not correct that a cloture motion cannot be offered on any matter unless that matter is pending before the Senate?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Very well. We had three cloture motions entered on this conference report, one of which was voted on the 9th of September, one of which was voted on the 11th of September—I will discard the third one, because that was on a motion to take up the conference report because it had been displaced one way or another in the meantime.

There were two cloture motions entered on that conference report, and the entering of a cloture motion, the Chair says, can only be made when a matter is pending before the Senate. So the conference report was pending before the Senate.

I simply cannot square one with the other. If a matter has to be pending before the Senate before a cloture motion can be offered on it, why did the control not vest in the Senate when the conference report was pending—the report had to be pending, else the cloture motions could not have been offered.

Does the Chair say that this matter is not the property of the Senate until such time as the Senate has ordered the yeas and nays or voted up or down on the conference report?

The PRESIDING OFFICER. The Chair is stating that the ordering of the yeas and nays or the making of a motion to proceed which has not yet been acted on, or any other motion with regard to the conference report which has not yet been acted upon, would preclude the report being removed.

Mr. BYRD. When the chairman made the motion in the beginning to go to the conference report and the Senate went to that conference report, did that not meet one of the requirements which the Chair has just stated? The motion to proceed has indeed been acted upon.

The PRESIDING OFFICER. Action to take it up had been completed, but that is not action on the report.

Mr. BYRD. Very well. I think perhaps while the parliamentary inquiries have not elicited a definite response to at least some of my questions, it is all the more reason why there should be something in the rules that makes it indubitably clear as to when the conference report becomes the property of the Senate. I shall follow that up later.

Mr. President, of whom is the conference report the property? If it is not the property of the Senate, of whom is it the property?

The PRESIDING OFFICER. It is in the custody of the chairman of the conferees until he chooses to submit it.

Mr. BYRD. Once he submits it at the desk there, whose property is it?

The PRESIDING OFFICER. It is still in his custody. There is no formal filing requirement at the desk.

Mr. BYRD. I agree that there is no formal filing requirement. Is it in his custody if he should happen to go to the People's Republic of China in the meantime? Is it constructively in his custody?

The PRESIDING OFFICER. He has the right to reclaim it under those circumstances.

Mr. BYRD. He has the right to do what?

The PRESIDING OFFICER. To reclaim it.

Mr. BYRD. What about the rights of the other 99 Senators? Do they

have any rights? Mr. METZENBAUM, for example, does he have any right? Can he walk up to the desk and take away the papers?

The PRESIDING OFFICER. He has no right to do that. He has the physical capacity to do it.

Mr. BYRD. He has no right but he has the physical capacity. I find no fault with that response. I dare say if I should walk up to the desk and say, "May I take a look at the conference report on a certain bill," I do not think the clerks would say, "You can't see it." And if I said, "May I take a look at it?" I do not think they would refuse to let me have it. But suppose I walk away with it? Whose property is it then? In whose custody is the matter under those circumstances?

The PRESIDING OFFICER. It would be in the custody of the Senator who has it.

Mr. BYRD. Well, I will not pursue that further except to say that there have been those of my colleagues who have suggested that they try it on this side of the aisle, if this is the way we are going to do business in the Senate. If the President of the United States had wanted this particular piece of legislation, the committee chairman could prevent him from receiving the bill for his signature.

So what I am saying now is not just of interest to Senators on my side of the aisle. If I walk up to the desk and take the conference report on any bill, the majority leader will not be able to call up the conference report until I return it to the desk.

I do not think any majority leader would want that to happen, I do not think it should happen, and I think it would be a very extraordinary and extreme act on the part of any Senator, whether he be in the majority or in the minority, to follow such a procedure. I am not casting any aspersions on any particular Senator or any particular chairman in this body in this matter. My interest goes above and beyond the particular bill that was involved in this instance. It can be that bill, it can be any other bill, if there is a conference report thereon. And if this is allowed to happen, we should well understand that the critics of Congress will have justifiable reasons for concluding that the Congress has an inability to act, and to act promptly, and that something bad is wrong with the Congress.

Mr. METZENBAUM. Will the minority leader yield for a question?

Mr. BYRD. I am going to offer a rule that will prevent this from happening again.

Yes; I yield.

Mr. METZENBAUM. As I understand the minority leader—and I think we are in total agreement—if the chairman of the committee may take possession of a conference committee report and preclude the Senate from acting in connection with that conference committee report by reason of his having possession of it, then any other Member of the Senate is in a position to walk to the desk, take possession of the conference committee report, walk away with that report—or possibly to extend that to the point even of a bill—take it to his or her desk and there are no rules in the Senate that make that any violation of the rules or provide any recourse for the other 99 Members of the U.S. Senate? That is the way I interpret the responses of the Parliamentarian to the minority leader, and I would say that it is just a matter of time until some other Senator will see fit when the going is rough and it looks as if he or she does not have the appropriate votes or the necessary votes, that he or she will see fit to pick up the bill or the conference report, certainly the conference report and maybe the bill as well, and keep the Senate from acting. Is that not the logical conclusion?

The PRESIDING OFFICER. If the Senators will yield for a moment, since the Parliamentarians have changed and I am making remarks subject to their correction, I believe it might help to distinguish between two points that seem to be being confused here. On the one hand, the chairman was ruled to have properly taken custody of the report, and the other Senator who was given in the example was stated not to have had the right to remove it but the physical capacity to do so, though it was stated to have been in his custody, not in his rightful custody. I must say that subject to correction.

Mr. METZENBAUM. Without the minority leader losing his right to the floor, I wonder if the Parliamentarian or the Chair would be good enough to explain to us what legal difference it makes, or what difference it makes under the rules of the Senate, since it is my understanding that any individual Member acting in that manner would not be violating any rule of the Senate. The only difference, as I understand the response of the Chair, is that the Conference Committee manager would be right in taking it away, but there is no rule of the Senate that indicates that any Member of the Senate who had walked away with it would not be doing so equally as rightly, or perhaps wrongly, but there is no rule that is applicable. Am I not correct?

The PRESIDING OFFICER. The practice of the Senate has been that the conference report has been considered to have been in the custody of the chairman of the committee and as such only the chairman could rightfully remove the conference report from the desk.

Mr. METZENBAUM. But I have already been advised by the Parliamentarian, both today and on a previous occasion, that if an individual Member walked up to the desk and walked away with the conference committee report, there is nothing that anyone could do under the rules and the only way you could retrieve it is if there were to be a physical retaking of it, which I am sure would not occur. Is there any rule which says that any individual Member may not do the same thing as the manager of the conference committee?

The PRESIDING OFFICER. There is no such rule to that effect.

Mr. METZENBAUM. It seems to me, Mr. Leader, that the logical conclusion is that unless there is a rule, then the action of the distinguished Member from Indiana, the chairman of the Foreign Relations Committee, will be followed by other Senators at some point by taking possession of a conference committee report—and as I have indicated, it may even include a bill as well—taking it to his or her desk and there will not be any way of precluding that. I must say, so that there is no misunderstanding of my own position, that I find it very difficult to accept the fact that the manager of the conference committee report or any other Member of the Senate may deprive 99 other Members of this body of the opportunity of acting in connection with pending legislation. I certainly do not support the idea that any Member should preclude the Senate from acting, having the right to act. But if one can do it, I always recollect what Senator Mansfield used to say on the floor of the Senate, that we are all equal among each other.

If one can do it, then I cannot see any reason why others may not.

I have some recollection of some times in the past when the going has been rough out here, when the debate has been strong, when tempers were a bit high, when the blood pressure was particularly high, when some Member of this body might see fit to do that.

Therefore, I must say that whether or not there is some precedent going back to 1906 or whatever—and I do not understand the precedent to be directly in point—but whether there is or is not a precedent, I certainly do not believe that any of us should have the right or the privilege or the opportunity of precluding 99 other Members from having the opportunity to vote by depriving the clerk of the bill so that it may be before the Senate.

I want to associate myself with the concerns expressed by the minority leader. If we do not now have rules that cover this subject, we should have such rules. I believe they should be applicable to the managers of the conference reports and to any other Member of the Senate.

I do not think anybody should have the right or privilege to take a bill away from the desk and keep the rest

of us from having an opportunity to vote on it.

I commend the minority leader for raising this issue. I hope that before the day is concluded, we might hear some expression of interest and concern from the other side of the aisle, because it appears to me that what is good for the goose will be good for the gander on some future day. This is not a partisan issue. This is an issue that has to do with the conduct of this body.

Mr. BYRD. I thank the Senator.

I do not believe that the distinguished chairman of the Committee on Foreign Relations or the distinguished majority leader really realized the import and the possible ramifications of this action. I do not think they did. For that reason, I hope they, too, will be just as interested as I am in a rule that would make it clear in the future that the chairman has a duty to promptly turn a conference report—the Senate copy and the papers—in to the desk; that it is the property of the Senate; and that no Senator can go to that desk and take the Senate copy of the conference report and thereby thwart the power, the authority, and the duty of this body to take up such conference report and vote it up or down, or whatever.

Mr. METZENBAUM. I could not agree more with the minority leader.

I want to say publicly that I see six Members on this side of the aisle—I do not know how many of them are prepared to address themselves to this particular issue—but I am concerned that I see no Members from the other side of the aisle. I believe it is important that this not be interpreted as a partisan action. I would be as strongly opposed to a Member of this side of the aisle taking possession of a bill and keeping the body from voting on it, regardless of the politics of that particular individual. But I do want to say that if you do it once, you will do it twice, you will do it three times, you will do it over and over again; and I see no reason not to do it over and over again, if that is going to be our procedure.

I hope that we will hear, before the afternoon is over, that the majority leader and the minority leader and others who have a concern about this might work together to pass, on a unanimous basis, some change in the Senate rules that would make it impossible for such action to follow in the future, regardless of who that Member might be.

Mr. BYRD. I should say that the distinguished majority leader has already indicated to me that he might be interested also in joining in the preparation of a resolution that would prevent this happening again. I believe that the majority leader felt that there were precedents for this action. I do not believe that there are precedents.

Repeatedly today, with all due respect to the Chair, I have attempted to get the Chair to say whether or not there is any precedent on all fours with the action that has occurred here, and to this moment, I have not been able to get the Chair—again with all due respect to the Chair—to say, with absolute clarity and definity, yes or no. I got some kind of response that said something to the effect that it is a common practice.

I have been here 27 years. I have been in the leadership for 19 years, in one office or another: Secretary of the Democratic conference, Democratic whip, majority leader, now minority leader. I am not an expert on the rules and precedents. A lot of people say I am, but that is a myth.

I recall no instance in which a chairman went to the desk, took possession of the Senate copy of a conference report in the Senate, or any of the other papers, and walked away, in order to keep the Senate from acting on that conference report. I do not recall such.

There is no such precedent in this book that is on all fours, and I cannot believe the Chair when the Chair states, as I think it stated, that this is a common practice around here. If I have misstated—if I have done the Chair wrong by stating what I have just said—I wish the Chair would correct me.

Mr. METZENBAUM. I have not been here as long as the minority leader has, but I have been here long enough and I have been on the floor a considerable amount of time since I have been here, and I must confess that I have never seen nor heard of this kind of procedure.

I ask the Chair at this point if he can tell us when, if at all, this has ever occurred in the past, where a conference committee report was withdrawn from Senate consideration in the manner in which this occurred, without unanimous consent or without a special order or without, in some way, bringing it to the attention of the body that the conference report was being withdrawn.

I ask the Chair that question.

The PRESIDING OFFICER. The conference report on South Africa was not withdrawn, nor was it pending at the time the Senate official report was at the desk. But the action of the chairman of the conference committee in reclaiming a conference report that he has at the desk and has not been acted upon is common.

Mr. BYRD. May I ask this question: Did I correctly understand the Chair to say that the conference report was not pending before the Senate? Does the Chair mean at any time—that the conference report was not pending before the Senate at any time?

The PRESIDING OFFICER. The conference report was pending on Monday, September 9. It was displaced, by a majority vote of the Senate, on Monday, September 9, and it remained at the desk until Thursday, the 12th.

Mr. BYRD. Am I to understand that the conference report, having been called up by the chairman of the Committee on Foreign Relations—and, in the Chair's own words was pending before the Senate at a given moment—that by virtue of those actions, the Senate did not have possession of the conference report, that it was not the property of the Senate, constructively or otherwise?

The PRESIDING OFFICER. The Senate had possession of that conference report while it was pending and while motions regarding it were——

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

Mr. BYRD. I am wondering how the legal possession of that conference report then went back to the chairman of the committee.

The PRESIDING OFFICER. When the Senate completed its vote on cloture on Thursday, September 12, there are no motions remaining regarding that conference report. It was not pending before the Senate, and it was in the custody of the conferees.

Mr. BYRD. There is just one other thing, if I may ask Senator HART to indulge me. Would the Chair repeat what he has said and what he means by that?

The PRESIDING OFFICER. The Chair stated that it is common for the chairman to leave copies of the conference report at the desk and pick them up at will under the conditions previously established.

Mr. BYRD. It is common for the chairman to leave the conference report at the desk. I agree. And it may be common for him to pick it up and have an error corrected or a name added. But it is no common thing around here for the chairman of any committee to take from the desk and keep the papers for the purpose of preventing the Senate from acting on a conference report.

I ask the Chair once more this time. Is there within the recollection of the Chair any instance as has here occurred, in which the chairman of a committee has lifted from the desk the Senate copy of a conference report and removed it without unanimous consent, without having been authorized by the Senate to do so? Is it within the recollection of the Chair that that has happened before, on all fours, with what we saw here?

The PRESIDING OFFICER. The action taken is common action.

Mr. BYRD. The Chair says it is common action. I do not believe that, and I do not believe anyone else here

believes it. If it is a common action, why did the Senate in one cited instance have to give its unanimous consent? If the conference report is solely in the chairman's charge, why does he ever have to have unanimous consent to do whatever he wants or what he did in the instance cited by the Chair?

The PRESIDING OFFICER. The accompanying papers do not become his property and it would take formal floor action to remove the conference report together with the official papers.

Mr. BYRD. Mr. President, with all due respect, I am saying that this matter has so disturbed this leader and Members on this side of the aisle, that we have discussed this in two party conferences. We have discussed it individually and in groups several times, and we have not intended to let it go by without protest, and then to hear the Chair say that this is a common practice around here, I am amazed.

Mr. MELCHER. Mr. President, will the minority leader yield for a question?

Mr. BYRD. Yes. I first yield to the Senator from Colorado. He asked first.

Mr. HART. Mr. President, I really wanted to seek clarification from the Chair on rulings previously or opinions previously.

Is it the understanding of the Senator from Colorado that the Chair takes the position that while a matter is pending before the Senate, that is to say while action is being taken upon it, that a chairman of the committee or any Senator may remove that conference report or bill, but once action is completed, then not only a chairman of the committee but any Senator may remove the conference report or bill?

The PRESIDING OFFICER. Even while a conference report is pending there is precedence for a chairman to have withdrawn it, but that is not the case here.

Mr. HART. The Chair has informed the Senate it would be appropriate for the chairman of the committee to withdraw a conference report or a bill while action is being taken upon that measure.

The PRESIDING OFFICER. The subject of bills is not in the same category as the subject of conference reports. But as to conference reports, there are precedents for the chairman of the conferees to withdraw either by motion or unanimous consent or by right.

Mr. HART. Or by right?

The PRESIDING OFFICER. Or by right.

Mr. HART. Would the Chair inform the Senate as to the rights of the committee or other committee members? If other committee members wish that measure to continue to be considered by the Senate, what rights do they have, if any, to overrule the chairman of the committee?

The PRESIDING OFFICER. The statement of rights is as follows:

The Chair understands that the Senator from Minnesota, as chairman of the conferees on the part of the Senate, has the right to withdraw the conference report in the absence of the yeas and nays having been ordered.

Mr. BYRD. Mr. President, the words "has the right to withdraw the conference report," is that what happened here?

The PRESIDING OFFICER. It is not.

Mr. BYRD. That is what I thought. It is not what happened.

Mr. MELCHER. Mr. President, if the minority leader will yield, does he view, as I do, that the conference report with the statement of the managers or statement of the managers containing the amendment agreed to by the conferees is part of the bill?

Mr. BYRD. It was a conference report on H.R. 1460—which was a House bill.

Mr. MELCHER. So it is a part of the bill.

Will the minority leader, who has not only a great length of experience here but also a profound knowledge of the rules and precedents of the Senate, answer this question? Obviously no bill could be passed until that conference report had been disposed of, is that correct?

Mr. BYRD. The Senator is preeminently correct. Whatever the differences between the two Houses on the subject matter, they had to be resolved so that the matter would be in the same form in both Houses. That is accomplished by having the conferees meet, agree on certain differences, take the matter back to their respective Houses where the conference report is agreed upon, and it then goes to the President. Any conference report has to be passed by both Houses in order to become law and has to be in the same final form.

Mr. MELCHER. So, therefore, without knowing the motives of the chairman of this committee for removing the conference report and then removing himself, presumably, with the conference report on his person, without understanding what those motives were—well, perhaps the distinguished minority leader knows what the motives were of the chairman.

Mr. BYRD. I do not presume to speak for the chairman of the Foreign Relations Committee. I just happened to say what I think. I think his motive was to prevent the Senate from acting further on that conference report. But I do not say that as any reflection on him. I think he really thought that this was, as the Chair has just instructed me after 27 years of service in this body, a "common thing" that goes on around here. And I beg the Chair's pardon. The distinguished Senator from Alabama just happens to be in the chair at this moment. I am simply saying to the Chair that, in my judgment, the Chair has not answered the question, has evaded answering the question, has not come down on point. We are instead told that this is a common practice around here.

I am sure it never happened when Mr. Baker was here. Nobody picked up the Senate copy of a conference report on a very controversial matter; or if they picked it up and made some corrections because of misspellings, nobody knew anything or thought anything about it, because it evidently was quickly returned.

But, in this instance, with a very controversial bill, an important bill, the subject matter of which was before the Nation day and night, it all happened because the chairman, I believe, felt that it was something that was done around here from time to time, and that it was OK. So I do not ascribe any ulterior motives to him or to the majority leader. I just think they were wrongly advised or misinformed, or they misinterpreted the advice that was given. I have to leave it at that, because I believe that.

Mr. MELCHER. Might I say to my distinguished leader that I am greatly disturbed by the comments of the Parliamentarian to the effect that this is commonly done. Might I say, if it is commonly done, that this Senate, this legislative body, the House and the Senate, this Congress could not have survived for 200 years, or almost 200 years, because removal of part of a bill before voting has been completed is absolutely chaos.

I do not know the motives of the chairman for removing it from the desk and removing it from the Chamber and holding onto it, apparently, for 2 weeks. But whatever those motives were, if they were practiced routinely, it would break down this system of public trust that we have in the Congress to legislate and to enact or defeat bills. Because taking one page from a bill or any part of a bill prevents a body from taking final disposition by vote to determine whether or not the bill passes or is defeated.

I thank the distinguished leader for yielding to me. I feel very strongly about the matter and I join with him in believing that a firm, clear rule concerning the matter must be established.

Mr. PRYOR. Will the distinguished minority leader yield?

Mr. BYRD. I will yield to the Senator, if I just may be indulged for one moment.

I think the Senator from Montana knows that this is the first time in my 27 years that he or I have stood on the floor and protested this type of tactic.

I do not recall such a previous happening on all fours.

Now, the papers were returned yesterday. I have to say, I talked with the majority leader, and I truly believe that he felt he was acting on the matter in a way similarly acted upon before here, even frequently. Because when I talked with him on Tuesday and told him how seriously this was viewed by me and my colleagues on this side of the aisle, he readily indicated to me he would talk to Mr. LUGAR, and yesterday he came to me and said the papers would be brought back to the desk. They were returned yesterday afternoon.

So I have to say I cannot point the finger at any particular Senator in this body, the chairman or the majority leader, on the other side. I cannot do it and say, "They knew it was not a practice. It was underhanded. It was mean," and all of that. I cannot say that because I think when they realized what the ramifications could be, they responded in a positive way and the papers were restored.

(Mr. QUAYLE assumed the chair.)

Mr. GORE. Will the minority leader yield for a question?

Mr. BYRD. Yes.

Mr. GORE. If, after passage of the conference report and prior to the requisite signature for transmittal to the President, the chairman of the committee wished to take it upon himself to remove the conference report at that stage of the procedure, then he would be able to exercise the very unconstitutional de facto veto to which the minority leader has just referred. I am curious as to whether or not the previous ruling as to the prerogatives of a committee chairman to remove it prior to action by the Senate would extend to the ability of the chairman to remove that conference report after final action by the Senate, but before transmittal to the President for a constitutional disposal of the question by the executive branch?

Mr. BYRD. Well, the Chair has just been responding to parliamentary inquiries. He has not ruled on anything, because no point of order has been made.

Mr. GORE. I misspoke myself in using the word "ruling," of course. But the earlier response of the Parliamentarian, it seems to me, contains within it logic which would make it possible for one single Senator to disrupt and prevent the majority of the Senate from exercising its will, even after the final vote on a conference report, if it was within the ability of a single Senator to just physically remove the paper which is required for the President to enact the legislation.

Mr. BYRD. Well, I do not believe the Chair has carried the matter to that point. We are told by the Chair, and rightfully so, that when the chairman of the conferees on the part of the Senate submits the papers to the desk, there is no official record made of that. I do not quarrel with that. I think the Chair is right. Perhaps there should be.

But if it should advance to the degree that the distinguished Senator from Tennessee has indicated—I cannot conceive of that happening.

Mr. PRYOR. Will the distinguished minority leader yield?

Mr. BYRD. Yes.

Mr. PRYOR. Mr. President, the Senator from Arkansas is very, very disturbed about this series of events whereby one individual Senator, a Member of this body, has chosen to take the conference papers or a piece of legislation in the custody of this Senate, put it in his pocket, and leave the Chamber.

Whether he went out the door and gave it to someone, or took it to Terre Haute, IN, I do not know that answer. But, I am deeply concerned that, after the Senator from Arkansas heard the questions or inquiries posed to the Chair, the Chair ultimately stated to the distinguished minority leader that "This has been a common practice." Therefore, I would like to propose a question to the Chair. If this has become or has been a common practice in the precedents of the U.S. Senate, would the Chair please cite for the Senator from Arkansas one Senator or one committee chairman who has gone to that desk, taken a conference report that was in the custody of this body, and walked out the door with it to prevent our consideration? Would the Chair please tell the Senator from Arkansas when an individual Senator has done this in the past?

Mr. President, I think the distinguished minority leader has the floor. If I may, I would like to continue questioning later. I understand the distinguished Senator from Massachusetts has a very important appointment he would like to meet, and I am glad to yield at this time if the Senator has a statement or questions with the understanding that I may continue.

Mr. BYRD. Yes. I understand.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, I thank Senator BYRD, our Democratic leader, for the extraordinary effort that he has made to bring this before the Senate in a responsible way. All of us, on both sides of the aisle, respect his deep commitment to the Senate as an institution under the Constitution of the United States.

So, I applaud the Democratic leader for his skillful work in bringing us to where we are today with respect to this unusual and distressing situation.

Mr. President, actions speak louder than words. The majority leader says he was acting within his rights under Senate rules when the official papers on the Anti-Apartheid Act were removed the Senate.

Those are the words we hear. But the action that speaks louder than those words is that the missing papers have now been returned to the desk of the Senate. They reappeared last evening, as mysteriously as they disappeared 2 weeks ago today.

The majority leader cites no clear precedent for his action, and indeed there is none. As far as I am aware, there are only three cases in the entire history of the Senate that speak to this issue. All three suggest that the majority leader acted improperly by participating in the removal of the papers.

In 1896, a conference report was withdrawn by unanimous consent.

In 1906, a conference report was withdrawn on a voice vote.

Again in 1906, a conference report was withdrawn by the unilateral action of one Senator, who declared before the Senate, "I withdraw the conference report."

And that makes all the difference—these withdrawals were made in public, before the full Senate, and any Senator could have challenged the action of any other Senator who attempted to withdraw a report unilaterally.

Frankly, the only fig leaf the majority leader is able to find to cover his raw abuse of power in this situation comes down to this—the Senate rules do not specifically say, "thou shalt not steal a conference report."

But the Senate rules are not a legal code. They contain many gaps, which leave many opportunities for the rules to be abused.

But we are a Senate Chamber not a star chamber. The Senate functions at all only though a mutual sense of fair play on both sides of the aisle.

Battles are hard fought on the merits. Able Senators use the rules to their advantage, but always within the bounds of the dignity of the Senate. And the safeguard that all of us has as a last resort is the ability to challenge any interpretation of the rules, by appealing a ruling of the Chair and abiding by the verdict of the full Senate.

No Senator, acting alone, should have the power to prejudice the outcome on an issue before the Senate by a unilateral action of the sort we witnessed on the Anti-Apartheid Act 2 weeks ago.

By his actions, if not yet by his words, the majority leader has apologized to the Senate. The papers are back where they belong, in the custody of the Senate. The cookie is back in the jar and for that all of us can be grateful.

But as we all know, timing is everything. The proponents of the Anti-Apartheid Act have lost precious time

and precious momentum over the past 2 weeks.

The tactic of the majority leader denied the Senate the opportunity to have a critical third vote on shutting off the filibuster by the opponents of the Anti-Apartheid Act. He has rectified his abuse of the rules—but the damage he has done cannot be fully remedied, for we cannot turn back the clock to where we were on September 12.

So we go forward from here on the all-important issue of the proper policy of the United States toward apartheid in South Africa. It is not my intention to ask the Senate to vote today on the Anti-Apartheid Act. Perhaps the fact that the papers are now back at the desk and ready at any time for further Senate action will encourage the administration to implement the promises we heard in the President's Executive order of September 9.

It may well be, for example, that the prospect of a further Senate vote in the near future will concentrate the administration's mind, and persuade them, for example, to proceed more expeditiously on banning the importation into the United States of the South Africa gold coins called Krugerrands.

But at least the Senate has regained the right to take additional action on this legislation, a right we should never have been denied.

I thank the leader.

Mr. BYRD. I thank the distinguished Senator from Massachusetts for his statement.

Mr. GORE. Will the minority leader yield?

Mr. BYRD. I yield to the distinguished Senator from Tennessee [Mr. GORE].

Mr. GORE. I thank the minority leader.

Mr. President, let me say at the outset that my comments will not deal in any great depth with the art of Senate procedure. There I yield to my colleague, the Senator from West Virginia, whose knowledge is definitive. What I want to say will be simple and brief.

What I want to say will be simple. The Senate lives by its rules and traditions, because these represent the accumulated experience of 200 years of practice at making our Republic work.

And sometimes, those rules include not only ways to make the process move through an agenda—other times, they include ways to stop that process. All of us know that these two different kinds of rules are of equal value, since there are times when the ability to block a mistake or an injustice by parliamentary maneuver, is beyond price.

The trouble comes when these rules are used to block an action urgently required by the times. And even then, we may have to conclude that it is more important to keep the rules and customs of this body intact, than to have had faster action on this or that issue, no matter how important.

But at those moments, one expects great care from those taking advantage of their rights to delay and prolong. The line between exercizing and abusing those rights can get pretty thin. And yet, I believe we can see a boundary line between what is acceptable and what is not.

That boundary line is to permit reasoned discourse to proceed, no matter how prolonged the time until there may be a resolution.

That is why I rise to deny the right of any single Senator to simply stop this body in its tracks, by literally and physically carrying away the conference report on the apartheid bill.

It would be technically possible for a Senator to simply turn off the lights, or turn off the Senate Chamber's public address system, or chain the doors shut. Any of these methods would be as effective in stopping debate on a conference report.

Indeed, they might be less likely to set a precedent that might be used again in the future.

We can all understand that the administration felt it needed time. Its processes are slow. It clung to the notion that the Government of South Africa could somehow be coaxed with words into dismantling apartheid.

It failed to note the hardening of sentiment in the country and in the Congress until it had virtually lost control of the situation.

It is perhaps understandable that the President's party in the Senate would rather have him take belated action than none at all, and especially understandable that they would rather this happen than have to simply override him.

What is not understandable or acceptable is that the President should be granted his wish at the expense of the dignity and integrity of the Senate's own processes. The choice made here was between loyalty to party and President and a sense of protectiveness toward the Senate and the shared rights of colleagues. It was a judgment call by members of the majority party in this body. It was the wrong judgment call. It is therefore entirely suitable that we pause to register that opinion as the sense of this body, lest we allow to stand in good repute a tactic which physically interrupted our work.

I thank the minority leader for yielding.

Mr. BYRD. Mr. President, I thank the Senator from Tennessee [Mr. GORE], a highly respectable Member of this body.

I yield to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I appreciate very much the distinguished minority leader yielding to me again. I had propounded a question to the Chair. My question concerned what the Chair had previously stated in response to a question by the minority leader. The Chair responded that this had been a "common practice," quoting the Chair, in the past.

The Senator from Arkansas asked the Chair to name one Senator or one chairman who had in the past engaged in such activity.

The PRESIDING OFFICER. The Chair will respond that when these types of activities have taken place there is no recorded or written record of that particular event.

Mr. PRYOR. How, then, does the Chair know that this practice has taken place in the past?

The PRESIDING OFFICER. This is a statement based on the memory of the present Parliamentarian who, from 1966 to 1980, had responsibility for those matters and his recollection of such actions.

Mr. PRYOR. Then, the distinguished Parliamentarian states that this is a common practice only by personal knowledge, is that the Chair's statement?

The PRESIDING OFFICER. The Chair's statement would be that the actions that this Chair and the previous Chair referred to are recollections of the Parliamentarian.

Mr. PRYOR. Would the Chair inquire of the Parliamentarian, as to his personal knowledge, how long were the conference reports, and for what period of time were the conference reports taken and kept from the Senate and kept the Senate from working its will on those conference reports? For what period of time were they absent?

The PRESIDING OFFICER. There are no particular records as to events. This is a mental recollection. He cannot give a specific time.

Mr. PRYOR. Another question to the Chair: Once papers have been taken from the desk or wherever, do the other 99 Members of the Senate have a remedy to get those papers back? Is there a remedy at this point available to the Members of this body?

The PRESIDING OFFICER. The remedy has never been exercised and there is no record of it.

Mr. PRYOR. Would the Chair entertain a motion to instruct the Senate Sergeant at Arms to bring the papers back to their proper resting place? Would such a motion be in order?

The PRESIDING OFFICER. There is no precedent for that.

Mr. PRYOR. The Chair has stated this afternoon that the Senator from Arkansas, for example, or the Senator from Tennessee, who might, for example, not like the appropriations bill, who might think that a $2 trillion debt is too high, can simply walk up to the desk, ask for the papers and walk out that door, preventing this body from

taking action on those particular pieces of legislation. Even one Member of the Senate acting in that manner could literally bring this country to a halt.

I would like to applaud the distinguished minority leader for his remarks this afternoon. He is going to propose at the appropriate time either a rule change or a piece of legislation which would cure this hole in our procedure. I will strongly support that procedural change.

In addition, respectfully I would like to request of the minority leader, and whoever might be involved in the drafting of this proposed change, that not only should we have a strong rule preventing such activities in the future, but also, if that rule is ever violated that in that same rule or in a subsequent section thereto the other 99 Members of this body be given a remedy—clear, specific, spelled out, what we can do if this circumstance might arise again.

The minority leader has stated that he is very, very disturbed about this whole sequence of events, as is the Senator from Arkansas, the Senator from Tennessee, the Senator from Massachusetts, the Senator from Montana, the Senator from Illinois, and all others.

It appears to me, Mr. President, by appearances or by perceptions, that by an absence of Senators, a total absence of Senators, on the other side of the aisle that the majority party is not disturbed by this action.

I would respectfully submit, Mr. President, that this is something we should all be disturbed about, regardless of which side of the aisle we sit on.

I thank the minority leader for yielding.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Arkansas.

I yield to Mr. DIXON, the distinguished Senator from Illinois.

Mr. DIXON. Mr. President, I thank the minority leader for the effort he has made today to call to the attention of the Senate and the public at large what has taken place in this body. As my distinguished colleague from Arkansas [Mr. PRYOR], I note the absence of our colleagues from the majority side during the course of this discussion this afternoon. I remind those from the other side that circumstances in public life change and that those who might be in the majority on this day might, on some other occasion, find themselves in the minority.

I think the essence of this discussion is whether anyone who loves our system of government, the democratic system of government that we enjoy, wants to see in the future, physical acts take place by preventing this body from working its will and its Members from voting on important public issues. That, I think, is what has taken place here.

I yield to the experience of my senior colleague, our distinguished minority leader, who says that in his entire course of service here, he does not remember such an act taking place. I must say that while I am only in my fifth year in the U.S. Senate, I have held elective office in Government now since 1950 and in my 35 years in public service, I have never, ever experienced before a situation where, by a physical act, a democratic institution's will could be thwarted. I think obviously, Mr. President, that is the issue here.

We pride ourselves on the fact that this is an institution where everyone of us has equal individual rights, but the fact is, if this kind of act can take place in the future, the reverse is true: That one individual, in fact, can thwart by his or her individual act the separate right of the other 99 of us to act on a question.

I appreciate the rulings of the Chair today. It is easy to interpret the circumstances in the past to avoid the implications of what is happening presently. So I just say in conclusion, Mr. President, that I join the minority leader and am pleased to join with him and, I am sure, with many others on this side, in his attempt to change the rules so that this body, acting in its legislative capacity, may always act on the matters at hand and so that no individual, whoever that individual might be—in fact, in my own view, including the majority leader—might thwart the will of all of us to act once something is within the possession of this body.

I am pleased that the minority leader has taken it upon himself, acting for the minority. He has been in the majority as well. But seeing the importance of this issue—may I say not just to the minority here but, in the view of this Senator, to the country as a whole, to all the people in this country who are affected by what we do in this place—I think the minority leader makes a substantial contribution to the future performance of this institution and to the future protection of the individuals of this great Nation of ours when he views this issue as a major issue and takes the necessary step to improve the rules so that whatever act took place in the past, in the immediate past, cannot take place in the future.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Would not the Senator agree with me that if this precedent is allowed to stand, it will thereby make of the chairman—the chairman—of every one of the 16 standing committees here a super-Senator? The chairman of any committee will be above the majority leader, whether the majority leader is a Democrat or a Republican. Any chairman can go to the desk and take away the papers because it is said that he is constructively in possession of the papers. The majority leader is not in possession, the chairman is. So this would elevate the chairman of a committee—any one or all of the chairmen of all the committees in the Senate would be elevated to a position higher than that of the majority leader insofar as the scheduling of Senate business is concerned.

Mr. DIXON. I think the minority leader is exactly correct. I think it puts every one of the chairmen in a position where they can thwart the will of all the 99 other Senators here and of the public at large.

Mr. BYRD. I thank the Senator.

I yield to the Senator from Maryland.

Mr. SARBANES. I thank the minority leader for yielding.

Mr. President, I would like to carry this discussion a step beyond where my distinguished friend from Illinois just concluded. To make the point that what was done represents a disturbing and growing tendency to put the achievement of a particular end over the means used; simply put, the end justifies the means. In other words, if you want to get a certain result on the substance, you are entitled to violate the spirit of the Senate rules and procedures to achieve your end.

Our rules and procedures have not been lightly formulated or lightly held to. In fact, the essence of a democracy is that you have a procedure for resolving deeply felt, substantive differences. When you stop and think about it, what you do when you develop a democracy—which has now lasted in this country some 200 years—is to work out ways to resolve deeply held substantive differences about what ought to be done as a matter of public policy. The procedures we have involved as a nation respect both majority rights and minority rights.

They rest on the premise that you are not entitled to do anything, to use any stratagem, any trick, any fast and loose course of action in order to win on the substance of the issue—for the very simple reason that the integrity of the process is fundamental, let alone the consideration that the very same stratagems or tricks or fast and loose procedures may be used against you some day when you are in the minority instead of in the majority.

There is nothing in our rules that says that chairmen can walk down to the desk, take the papers off the desk and walk away with them to prevent the Senate from acting. Not only is there nothing in the rules that says they can do that; clearly—clearly—the rules are written in such a way as to preclude such an activity.

As my distinguished colleague from Tennessee [Mr. GORE] pointed out, you could think of a range of things that a Member of this body could do physically to preclude the body from acting on some issue before it. As he said, one could turn out the lights, turn off the loudspeaker system, lock the doors, and so forth.

This abuse of the Senate rules is, pure and simple, an instance of being prepared to let the end justify the means. Such a course of action, if followed, eventually means subverting and undercutting the democratic process, for the very essence of that process is that you will not allow the end to justify the means. The means by which we resolve our disputes is essential to making democracy work.

I was shocked, frankly, to hear, in response to questioning from my very able colleague from Arkansas, that the Parliamentarian takes the position that this has been done repeatedly. I do not claim to have been in the Senate as long as the Parliamentarian has served this body, but I recall no instance in which the conference committee papers have in effect been stolen by a Member of this body in order to prevent the body from acting. I would like to know of such an instance, an instance in which the Senate was acting on an issue, when in fact a significant number of Members of the Senate wished to act further on that issue, and was presented from taking further action because a Member of the body simply walked down to the desk, took the papers and walked out with them.

That is the kind of tricks that you try to educate fourth and fifth and sixth graders out of when you are trying to teach them what democracy is all about. That is the kind of clever tricks that people laugh and snicker about, that you try to educate young people out of as they begin to understand what democracy means. That is not the kind of trick that a Member of this body or the Parliamentarian ought to be holding out as proper procedure for the Senate to follow.

It does not take much of an act either of logic or imagination to envision what this body would deteriorate into if we began to play those games. I think it ill behooves any Member of this body, or anyone who serves this body, to take the position that such antics are a matter about which to shrug one's shoulders or simply to look aside.

Some may say, "Well, a lot is being made out of a little." That is not the case. We are talking about how this institution is going to function. The U.S. Senate is an essential institution in the functioning of American democracy, and American democracy, in my judgment, stands as the hallmark of the ability of a people to engage in free self-government.

Now, if we are going to start playing tricks, cut corners, play fast and loose, use these stratagems, then I suggest to you that our days as an effective parliamentary institution are numbered. You do not have to look very far around the world to find supposedly democratic institutions that have crumbled because its members began to play these games, because they were so intent on getting the particular result they wanted on a specific substantive issue, they were willing to twist and bend and, indeed, break the very processes established for resolving the deeply held disputes which inevitably arise in any freely thinking, and functioning society.

So I think the issue before us is one of extreme importance, and I very strongly commend the minority leader for raising it and for pressing the issue; for in effect underscoring the intention, at least of some Members of this body, to ensure that comity is going to prevail, that we are going to have a decent respect for one another. We must understand that reasonable people can differ, and that we have worked very hard and very long—we, meaning the Nation, our predecessors, those who have gone before us—to set up a process by which we resolve these strongly held differences of opinion.

No one Member, or a small clique, ought to be able to subvert or thwart that process, to cast the institution into disrepute, and to undermine the very procedures we have set up among ourselves in order to consider these matters.

Clearly, walking to the desk, taking the papers, walking out of the room—and I assume chuckling about it all the time because you have then "prevented the Senate from acting on this important measure"—not only fails to measure up to the high standards of the Senate, it clearly falls below its lowest standards and ought not to take place.

I think it is important that this discussion be held, and I think it is important that Members underscore their intention to see that the established procedures are going to be permitted to operate, both in the letter and in the spirit, in a way that respects the essence of the democratic process. I hope all those connected with the Senate, Members, and those who work for it, would share that attitude. I thank the minority leader for yielding the time.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Maryland for his excellent speech, providing as it does a very clear insight into what has been done here and how that can affect and eventually erode the very underpinnings of this Republic, this representative democracy, and all of its purposes and functions. I again express deep appreciation to the distinguished Senator.

I yield now to the distinguished ranking member of the Committee on Foreign Relations, Mr. PELL.

Mr. PELL. I thank the minority leader. It is more in sorrow than in anger that I rise to join my leader and colleagues in expressing concern about the unusual action of the majority in removing from the Senate Chamber the conference papers on H.R. 1406, the Anti-Apartheid Act of 1985. At the same time, I am pleased—yes, relieved—that those papers were returned yesterday evening. As has often been the case, the senior Senator from Indiana has done the right thing.

The removal of the papers was in my view improper. I hope that something will be done soon to ensure that it cannot happen again, or, as the Democratic leader has suggested, a rule be passed that would so ensure. We cannot properly continue a situation under which one single Senator can block action by the Senate as a whole. This can be even more of a guillotine than a filibuster which at least can be ended by cloture. The important thing now, though, is that we are back to where we should have been some time ago.

The conference papers are again at the desk. Their very presence there constitutes a powerful reminder to the President that if he does not move forcefully enough to demonstrate America's abhorrence of apartheid, the Senate can act.

I know the majority leader and the chairman of the Foreign Relations Committee are opposed to apartheid. I hope, therefore, that they will work with us on this side of the aisle to review the adequacy or the inadequacy of the actions announced by the President.

I once again express my agreement with the words of the Democratic leader and my applause to his statement that he will be introducing a change in the rules that will forever prevent a similar action.

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

Mr. PELL. I yield.

Mr. SARBANES. I simply want to add to what my distinguished colleague from Rhode Island has said: I hope we are not going to get into a game where Members look for what they think is a fast opportunity, for then we will have to introduce a change in the rules in order to eliminate cutting corners with respect to Senate procedures.

We may be forced to go down that path, but I think it would be regrettable and lamentable. The Senate has spent 200 years trying to do the opposite, to evolve procedures whereby each Member develops a certain understanding and sensitivity as to how we should do business with legitimate

respect for one another and for our differences.

If we embark down that path, we are going to have everyone looking out, as my distinguished colleague from Massachusetts said, to see whether there's a sign reading "Thou shalt not." And if some egregious action has not been envisioned and therefore there is no rule actually stipulating "Thou shalt not," and someone then undertakes such an action. We will have to pass a rule to preclude exactly that activity.

If we once start engaging in that game, obviously any degree of mutual trust and respect among the Members is going to be severely undercut. It seems to me that every Member should be sensitive to that prospect.

Should those now in the minority engage in a very extensive research of what has been done in certain instances over the last few years and prepare then to use those tactics, once the minority has again become a majority, even while recognizing those tactics were really stretching, if not breaking, the rules?

I understand the feeling in this instance on the part of the minority leader to change the rules to deal with this problem. But it seems to me that Members should think very carefully whether after-the-fact rules changes are the approach to follow. I am appealing to them not as Members of a party in the majority or in the minority, but as Members of an institution with a certain institutional sense.

I do not think it is an answer for a Member to say, "I have read the rules very carefully, and there was nothing in the rules that said that I should not do this particular act," even though that Member and everyone else may recognize that to do that particular act is really to thwart the ability of this body to function in a proper fashion.

It seems to me that Members have to develop a certain understanding of the institution and at the same time a certain degree of self-restraint and self-discipline as to how far they are willing to try to turn the rules to a particular advantage in a certain instance—in effect, to twist the means in order to achieve a particular end. This is a matter of the utmost importance and I urge Members to think about it carefully and seriously.

I thank the Senator for yielding to me.

Mr. PELL. Mr. President, I agree with the Senator from Maryland in general. I think that in this case it probably is advisable that there be a rule change to handle the specific problem that has arisen. But, as a general rule, he is absolutely correct.

This is what we criticize the Soviets about. They intend to follow the letter of an agreement but not the spirit of an agreement, and we do not want to follow that kind of path. We are a long, permanent body, a traditional body, based on comity, based on mutual understanding.

As the Senator suggested earlier, if one wants to terminate debate on a subject, you can turn off the lights, but I do not think that is advisable, and I do not think we should pass a rule that says we should turn off the lights. Or, you might turn off the air conditioning. That might be a little more prolonged. But I do not think that would be a fair way to bring a debate to a halt.

For these reasons, we should bear in mind that we have certain traditions and a background. Many of us have been here for a long time, and we should not look in the rules to try to find a way to be one up on our adversaries of the moment.

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

Mr. PELL. I yield.

Mr. PRYOR. Mr. President, I applaud the remarks of the Senator from Rhode Island.

I also applaud the remarks of the very distinguished Senator from Maryland. I think both Senators have expressed very eloquently what the concern is of many of us in this body.

I say to the very distinguished Democratic leader that I commend him for bringing this matter to the attention of the Senate. However, for two reasons today there is sadness in my heart about having even to discuss this issue on the floor of the Senate.

One is that with the national debt approaching $2 trillion, with the trade deficit going out the top of the Capitol, and with all the other hundreds of problems that this body should be addressing itself to, we have to pause for these 3 hours this afternoon, in the midst of everything else, to talk about a situation about which many would say, "Well, that's just an institutional matter." Sometimes it is just an institutional matter that brings countries down, if those institutional matters are not addressed and addressed immediately.

The other sadness I feel this afternoon, after this lengthy discussion and colloquy on this issue, is that this body can draft legislation, can pass or defeat legislation, we can write rules, we can write requlations that govern the whole country, affect the world, and now we are at the point where we have to pause and stop everything and try, in some way or another, to legislate rules governing floor debate.

That, Mr. President, is a sad situation. I sincerely hope that the other side of the aisle, will join this side of the aisle in whatever efforts will be made to set the record straight and to prevent this type of situation from happening in the future.

I thank the distinguished Senator from Rhode Island for yielding.

Mr. BYRD. Mr. President, I will be brief.

I compliment the Senator from Maryland again. Perhaps he is right. The Senate, from the beginning of its existence, has acted on the basis of comity and understanding and on the principle that a gentleman's word is his bond.

Perhaps there should be no rule added. The mere introduction of a change in the rules, if it is not acted upon, might be misinterpreted at some future date.

I am going to think about what the distinguished Senator from Maryland has said. If it is the will of others on both sides of the aisle that we proceed to write a rule, I will be happy to work with them. In any event, a clear record has been made here today.

As the distinguished Senator from Arkansas pointed out, there are many problems confronting this country that we could be discussing here this afternoon.

But in the final analysis it is not just a matter of concern to a Senator from West Virginia or a Senator from Maryland or a Senator from Rhode Island or a Senator from Montana.

It is the people's will that is being thwarted here, the people's will as represented by the 435 Members of the other body and the 99 other Members of this body. It is the people's will that is being thwarted, because if the Senate cannot operate because of some blocking action on the part of a single Senator, then the people are, to that degree, disserved. Government cannot function under our Constitution if things like this are permitted to occur.

I hope that the Members on the other side of the aisle will realize that this could very well be revisited upon them one day, and I do not want to see that happen. I will never, never agree that this is common practice around here. This is the first time I have ever taken the floor in my 27 years in this body to protest an action of this kind—which is a pretty good indication that it is not common practice.

Of course, a chairman may go to the desk and remove papers for a minute or two and have some corrections made in spelling, but everyone knows in this instance the papers were not removed for that purpose. Everyone knows what the purpose was, even though, as I say, I believe that there was someone who was wrongfully advised or who wrongfully interpreted the advice. But for whatever reason, this just cannot be permitted to happen again. The purpose of it, in this instance, was clear to all. The purpose was to keep the Senate from expressing its will, I should say, on a matter which was of importance to the people of the United States. If this can be done on one matter, it can be done

on another. No Senator may arrogate to himself alone the decision to deny both the House and Senate from acting on the people's business.

I have had some Senators offer to volunteer on this side of the aisle to take some conference reports away from the desk and let Senators know if it can be done over there it can be done over here. But it has not occurred.

In any event, I thank all Senators. I thank the majority leader for providing for the 3 hours and I thank all Senators who have participated in the discussion.

I am glad that the papers were returned on yesterday, and I am willing to close the book on this for now.

I may still introduce a resolution, but I am going to talk with my colleagues further on both sides of the aisle. If it is better to let the record stand as it is, I think it will at least indicate to Senators in the future that there will be a storm of protest if any Senator again takes from the desk and holds the papers to keep the Senate from finalizing its will upon a conference report.

The record is there, and if at some future time the action should be repeated, I will certainly stand with those who are ready to take whatever action is needed.

I feel that Members on both sides are going to see that this does not happen again. If it does, then will find a remedy and, although the Sergeant at Arms may not ever before have been instructed to compel the return of such papers or to arrest a Member, if necessary, to effect the return, I believe the Senate will rise up in its anger and take that or whatever other action might be necessary.

I would just simply hope that we have all learned something from this, so let us go forward now with the business of the Senate on the appropriations bills.

I yield the floor.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS, 1986

AMENDMENT NO. 706

Mr. HATFIELD. Mr. President, what is the pending business of the Senate?

The PRESIDING OFFICER (Mr. PRESSLER). The pending business is amendment No. 706, the amendment offered by the Senator from New Mexico [Mr. DOMENICI].

Mr. HATFIELD. Mr. President, prior to the special order that we completed on the Superfund, I was making some comments relating to the pending business on the subject of the Treasury, Post Office appropriation bill and the amendment offered by the Senator from New Mexico to reduce the discretionary funds and accounts in that bill by some 2 percent.

I had indicated that we had been functioning under a great difficulty over a period of time, both the Appropriations Committee and the Budget Committee, for that matter, as well, and that we have had a basic goalpost and benchmark of budget authority with which to build our appropriations bills and to bring them to the floor and to work those figures out with the Office of Management and Budget, also within the scope of the budget resolution. And we have done that. We have done that on this bill.

We may have some slight disagreement on the precise way in which we compute these figures and the crosswalks, and all the other intricacies that we engage in on the way in which we figure some accounts as against other accounts, but let me say that however you look at it, we are at or very close to target on BA in this particular bill. And I had indicated that at the Office of Management and Budget, Mr. Joe Wright has indicated his satisfaction with this bill and how it would relate to his recommendation to the President on how to handle the bill once it reached the White House.

Mr. President, we have all struggled with this question of the deficit. And I know that we are going to have a very interesting debate down the road with a proposal to be offered by the Senators from Texas and New Hampshire, Mr. GRAMM and Mr. RUDMAN, on how to deal with the deficit. And I must say that I know that we all suffer from some degree of frustration as we seek to control this deficit and as we see it almost totally elude us in terms of our ability to control it.

One of the problems we have had has been on this matter of the inability to tie down the budget outlays. Do you remember the thing we used to call the Rose Garden a year ago; how we were going to save, as I recall, $150 billion in the next 3 years, and that was based on a measurement of outlays; how that eluded us? And that just sort of disappeared; it just like melted away.

Our outlays did not work out for a lot of reasons—economic assumptions that go into estimated outlays. We started out the budget process this year with another $150 billion, or some figure that we were going to achieve in 3 years. I can remember one meeting the Senator from New Mexico and I attended with the Director of the Office of Management and Budget, Mr. Stockman, when he came up to announce to us officially what we had all anticipated, that his economic assumptions were off and we would not be making the $50 billion savings we anticipated in outlays.

Consequently, I am merely saying that to estimate outlays is still an imprecise benchmark. We have to have some kind of a benchmark in order to function in the appropriations process, and that is why budget authority has been our benchmark, being concerned with its implications in outlays, but recognizing those outlays are imprecise.

I was talking to one member of the press following our previous remarks on this subject. That person from the press said, "You know, the most difficult thing for us in the press to try to report in terms of the budget process and the appropriations process are outlays." He said, "The only thing we really know when we have a benchmark is budget authority."

Well, it is difficult for all of us to try to latch on to some kind of a precise figure and a figure that is going to be good tomorrow as well as today in matters of outlays.

Now, I referred a little while ago to a proposal that will find its way through the legislative process which I think is analogous to this amendment, and that is there is a high degree of frustration. There is a high degree of frustration in dealing with the deficit. And we are looking for ways to try to somehow move ahead, even against all the frustration and all the obstacles that we seem to have in our pathway, because there is a vacuum. There is a vacuum which is being filled or an effort to be filled to deal with this thing and that vacuum I think basically belongs down at the White House. I need not recite a long history of why I think that. But when the White House tells us that we are going to deal with this deficit from one-half side of the coin, namely, from the spending side only, no one who has really looked at this in a careful way will believe that we will ever reach a balanced budget or we will ever really reach a point where we can say we are in control of the deficit from approaching it only from the spending side of the coin.

Then you add to that the White House position that that side has to be one that eliminates Social Security, one that maintains a high level of spending for military, far in excess of what some of us feel, $300 billion, whatever it will be. But when you begin to crank that into it and when you recognize that is part of the spending side of this picture that will relate to the interest on the debt, what do we have left? What do we have left as far as a baseline to try to control the deficit from the standpoint of the spending side of the coin alone? It is unrealistic. And that is part of our frustration, part of my frustration.

So then we come up with efforts like the Senate Republican leadership did to deal with a budget resolution that incorporated the COLA's, that incorporated some major restraint, at least in comparison to what the White House wanted, for military spending, a

budget resolution that was a real budget resolution effort to deal with the deficit. And, obviously, with only one Democrat willing to cross the aisle and vote for it, we started out with a problem.

The Senator from New Mexico spent probably the most tedious time of his life in trying to deal with this issue in conference.

Mr. President, I want to say—and I am sure that he is much more gentle than I and would never say it—but his job was not made any easier by the lack of support he got from downtown.

Now, we found that that was not possible to push through, so then we backed off. Then our budget people came up with a second effort to deal effectively with the deficit. They said:

All right, Mr. President, you are not going to let us incorporate the entitlements in dealing with this deficit by freezing entitlements. If you don't want to deal with a different figure on military, and we cannot control the interest factor in this whole picture, then let us look at the other side of the coin and deal with this deficit by adding a little on the revenue side by a tax on imported oil.

And that is not locked in. It is only illustrative that we are flexible to deal with this deficit from both sides of the coin, because we can only deal with it from a narrow base on the spending side, according to the criteria set up by the White House.

So the second time the budget effort was made to deal with this deficit, and that again as we know failed not because it was lack of effort on the part of our own leadership in the Senate but because we could not get the base of support from the other two parties to this three-part program of the White House, House of Representatives, and the U.S. Senate.

I only raise that bit of history to illustrate that there has been sincere, dedicated effort to deal with this deficit. And then we find ourselves in a situation where for whatever reason a tax reform issue arises in the picture.

Mr. President, it seems to me that any way you look at the tax reform exercise that is of the magnitude that this one is, if we are going to achieve both tax reform and control over the deficit, the tax reform has to become part of the strategy for the single objective of dealing with the deficit, not tax reform for the sake of tax reform. But when the White House says it has to be revenue neutral in order to be acceptable it again illustrates another dimension of frustration that some of us feel; at least those of us who are dedicated to that single goal of priority of dealing effectively with the deficit.

Therefore, having made these remarks, I hope they will illustrate that I am not standing here today to try to confront the chairman of the Budget Committee on the old confrontation of the Budget Committee versus the Appropriations Committee, turf, rivalry, and all of that stuff that we have behind us, and I intend to keep it behind us. And my references to the budget process only illustrate the difficulty that we are functioning under on the appropriations side of this, and I can understand why the Senator, as chairman of the Budget Committee over and above his membership on the Appropriations Committee, is still waging the battle on trying to get control of the deficit.

Mr. President, we have been down that road on the Budget Committee's efforts, the Budget Committee's responsibilities, and the Budget Committee has done its best. I am sure that my lack of patience would have been illustrated far before that of the Senator from New Mexico, and I probably would have thrown in the towel. But he pursued, persevered, and brought out a budget resolution the best he could do. And I commend him for it.

But having said that, I still come back to one simple fact. I think we have to proceed in an orderly way in the appropriations process. Let us not encumber the appropriations process with additional problems that we have not already had to deal with because I come back to a simple thesis: we have to act. The Appropriations Committee has no alternative. We have to keep Government going. We could have ended up with no budget resolution. The Government would have continued, far less effectively perhaps but we would have continued. But we cannot hold up our responsibilities to enact appropriations bills.

I want to again say I am ready to stand here on this floor and vote for an increase in taxes. I said this during my recent campaign, I was not waiting until after the election to make my statements that did not have much popularity during my own campaign but I felt that the administration was unrealistic in dealing with this deficit, and that we ultimately would have to deal with the deficit from the revenue side as well as from the spending side. As I say, I said that throughout my own political campaign. I still repeat that, and indicate I am willing to support that kind of endeavor.

But let us not try to impose upon the appropriations process all of the frustrations we have had in our failures in achieving what we wanted in the budget process, or in the revenue process, or in any other process. This is a very difficult role to be in, I can assure you. Again, I am not concerned with just the appropriations process as a hollow, mechanical process. Let me tell you we have been perverted many times during the past few years if you want to look at it strictly from an appropriations perspective by delay, understandably, by reconciliation processes, and by other processes. I feel again we have certainly been the soldiers on the frontline on this deficit problem, and in giving support to the budgetary process.

I feel at this point, though, I suppose much like other former administrators or executives in political life have felt when the legislatures of our States have said to us we will decrease spending in the State government by 5 percent across the board. It was very easy for the legislative branch to tell the Governor that. Then the Governor had to sit down, and make those reductions program by program, and constituency by constituency. I am certainly not concerned about the political implications of any of these reductions except for the fact that I do feel we have struggled hard, and we have achieved a goal of putting the appropriations process strictly within the budget resolution. And even if it were under normal circumstance of a first resolution which is advisory only, I would have adhered to the same goals as if it had been a second or third resolution that had become mandatory.

Since we have had the early morning subject raised, I want to tell you what we have now found in the meantime about what a 2-percent reduction would do. I asked for some information from Treasury. This is the estimate I received from the Treasury on a reduction of 2 percent across the board. Seventy-one million dollars at the Internal Revenue Service will cost upward of $700 million in uncollected revenues; the Senate bill is already $53 million under the President's budget request for Treasury, and this will lead to uncollected revenues of $500 million to $600 million. Customs has reported to us that with $15.8 million reduced by 2 percent, the Treasury projects uncollected duty would be approximately $150 million. A $4.9 million reducton as the 2 percent would be at, the Financial Management Service could lead to extra interest payments; $3.6 million reduction as the 2 percent would do in the Bureau of Alcohol, Tobacco, and Firearms would reduce revenues by approximately $300 million.

Let us add those up. Internal Revenue Service, $700 million, Alcohol, Tobacco, Firearms, $300 million, U.S. Customs, $150 million, Financial Management Service, $100 million for a grand total of a loss of $1.25 billion. If we are looking at the outlay as the benchmark, let us bear in mind that at a 2-percent reduction here that would be achieved against the measure of zero outlay on this particular bill would in turn find itself reflected on the revenue side of a deduction of $1.250 billion according to the computations, and calculations of the Treasury.

Mr. President, I am sure that many people could challenge those figures in one way or another. But that illus-

trates my point. Outlays and estimating outlays is a totally imprecise exercise. Again, I only have to use three examples—the 1984 Rose Garden deficit reduction package, or the 1985 exercise in the first budget resolution, and the midterm corrections that have been consistently made by the OMB indicating error or change in those budget outlay estimates that have been made at the beginning of a fiscal exercise.

Is it an either/or? No. Am I arguing here today that we should ignore budget outlays? No. Do I stand here and say budget outlays are pure fiction, that it is a form of witchcraft? No.

I am saying that the only precise benchmark that we can expect to operate in an appropriations process is budget authority.

I am saying, secondly, that we have to be conscious of the outlay estimates that we made even though they are imprecise. But when we are dealing with the total figure of this budget and you look at the percentage of outlay overage that is computed against the Budget Committee's benchmark on outlays, it is a very small percentage of the total spending of this budget.

I am not discounting $3.2 billion, even if they are accurate, even if it could be said that that $3.2 billion is as totally accurate as any figure we ever deal with. I am not discounting the number of dollars we ought to be about saving—billions. And when we can save billions on outlays, we ought to be even more diligent toward that objective and that goal.

But it is 0.3 percent of the total budget.

The $3.2 billion which is being used today represents 0.3 percent of the budget of one trillion dollars.

So I feel that in this whole fiscal process we are going to be facing some supplementals down the road; we are going to be having other vehicles that we can make some corrections on, and so forth. We are not really in a situation of the last train from Shanghai on dealing with this particular statement at this time.

Let me close my remarks and say in all probability if I were to lay my money on the table, this will pass. I do not think it will pass on the basis of necessarily superior logic, nor will it pass on the basis of realistic, precise computations.

It will pass, in part, because of our collective and individual frustration.

That frustration is going to mount and we are going to make, I think, some major errors of judgment down the road because of that frustration.

I still have hopes that one of these days the White House will put on its glasses with the right prescription and will see reality and get out of this world of illusion on this issue of the deficit.

I never thought I would see the day when a liberal Republican would have to stand to advocate and defend what should be a conservative position relating to fiscal matters. I do not mean to draw a partisan political note on this but I just want to say that I think it illustrates the fact that whether you are a Democrat, Republican, Liberal, Conservative, southerner, easterner, westerner, or northerner, this is the day and this is the issue that President Eisenhower referred to many times when he said there are times and issues when the people are ahead of the politicians in their understanding and perception.

I think the people are far ahead of the political leadership in the White House, particularly on seeing the priority of dealing with the deficit.

In adopting this, which I believe the Senate will do, let us not let ourselves believe somehow that we have solved the deficit problem or that we have really taken any significant step to solving the deficit problem. Let us not let this little resolution or amendment of a 2-percent reduction become the great balm to our convictions, responsibilities toward saying, "Well, I have done my part toward the deficit problem by voting for this amendment of a 2-percent reduction," any more than I will hope that those who end up voting, if we get to that point, for the proposal to be offered by Mr. GRAMM and Mr. RUDMAN think that they will have been voting to cure or correct the deficit. That is no more of a panacea than this. In fact, I would say it might even represent a greater danger at some point because it sounds so attractive.

As I have read it—and I am not here today to start debating on that issue—it is just, again, one of those things that we get caught up in oftentimes to be able to say, "Well, I am not on the Appropriations Committee or the Budget Committee, but I sure voted for that resolution that reduced the spending."

Somehow that is supposed to equate to some sort of fulfillment of responsibility.

Let me summarize by saying we will never fulfill our individual or collective responsibility until we deal with Social Security, until we are willing to deal with retirements of all kinds, and every entitlement. We cannot go out there and kid our constituents that somehow we have kept Social Security intact, we are not going to rob the old people, and all the other demagoguery that goes on about dealing effectively with Social Security, about this retirement.

I have gone to retirement centers and have said, "Look, if we are going to deal with this deficit, it will have to include Social Security and every other entitlement," and they have said, "Right on, if you affect everything."

We cannot buy in on the proposition that the more dollars we spend the more security we are buying for this country in our military budget. That is a false saying, an illusion. Somehow we hear that voice: $320 billion keeps America safe; $300 billion will make America poor.

Anybody who has been down the track and has seen what the waste has been in the military and in Government ought to realize that dollars do not equate to security. In fact, in my view, the greatest vulnerability to the Nation's security today is the deficit. You cannot compensate that deficit by spending more money for bombs, tanks, and hardware of all kinds. That deficit is still with us.

So, Mr. President, I suppose this is my saying that this is more than just a 2-percent reduction made by the Senator from New Mexico. We will make adjustments if this passes, but I only hope that we recognize that when that agriculture bill comes along we are going to state a formula here. Let us see some consistency and put this formula right through with every bill. It will be easier for some of us to vote for this bill than for agriculture. Some of us will find it more difficult to vote against this and then vote for some other bill that has a lot of our particular interests involved in it.

We are starting a procedure here, and we should know precisely where we are headed. We all should know what it accomplishes and what it does not accomplish.

We can save so many million here and lose so many billion on the revenue side. Let us look at the full picture. I have already reported what the Treasury has indicated about the $1.2 billion as applied to Treasury programs, collected revenues, regarding this 2-percent reduction.

Mr. DOMENICI. Mr. President, I know how busy the distinguished Chairman of the committee [Mr. HATFIELD] is. I may speak far too long. I just want to ask him to indulge me for about 3 minutes because I want to speak to the deficit, why I am here, and to the work of the Committee on Appropriations and the chairman. On most of these subjects, I am going to be very positive and may reaffirm some of things he said.

Mr. President, first of all, spending is spending. For those who might speak around this country, or in the committees, or to members of their staff and say that defense spending does not create deficits but non-defense spending does, let me just say that is not the case. There is no evidence that only one kind of spending or another causes deficits.

For those who think a $180 or $200 billion deficit is somehow different this year because we cut taxes 4 years ago and that deficit is different from now, I say it is no different. The truth of the matter is that a $200 billion deficit added to almost a $2 trillion cumulative debt is a deficit that is bigger, and has more and more interest paid on it, and more and more of our people toil now to pay for something that is borrowed. Mr. President, future generations will have to work to pay that bill; to pay off our debts.

For those who think things are OK in this country; let us not worry so much about this deficit, after all, we are still growing, we are adding jobs, so things look OK, I would tell them, that the ocean looked good, too, to the *Titanic* before it went down.

I would not be here, I would not have spent 7 months on the budget resolution, if I were not convinced that the American economy is destined to crash if we do not reduce this deficit.

Mr. President, I am not telling you we ought to fix it next week or next month; I have no plan to get rid of the deficit in 1 year or 2 years. It has reached such astronomical proportions that we clearly need 3, 4, or 5 years to do it. And we are not going to do it with the appropriated accounts. The chairman is right. We are not going to do it just with the discretionary appropriated accounts. Congress is going to have to look at everything. It is going to have to look at entitlements and at revenues.

The chairman of the Appropriations Committee is also correct when he says that we have to pass appropriations bills to run the Government. And, yes, he is right, we can waive the budget if we vote to do so to pass appropriation bills or not, even have a budget resolution, but we have to pass appropriations bills to run the Government. So he has a tough job. The appropriation bills cannot wait until next year. Congress has to pass the appropriations bills.

I am not here offering this amendment because I believe that reducing this bill, which is $0.1 billion in both budget authority and outlays over the budget resolution, is going to solve the deficits.

The next bill to come up—the HUD-independent agencies appropriation bill—is over by more than that. I am not going to stand here and tell the United States Senate it must bring that bill into compliance, but I am giving one point of view.

I am not going to argue that these actions will solve the budget deficits—not at all. What I am saying, however, is that we tried to get a responsible budget resolution the first 3 or 4 months of this year by reducing entitlements, discretionary spending, and increasing revenues. The collective wisdom of the Senate, the House, and the President said we could not do those things. It takes three to run down that track.

We were willing. The most exciting evening we had, and I think the chairman of the Appropriations Committee would agree with me, was 3 o'clock in the morning when he sat in that chair and we voted in a real budget resolution. I saw him genuinely excited although none of us like these things to be as partisan as that. I could see on his face that he was satisfied that for once, collectively, we did something that might have a real impact.

Later on, he even told me it was one of the most significant evenings in his many, many years here. But after all of that, which had far deeper cuts in that budget resolution than this bill where there were several programs eliminated. Through accommodation and conference with the House, we produced a budget resolution that, after all that struggle, we should diligently try to comply with—not saving every single nickel, but diligently coming as close as we can to saving $8 billion in outlays in the appropriations bills.

What I am most concerned about is that I am as positive as I can be that, at the end of the year when we add up the sum total of the bill that is before us and the 12 other appropriation bills, that of that $8 billion, anywhere from a $3.5 billion to $5 billion in outlays will disappear. And I use the word "disappear." Somehow or other, when we have CBO price over final actions on the appropriation bills, that is what I believe will be the final result.

I am not suggesting, Mr. President, that on each and every appropriations bill, the exact outlay estimate in the 302(a)'s that the Budget Committee does as a guideline to the Appropriations Committee will be reached. I am not even suggesting that the budget authority for each and every one of those bills ought to be consistent with that allocation. There is a latitide to move budget authority around. But I am suggesting that a diligent effort ought to be made when budget authority is transferred to fund different priorities, should to see what it is going to cost.

I admit that there are some that are hard to do, Mr. President, but there are some that are darned easy to do. If you take $6.9 billion out of the Synthetic Fuels Corporation—we are not doing that here. But if we did just to give an example, and you rescind it, we would say we just did something great. We got rid of that rascal, $6.9 billion in budget authority. You know what the Senate ought to do if it rescinded this budget authority, should say, great, and use that $6.9 billion of budget authority to reduce the deficit because it would only spend $100 million in outlays next year. There is nobody who can say it is going to spend $3 billion in outlays, because it would only spend $100 million.

But if you put it back in the budget as savings and spend the budget authority elsewhere, I can guarantee that it is going to cost more than the $100 million. It is going to show up, I am telling the Senate, as you estimate the outlays on each of these bills. At the end of the year, it is going to show up as outlays that nobody expected or contemplated but that we used at our discretion because we saved the budget authority somewhere else.

I give an egregious example, but this happens all too frequently. Taking budget authority from housing programs that spend slowly and saying it is a saving, but transferring that budget authority to faster spending programs won't give us an outlay saving.

I think we ought to be somewhat careful about what programs we move budget authority into before we say we have complied with the budget. I know of no other way, I say to my friends in the Senate, than to have crosswalks on each of the bills, estimate the outlays on each of those bills just as the Budget Committee does with the assistance of the Congressional Budget Office. My reading of the law says that not only the Budget Committee, but the Appropriations Committee crosswalk allocations should estimate both budget authority and outlays. we should have the crosswalk allocations before us so we can say, well, this bill is really going to be OK if all the others stay as prescribed. But I cannot do that today. I have no alternative but to say that to get to the outlay bottom line, I know of no other way than this to make a frontal attack on outlays for discretionary spending.

I regret, having to offer this amendment, but it happens to yield a result. I would feel far more uncomfortable to go through that bill and try now, on the floor, to say, take out this program, take out that program. The appropriators went through a lot of work and set up the program priorities. In my opinion the sum total of their priorities exceed the budget resolution assumptions in both budget authority and outlays, and I think a number of the fiscal year 1986 appropriation bills will do that.

I want to say to the distinguished chairman of the Appropriations Committee, he is absolutely right; the discretionary appropriated accounts are not going to balance the budget, unless you get rid of all of them, and then they would not do it—all of them. He is right. The Appropriations Committee and the Budget Committee, since I have chaired it, have worked diligently together. We have a long-standing rule on entitlements that has worked to a tee. If entitle-

ments go up and down within a bill, we do not insist that the budget authority levels be met because that would be unfair to the appropriators. If interest rates or inflation, or new case loads in a program that is absolutely mandatory increase or decrease, we would not expect budget authority or the resulting outlays to necessarily remain the same. We have given credit for those changes to the Appropriations Committee all the way through. Even if they are higher than the budget resolution assumes, we do not say cut somewhere else. This is a long-standing accommodation between the budget and appropriation process.

Mr. DECONCINI. Will the Senator yield?

Mr. DOMENICI. Mr. President, 1 more minute and I will yield the floor.

Mr. DECONCINI. I wish to ask the Senator a question.

Mr. DOMENICI. I will be pleased to answer the question.

I want to close by saying to my friend from the Appropriations Committee, I hope that after today's vote—and I am not nearly as certain as the Senator as to how it will turn out. As the sponsor, along with a number of other Senators, I hope it wins. But I would like to see if we could work on the issue of outlays. I am more than willing to do it, I say to the Senator, now.

I would like to work on the issue of making allocations to the subcommittees; not my allocations but the Appropriations Committee's allocations, but give a response to what the outlays are going to look like under those allocations. I hope we can do that. I am not even saying that all of the outlay overage in the allocations must be down to zero because, I know how difficult it will be to achieve. The appropriators have priorities they want to pursue, and they may cost a little bit more than was assumed in the budget resolution. I am merely saying that the ratio of $3 to $3.5 billion to $8 billion clearly indicates we could do better in terms of programmatic mix to come closer to the outlay targets.

Finally, I hope, as Chairman HATFIELD has expressed, that the challenge we face this year will not endanger the accommodation we have worked so hard to achieve. It will not on my account. I hope it will not on the Senator's account.

I ask unanimous consent that seven additional Senators be added as original cosponsors of this amendment: BINGAMAN, PROXMIRE, JOHNSTON, SYMMS, HATCH, GRAMM, and ZORINSKY.

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

Mr. DECONCINI. Mr. President, I should like to ask the Senator from New Mexico if he would stay a little bit and answer a question or two that I have. First, I want to ask the Senator if I am correct that the amendment offered by the Senator from New Mexico is predicated on the assumption that the Treasury-Postal Service is over its perceived section 302(b) allocations. Is that correct?

Mr. DOMENICI. The Senator is correct.

Mr. DECONCINI. Between the Budget Committee and our staff, we have a little difficulty with the Budget Committee numbers. Maybe the Senator can help us and explain them. That may make it a little more palatable should the amendment of the Senator from New Mexico carry. It is unclear to me how the Budget Committee adds up the scorekeeping for the Treasury bill. Let me give the Senator one example.

On July 29, the President formally requested full restoration of the 5-percent salary cut that he had proposed in February for all agencies and departments. The amount of that restoration affecting the Treasury bill would be $141 million, if I am correct. The committee under Chairman ABDNOR and the full committee under Chairman HATFIELD approved a bill that only restored $73.3 million of the $141 million requested by the President and assumed in the budget resolution. So what did the Senate Budget Committee do? I believe, I say to the distinguished chairman in all sincerity, they failed to give the Treasury appropriations bill any dollar credit for the restoration or at least the amount we built into our bill, even though the 5-percent salary restoration was assumed in the First Concurrent Budget Resolution.

Now, I should like to know if I am correct and, if I am correct, there seems to be a $67 million shortchange just in this item that affects our 302(b) allocation for this bill.

Mr. DOMENICI. No, I do not think so.

Mr. DECONCINI. The Senator does not?

Mr. DOMENICI. No; in fact, I am sure not.

Mr. DECONCINI. Were we given the credit?

Mr. DOMENICI. With reference to personnel issues, there were three assumptions in the budget resolution. There was a pay freeze, and the Senator mentioned that. There was a 4-percent work force reduction through attrition for all Federal personnel, and a 10-percent administrative savings in executive branch agencies. The sum total of the pay freeze, 4 percent work force reduction, and 10 percent administrative savings was calculated and crosswalked to each committee. The committees do not have to implement these policies, but if they do not, they will have to find offsetting savings elsewhere.

Mr. DECONCINI. If the Senator will yield, the Senator from New Mexico is telling me that the 5-percent/$141 million was restored to us?

Mr. DOMENICI. Yes, indeed.

Mr. DECONCINI. That is not the information we received from your committee staff.

Mr. DOMENICI. Indeed, it was.

Mr. DECONCINI. Mr. President, let me give another example. The President's budget in February assumed a 10-percent administrative cut in all activities in this bill and every other bill. Those cuts were blended into the President's request for each agency. The Appropriation Committee included all—I repeat, they included all—of those administrative savings and more into the Treasury bill that is before us today. So what does the Budget Committee do? It appears to this Senator that no credit was given to the Treasury bill for the full amount of the administrative savings we achieved. It assumes we did not make any of those cuts when, indeed, our records show that we did. And despite accomplishing those administrative savings your committee charges the Treasury bill with $45 million toward its ceiling. The result, of course, is another $45 million short-change of this bill. Maybe the Senator can explain how the Budget Committee figures these figures. When we look at them, we take the 10-percent cut and then when we get no credit toward our so-called allocation from 302(b). It does not appear to be in there. If it is in there, I would like to know where it is.

Mr. DOMENICI. Let me say to my friend from Arizona that I will be glad, before we vote, to have his staff and our staff meet to discuss the entire crosswalk, but let me make one point.

The Senator mentions the 5-percent pay cut that the President sent to Congress in his budget. We did not have any 5-percent pay cut in the budget resolution. We had a pay freeze. The 5 percent is a change from the President's budget. Our change from baseline would be to show a freeze over an automatic increase. So we have properly accounted for it.

Mr. DECONCINI. If the Senator will yield, that is exactly what I am saying. That there was no cut. The $141 million was restored, but we did not get the credit for it in the 302(b) ceiling for our bill.

Mr. DOMENICI. We will be glad to go through that. In the crosswalk function 920 contained all of the savings associated with the 10 percent and 4 percent administrative and work force reductions, which were crosswalked to the Appropriations Committee as savings. Whether you met them or not, I do not know at this point, but clearly they have direct BA and outlay impacts. If you did not make offsetting savings someplace else, then clearly the subcommittee is going to be

over the budget resolution assumption.

Mr. DECONCINI. If the Senator will yield, is the Senator willing to look at the figures——

Mr. DOMENICI. Yes.

Mr. DECONCINI [continuing]. Before we vote on it and see whether or not I am misreading whether we did or did not get the credit for the $45 million? It does not have to be done right this moment.

Mr. DOMENICI. Yes, indeed.

Mr. DECONCINI. If the Senator will look at it, I am puzzled. Not being on the Budget Committee, I do not have as thorough an understanding of it, as perhaps you do.

Just another example. The budget resolution assumes $8 million for the customs forfeiture fund in 1986. This fund is authorized by the crime bill that passed last year. The Budget Committee did not credit our ceiling with this funding level, or the funding in the request by the President in his 1986 budget request back in February. The result is another $8 million that is not allocated to us, or at least I cannot find it in here.

I do not mean this to be critical of the chairman. He has the authority and the responsibility here, and I do not mean to leave the impression that he is not doing a good job, because he is. He has taken on some battles I would not take on.

But it does not seem fair when we cannot get correct figures and we do not believe we have been credited properly. If we have been credited properly, my argument holds no water. That is what I ask the chairman to help us on.

Mr. DOMENICI. I say to the Senator from Arizona that before we vote, we will be glad to sit down and go through that crosswalk. If we have made an error of the type he is speaking of, it would clearly be an error, and we will come down and say so.

Mr. DECONCINI. I thank the Senator. Maybe I do not understand it.

Mr. ABDNOR. Mr. President, I ask the Senator to yield for a question.

The resolution says steps should be taken to increase personnel of the IRS and the Customs Service. Then the resolution reduces the personnel by 4 percent.

I am sure the Senator is very much aware that 68 percent of the personnel in the bill belongs to those two agencies. Does the Senator have any thoughts on how the Budget Committee believes we should make cuts? As I say, 68 percent comes out of those two agencies—Customs and IRS. Trying to cut 4 percent across the board causes quite a problem.

Mr. DOMENICI. Maybe they are throwaway votes. When it comes to the actual appropriations, this body does not want to vote for savings it adopted in the budget resolution. There was a vote by a 2-to-1 margin for the budget resolution, which assumed the 4-percent work force reduction, and the 10-percent administrative savings. When we do that, we cannot tell you that, in your wisdom, you should up the payroll account for some department of Government more than another. That is clearly within your prerogative in funding the IRS and any other agency of Government under your jurisdiction.

Mr. ABDNOR. How do we do it? I guess I have not figured it out.

I might say that when we put together this budget, we took the 5 percent into consideration. It was first asked for by the administration. When you do that—and I have reason to believe that many of the other sections of the appropriations bill do not do that. We took that 5-percent cut into consideration, because we put together our bill before the budget resolution was passed. We included the 5-percent cut, and now we are being asked to take another 4-percent cut through attrition.

I think my good friend knows as well as I do that in this particular section of the appropriations bill we are really not dealing with any program, so to speak. The Health Program and the Retirement Program are two big programs. They are mandatories. So the vast end of what we deal with is personnel.

Maybe our mistake was made in the first place by trying to cut 5 percent out of salaries when the original proposal was put together.

Not only my subcommittee, but also the Appropriations Committee and, as far as I can tell, almost everyone else in Congress, is in accord with our thinking. One area that does need to be beefed up over any other area in Government is law enforcement. Everyone has been in accord, so I guess that sometimes our votes do not truly reflect everything we believe throughout these budgets. This has really put us in a difficult situation.

Mr. DOMENICI. I say to the distinguished chairman of the subcommittee that perhaps a moment ago, on the IRS, I did not explain it quite right.

Within this process, we were fully aware that in order to increase the revenues—we have to collect taxes—it was suggested that we add additional money for the IRS in the account for agents to help collect taxes. We did that. We added money in that account for more personnel with the notion that they will increase the revenues coming into the Treasury.

I am willing to admit that when you ask for a 4-percent work force reduction to help reduce deficits such a policy is applied across the board. But, before it was done, a substantial amount of money was added in the budget resolution for the specific account of agents for the IRS.

Mr. ABDNOR. We tried to use a little ingenuity here, I guess, because we all felt strongly that this added personnel was needed, not only in the IRS but also, as everyone agreed, in Customs. Those two sections of our bill make up 68 percent of the people in this bill.

We all believe the Secret Service is extemely important and could not be reduced. We felt that the Bureau of Alcohol, Tobacco, and Firearms was in the same category. I admit that we did not cut these people. As a matter of fact, when we restored the 5 percent to these people, except IRS, which we gave 2.5 percent, we required the rest of the accounts eat it.

We have many accounts which are small, but they are important. They were set up because Congress dictated it. We have not even touched on that part.

What we have been doing did not just occur this year. Unfortunately, we have been beefing up Customs, the Secret Service, and IRS every year at the expense of these other small agencies. They are nowhere near where our enforcement agencies are. They have less than they have had in previous years. They were complaining before we arrived at this point today. They are really going to be hurt by making the additional cuts. We will probably have to take bigger cuts, if we have options, out of some of the agencies we are saying we should not reduce; because, unfortunately, the balance is such that most of the people operating in these agencies are in the two biggest—Customs and the IRS.

So it is not that I do not agree that we need to make cuts.

One night back in May, I guess it was, in the wee hours of the morning, I voted for a resolution to cut out 13 agencies. But we had a chance to look at the whole thing in balance at that time. We picked and chose.

I have never been for across-the-board reductions, because I have always felt that there are some areas that could be reduced far easier than others, and there are some that should be beefed up a little. The President thinks defense should. I think that Customs, Secret Service, law enforcement, and the collection of dollars are some of the most important functions this Government has. That is why I am troubled. We are willing to make cuts. We stood up and made that vote before, and we will do it again. I guess I am a bit parochial, but I think other sections of the budget could accept this procedure easier than we could.

We are a relatively small section of the budget because we do not have programs. Our biggest expenditures, you will find, are in the health programs and in retirement contributions which we cannot touch if we wanted to because they are mandatory.

Apparently this body feels we cannot reduce revenue forgone, which is a huge item. The President's budget did not call for a dollar in it and yet everyone wanted it. So it has been included. So that is where we are at this time.

I do have a few additional remarks I wish to make if I may.

I would just like to deal principally with my section of the budget. I realize we have been talking about the overall budget and cuts, but let me talk in a little more detail about my own section of the budget.

I would just like to preface my remarks by saying this bill was marked up and ordered prior to the passage of the budget resolution and I think that is a darn important point to remember. Maybe we got too eager, maybe we went to work too early, but we tried to fulfill the instructions we received in the Senate-passed budget resolution. In our deliberations we worked within the bounds of that budget resolution. I hope the budget chairman realizes it. We patterned our budget to fit into that first budget.

In those deliberations this subcommittee reported a bill that was within the bounds of the resolution, and it was only after the committee voted to put the revenue-forgone subsidy at the $801 million level did we exceed the Senate-passed resolution. Subsequently, Congress passed the resolution on which this amendment is based.

Mr. President, this bill exceeds the budget resolution by $128 million in budget authority and $123 million in outlays. As I noted in my opening statement, the revenue-forgone subsidy makes up a large portion of the overage compared to the President's budget. It also accounts for $53 million of the overage in budget authority and outlays. The remainder of the excess funding can be attributed to the committee's attempt to assist the law enforcement agencies funded by this bill and the Internal Revenue Service by providing some of the money required to meet restoration of the 5-percent pay cut that we did take. The budget resolution denies the pay cut, yet provides no funding. The committee has provided this funding so enforcement would not suffer and the IRS would be able to continue to work to close the tax gap. In fact, we probably should provide more money for the IRS.

Let me briefly explain how we got to where we are because we are talking about this particular bill at this moment, not the overall appropriation. Congress has refuted the President's proposal to cut pay of Federal employees. There was Congress that took that action. As a result, the President has sent a budget amendment for funds to restore that funding. The budget resolution does not address this restoration. Therefore, we attempted to provide funding where we could. To do that we have asked every agency in the bill to absorb the 5-percent pay cut except for the law enforcement agencies and the Internal Revenue Service.

The committee restored all of the funding to the Federal Law Enforcement Training Center, the Bureau of Alcohol, Tobacco and Firearms, the U.S. Customs Service, and the U.S. Secret Service. We provided about half of the funding to the IRS.

Mr. President, I want at this point to note that if we take the resolution 4 percent civilian attrition assumption into account, the resolution and the bill have similar funding and staffing levels. I note this because the Treasury Department has informally advised us that they are distraught with the Senate bill because it would provide none of the House-approved increases totaling $178 million.

The Senate level reduces $57 million from the administration request of $100.1 million for restoration of the 5-percent cut. These pay costs are mandatory and must be paid. This reduction will have to be absorbed by reducing positions by between 2,000 and 2,500.

Let me repeat that: In order to take care of this mandatory 5-percent decrease there is going to have to be reduction by between 2,000 and 2,500 people in the IRS.

Given the urgent needs that exist in the service centers and taxpayers' services, which everyone wants worked out. I never had anyone testify in front of us who said we ought to cut it. When we thought about it we were quickly overruled. Because of the needs in the service center and the taxpayers' service almost all of the staffing reductions will have to be taken in tax enforcement and revenue collecting activities of the Service.

These activities, let me assure you, pay for themselves many times over in increased revenues. With this reduction the Department of the Treasury projects a revenue loss to be between $500 and $600 million in fiscal year 1986 and between $1.5 and $2 billion over 3 years.

The fiscal year 1986 budget for IRS already reflected significant reductions for savings and anticipated productivities. The experiences of this past tax filing season will not allow savings of this magnitude and will, in fact, require additional resources in the tax processing area. This situation has made it much more difficult for the IRS to accommodate additional reductions below the President's request.

The amendment to reduce all appropriations by another 2 percent below the Senate committee recommendations cuts another $71 million from the administrative request of $100.1 million for restoration of the 5-percent pay cut in the Internal Revenue Service.

This reduction will have to be absorbed by reducing another 1,500 positions to fund total pay requirements. So, we are cutting and we are cutting. The total reduction at this level would be approximately 3,500 positions when taking into account the action of the Senate committee.

The reduction would result in a further erosion in the enforcement program of the Service, with all the cuts having to be taken primarily from the examinations and collections activities. Additional revenue loss with the 2-percent reduction would be between $700 and $750 million, in fiscal year 1986 and approximately $2.1 billion over 3 years.

That is only IRS. The Department also indicates upward of $150 million of uncollected revenues could occur.

A smaller amount of revenue could go uncollected by the Bureau of Alcohol, Tobacco and Firearms. So, I think you will see my point. This amendment projects to save $139 million at the cost of a potential revenue loss of over $1 billion. Now I want to conform to the budget resolution as much as any one in Congress, and no one can call me a big spender, but this move does not make much sense to this Senator, at least.

Mr. President, the proposed reduction would further reduce the Fiscal Management Service budget by $4.9 million. A reduction of this magnitude will cause a deterioration in the quality of service to over 100 million recipients. In the payments and claims operations, some delays would cause hardship to recipients of Government payments such as Social Security recipients and veterans.

This reduction will also damage the Service's ability to carry out Congress' intent as expressed in the Deficit Reduction Act. FM's cash management activities will have to be restricted causing additional interest cost to the taxpayer of over $100 million annually. Combining an annual loss of over $100 million in interest savings with a decrease in the quality of service to the public in order to achieve a one time savings of $4.9 million does not seem like sound management.

The Domenici amendment reduces the bill by 2 percent across the board. The Treasury Department estimates a reduction of $71 million at the Internal Revenue Service will cost over $700 million in uncollected revenues.

I do not intend to go into this further.

I just want to make one other point: we have tried to do as much as we can for our law enforcement agencies and the IRS.

We did so by staying within the budget resolution. But something has to give.

This is not the first year that we have done this to them. We have been

doing this every year over the past several years. Some of those agencies are receiving less appropriations for this year and next year than they did in previous years because we beefed up other areas. Someone else had to suffer for it.

Now, we are going to get to the point where we ought to make the determination: maybe we ought to eliminate some of those agencies. if that is what this Congress wants to do, we would be happy to talk about it.

But to let them sit out on a limb without the necessary manpower to take care of the assigned requirements that have been given them would, indeed, be a great mistake.

I believe, while I have been talking mostly about the revenue agencies and Government law enforcement, we ought to keep in mind these other agencies that we also have in this bill. We made them eat the 5-percent pay reduction. Now we are going to tell them we ought to take the 4 percent in attrition and a 2-percent cut over that.

I believe I can say for the members of my subcommittee and myself that we have been fiscally tough on the agencies. Believe me, they are lean. Some have not fully recovered from the 12-percent across-the-board cut that was enacted in 1981. I might add, this came after this subcommittee had already made our cuts.

So I just hope that each and every Member of the Senate, before they cast a vote on the Domenici amendment, will realize that while it may sound good on the surface to cut every one equally across the board—I have heard that many times—but like in many other situations, there are always the exceptions. I believe that, in an appropriations bill such as we have before us, practically the entire appropriation deals with people, you have no programs to turn to make those cuts like most of the other appropriations bills have. I do not know whether it is good for them to take money out of their programs or not. But they have something they can compare and give thought to. Here, when you tell us to make cuts, you are talking about people, nothing else. We are a people budget, and that is all we have to deal with.

I certainly hope you will give serious consideration to that when the time comes for your vote.

Mr. CHILES. Mr. President, I know the hour is getting late and there has been a lot of talk on this amendment. I do not intend to talk very long.

I do support the amendment. I certainly do not do it because I do not think this subcommittee has not worked long and hard and has not produced a good work product. I do not do it because I do not think the chairman of the Appropriations Committee and the other members have not worked hard, and they are trying as hard as they can.

But, I have been in Government now about 26 years. I have never seen a bad appropriation during that time—from the time I was in the State house in Florida, from the time I was in the State senate, and the time I have been up here. Every appropriation bill is good and it is helping somebody.

Our problem has been, over the years, we have not been able to make the choice between the good and the best. We have not been able to make the choice between good programs and what we can afford to spend. We have not had somebody to say, "Wait a minute. We have only got x number of dollars so how do you allocate that best among these good programs?"

Now that is what the Budget Act is supposed to be about, determining at the beginning of the session how many dollars do you have to spend, how much can you call upon the people in regard to their taxes, how much deficit can you afford, let us say? Because, let us face it, we have got a whopping deficit in the budget resolution we passed; a whopping deficit.

On top of the tremendous deficit, we are getting ready to raise the debt ceiling to over $2 trillion. So we have been voting for a lot of good programs. And this is another good program. And we have it followed by the Agriculture bill, the Transportation bill, and all of the rest of them that are full of these good programs.

Now we are not out here saying this is a bad program. Of course, it is not. Customs, I love them. We need more of them in Florida every day that we can get. IRS—in fact, I chaired this subcommittee at one time in the appropriations—I know something about the work that they do.

I think what we are trying to say is that it happens to fall on this committee first, but it just happens because this is the first committee that has come to the floor with a bill that is well over.

What we are trying to say is, what this body voted in the budget resolution, it should respect, it should mean that. And we all cast that vote and then we all went home and made speeches and said it was not enough. I made those speeches. I will bet you everybody else in here went home and said, "Well, I supported the budget resolution. It was better than nothing, but it was not enough. We should have cut more and I tried to cut more."

I made those speeches. I will bet you most of the other people in here made them, too. But yet we come to the point of where it is not just a piece of a program, and it comes to some good programs. And these are good programs.

Are we willing to live up to what we said we were going to do? And what is the consequences if we do not? Well, as the chairman said, we said out of this overall bill we were going to cut back, we were going to save $8.6 billion. When you look at $2 trillion for our total debt, when you look at a $176 billion deficit, $8 billion does not sound like all the money in the world. But if you say you are going to do that and turn around and save half of that or 60 percent of that, where in the world does that leave us? I mean, we have very little credibility, it seems like, around here now.

So, I think what we are about here is we are saying, "Good programs, yes," but we need to follow sort of a truth in budgeting and what we have said we are going to do we need to be willing to do it and it comes to us when we have to do that. It is painful.

Mr. DOMENICI. Will the Senator yield for the yeas and nays?

Mr. CHILES. I yield.

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

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

The yeas and nays were ordered.

Mr. CHILES. So I think that is the process we are about, recognizing that you cannot ever make one of these budget resolutions without some pain.

Now, the 2-percent cut, I just wish to speak briefly on that. I can understand the chairman's concern about that. I share that concern. If this amendment was to pass—and I hope it does; I am sure going to vote for it—but if it was to pass and the chairman and the ranking member of the subcommittee decided they would rather do this some other way and they wanted to ask to take their bill back to committee and be able to make the cuts themselves or list the cuts, I would support them on that. I think that is their prerogative. If they want to do that, then I would support them. Because I want you to know that I do not have any—I do not know what the position of the mover of the amendment is—I have no great feeling that 2 percent is the only way to do this. There may be a better way to do it.

Mr. ABDNOR. Will the Senator yield?

Mr. CHILES. I yield.

Mr. ABDNOR. The Senator makes a good point with regard to taking it back to the committee. That is the logical place to make further cuts. Maybe we should look at the revenue forgone. Does the Senator go along with that?

Mr. CHILES. I did not understand the Senator.

Mr. ABDNOR. Revenue forgone, that is the account that put us over. The budget did not include anything in it. The Senator from Florida is a strong supporter, I guess, of the $801 million appropriation Senator BURDICK proposed, and the whole commit-

tee pretty much went with it. I do not think we have anywhere to cut in these other agencies, unless the Senator wants to help me abolish some of them. That certainly would be one way.

I can tell the Senator, for instance, little agencies like the Federal Elections Commission are screaming. If we are going to take some more from them, they may just as well fold up. Maybe they should not continue to perform, I do not know. If we ae not adequately going to fund them then let us get rid of them. I am just wondering where we go if we took the bill back.

Mr. CHILES. I do not purport to know the chairman's bill now the way he does because I am not serving on the subcommittee now. What I say is the Senator knows this bill better, and if there is a way it could be done better, I would honor that because I do not particularly like the cuts myself. I know, of course, in the one instance that the chairman accepted an amendment from me. We said we were going to transfer some of the people out of the headquarters of Customs and put them out in the field. I say there are a lot of these agencies including the IRS, Customs, and others. We can look at their headquarters' staff, and see how many people they have there as opposed to how many agencies there are out in the field or how many people are out actually collecting taxes.

Mr. ABDNOR. I can assure the Senator those positions are going to be gone. I thought that was a good move. I supported your amendment. That is the one way we were able to put more people in the field. This amendment, however cuts. They are not going to be going to the field. Those are the positions that will be cut.

Mr. CHILES. I do not purport to say that the chairman does not have a problem, and will not have a problem with this amendment. I think every subcommittee chairman will have a problem if we adhere to our resolution. That is part of that sort of pain that the resolution says we are going to take. But if we pass the budget resolution, then come back, and do not do those things, then we make a mockery out of that process. I really think that is what we are about here. We are seeking a binding crosswalk so that we can actually determine and keep score. That is our job. That is what we are supposed to do. That is what the act says we are supposed to do. I hope the body will see fit to pass this amendment. Some people have said budget authority is supposed to be the only thing that counts. That is not the way I read the act. I read the act that it very much talks about budget outlays. And I think when each one of us goes home and talks about the deficit, we are not talking about budget authority when we talk about the deficit. We are talking about how much is spent. That is outlays. So we had better get our rhetoric straight if we are going to talk about how much we actually spend.

Mr. President, I hope the amendment will be adopted.

Mr. BURDICK addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. BURDICK. I rise in opposition to a 2-percent across-the-board cut in the Treasury/Postal Service appropriations bill. Let us look, for example, specifically at the effect this would have on the revenue forgone function.

A 2-percent reduction in the revenue forgone appropriation will seriously hurt the affected mailers. Even with the $801 million contained in this bill for revenue forgone, the mailers who use this subsidy do not escape rate hikes. Library rate mailings will increase 24 percent. Classroom materials, veterans and religious mailings would be up 30 percent. Small newspapers would skyrocket 42 to 56 percent.

The 2-percent cut suggested by Senator DOMENICI will result in an estimated $16 million loss in the revenue forgone category. Just how much do we want to hurt these mailers this year in the name of budget balancing?

Through lower postal rates, the Federal Government acknowledges the important contributions made to society by the nonprofit mailing community and assists nonprofits to channel as much revenue as possible into program services rather than operational expenses. The administration has repeatedly stated their commitment to this idea.

Since the administration agrees that reduced postage rates for nonprofit mailers is a good idea, the way to ensure their continuation is through direct and sufficient appropriations.

Even $801 million is not as much as I would like to see for the worthy cause; $16 million less, as proposed by Senator DOMENICI is totally unacceptable; $801 million for revenue forgone is $166 million below the 1985 funding figure. It is $160 million below the $961 million contained in the House-passed Treasury/Postal Service appropriations bill. And it does not place this Treasury/Postal Service appropriations bill over its budget allocation.

For all these reasons, I support the bill, and oppose the present amendment.

Mr. NICKLES. Mr. President, the bill we are now considering, the Treasury/Postal appropriations for fiscal year 1986, is $128 million over the conference agreement on the first concurrent budget resolution. It is $859 million over the Senate-passed resolution. Not only is it over the budget resolution it exceeds the President's request even when adding the Senate appropriation for postal subsidies to the request.

The amendment Senator DOMENICI and myself are proposing would reduce all discretionary spending by 2 percent. This would produce a total savings of $139 million. When the House of Representatives considered this bill, they accepted one amendment to the bill. That amendment called for a reduction in every program, except for law enforcement, postal subsidies, and mandatory spending. It passed by an overwhelming vote of 288-133. When that amendment was initially offered, it was intended to bring the bill in line with the first budget resolution as passed by the House. Where they failed in that effort, we can succeed by adopting this amendment.

One may argue that the Senate has already reduced its budget well below that of the House and in many of the programs affected by the across-the-board reduction. However, of the 34 programs affected by this amendment, the Senate is over the House level in 26 instances. This indicates that the typically spend-thrift House has outdone us in these 26 programs.

Another argument used is that this amendment will hurt vital programs. This is not the case. The BATF, Customs Service, and Secret Service, all will experience increases over the budget requested amount even with the 2 percent reduction. Furthermore, government payment for annuitants and employees health benefits, and payment to the civil service retirement and disability fund will likewise be exempt from the reduction. While I feel that several of these programs could use additional cuts, this amendment as it is now structured would have the best chance of passage.

Finally, Mr. President, the bill does not even hold to our commitment to our own budget. For instance, under the budget resolution, we set a level for postal subsides of $700 million, this bill exceeds that amount by $101 million. If we are going to vote for attractive budgets around here, we have got to stick by them when it comes appropriations time. I urge my colleagues to accept our amendment which places us in compliance with the budget resolution.

Mr. LEVIN. Mr. President, I would have liked to vote for this amendment as an indication that I want to reduce the deficit. It is unclear whether this bill is within the budget resolution's guidelines. The Office of Management and Budget has indicated that it is within the guidelines. The chairman of the Budget Committee said otherwise. However, what seems clear after the debate is that voting to cut funding in this bill by $130 million, including pairing back funding for IRS enforcement and Customs Service en-

forcement, will lead to an increase in the deficit. It has been estimated that cuts in funding for IRS personnel will result in $750 million in lower revenue collections. Cuts in personnel for the Customs Service and the Bureau of Alcohol, Tobacco and Firearms would result in additional revenue shortfalls. We all want to reduce the deficit, but it just doesn't make sense to cut spending by $130 million and end up with a net increase in the deficit of at least $620 million. That's not a vote to cut the deficit. That's why I oppose this amendment.

Mr. DECONCINI. Mr. President, we have an amendment here that is very attractive. I am sure that anyone who has been paying attention to the discussion here will realize that any time you can cut across the board, it is an easy way to go. I have participated on many occasions in such discussions as this, and even find some temptation today. But it is grossly unfair. It is not only unfair in the sense of what we are doing here because of the questionable allocations numbers and the inability to have an adequate explanation of the 302(b) section allocations crosswalked over to this bill, but I think we have demonstrated that at least the restoration of the 5 percent adjustment should have been credited to the bill. The CBO did not. The Senator from New Mexico uses those figures in the Budget Committee, and we are losing out.

Who really loses? The Domenici amendment means the loss of $1.3 billion in revenue in fiscal year 1986, $3.8 billion over 3 years. That is a conservative estimate.

The IRS estimates that the amendment would result in a loss of $700 to $750 million in revenue collections at IRS alone.

Customs estimates the amendment would result in $150 million in lost revenue in fiscal year 1986 from the impact of the amendment on their operations.

BATF estimates that as much as $300 million in lost revenue could result in their operations if the Domenici amendment is adopted.

The Financial Management Agency at Treasury estimates that this amendment will cost the Treasury $100 million additional interest to be paid out to bondholders, Government security investors and the like, due to backlog and untimely handling of interest due on investments.

The 3-year effect of this amendment on these Treasury operations will be about $3.8 billion in lost revenue.

What we are considering doing is cutting off 2 percent which amounts to $139 million, I believe, and, in effect, we are going to lose some $700 million just in the IRS account which is at a low level now in the collection area.

There are other inconsistencies in the Senate Budget Committee's calculations that should have all of us on the Appropriations Committee scratching our heads, wondering which way they really want to go.

Let me give one more example.

The budget resolution assumes an IRS budget of $3.6 billion, $73 million more than the IRS budget assumed in the Treasury appropriations bill. Yet the budget resolution also assumes a 4-percent attrition rate to be applied to all agencies, including the Internal Revenue Service. This attrition savings would hit the Treasury appropriations bill for $93 million, virtually wiping out any of the add-ons or enhancements for Internal Revenue Service assumed by the Budget Committee itself.

The attrition savings would also knockout the Customs saving enhancements also assumed in the Budget Committee calculations. As the Senator from Oregon pointed out, we have done exactly what the Budget Committee told us to do in those two areas, the IRS and Customs, and yet we are not being penalized for it.

The total Treasury bill before us is $238 million under the House-passed bill, and if that does not convince you not to vote for the Domenici amendment, it is $85.2 million below the fiscal year 1985 totals for the Treasury bill.

Twenty-five of the fifty-one accounts were cut below the 1985 level.

Furthermore, I am informed that the toughest budget cutting outfit in America, the Office of Management and Budget, has told the chairman of the Appropriations Committee that the Treasury appropriations bill conforms to their calculations of the budget resolution assumptions and is acceptable.

Finally, according to an informal budget allocation meeting held by the chairman, which we discussed here a little earlier today, the Treasury bill is under the budget authority ceiling and only slightly over in budget outlays.

I think it is about $200 million under, but the chairman of the Budget Committee, who offers this amendment disagrees. The chairman of the Appropriations Committee agrees that it is at that level or below.

The committee has not formally adopted those recommendations but will shortly, and I suspect that no one will dispute that it is going to be very close to this.

Mr. President, this amendment will also have a serious effect on very important programs covered by this bill. This includes our national antidrug interdiction program. The Senator from New Mexico, who offers this amendment, has been one of the stalwarts in assisting this drug program literally get off the ground with our effort of having sophisticated Customs aircraft to stop the smugglers.

Here, briefly, is what the amendment before us would do: It would cut the Customs Service by $15.7 million, eliminating approximately 32 drug enforcement personnel along the Southwest border or at the international airports. This will also damage our efforts to halt domestic terrorism at the ports and our airports.

Second, it will postpone major antidrug interdiction efforts both in the air interdiction program and the marine program. It could damage our efforts to beef-up cooperative work with the Defense Department to combat drugs. We have had some success in that area.

Third, it will cut the Internal Revenue by another $71 million, eliminating about 1,700 Internal Revenue employees. At a time when tax compliance is at an all-time low this flies in the face of the President's support for additional Internal Revenue personnel to collect more revenue this year and to reduce that deficit we have all been talking about.

Fourth, it would further reduce the Postal Service subsidy to the charities, churches, the veterans groups, and nonprofit groups raising their rates to an unacceptable level. This to me is something of great importance and something that the chairman, myself, and other members of the subcommittee have struggled with for a long time in trying to keep the Postal Service subsidy on track. It is on the way down, in accordance to the authorization, and yet if we adopt this amendment we are going to hit the charities, veterans groups, and nonprofit groups.

Fifth, it would clearly shut down any new starts in GSA, including border stations or other important projects.

Not only will this amendment hurt drug enforcement and our tax program; it is totally unnecessary to the passage of a lean, responsible bill. It is not going to make it a better bill. We have cut these agencies sharply. We have bolstered only the crucial law-enforcement programs. There is no pork in this bill. All of these important programs are funded at levels that fall into virtually any rational budget ceiling.

I urge my colleagues not to vote for this amendment. I realize that it is very attractive but, in fact, you are standing up and saying that we do not need more law enforcement on the border to stop the drugs. We are not getting the credit in accordance with CBO figures and I believe we are really entitled to have that issue ironed out.

Mr. ABDNOR. Mr. President, I move to lay the amendment on the table.

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 lay the amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST], the Senator from Nevada [Mr. LAXALT,] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

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

The result was announced—yeas 38, nays 58—as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—38

Abdnor	Hatfield	Pell
Andrews	Hawkins	Pressler
Biden	Heinz	Rockefeller
Burdick	Inouye	Rudman
Byrd	Kassebaum	Sarbanes
Cochran	Kennedy	Sasser
Cranston	Kerry	Specter
D'Amato	Levin	Stafford
DeConcini	Matsunaga	Stennis
Dodd	McClure	Stevens
Ford	Moynihan	Wallop
Goldwater	Murkowski	Weicker
Harkin	Packwood	

NAYS—58

Armstrong	Garn	McConnell
Baucus	Gore	Melcher
Bentsen	Gorton	Metzenbaum
Bingaman	Gramm	Mitchell
Boren	Grassley	Nickles
Boschwitz	Hart	Nunn
Bradley	Hatch	Proxmire
Bumpers	Hecht	Pryor
Chafee	Heflin	Quayle
Chiles	Helms	Riegle
Cohen	Hollings	Roth
Danforth	Humphrey	Simon
Denton	Johnston	Simpson
Dixon	Kasten	Thurmond
Dole	Lautenberg	Trible
Domenici	Leahy	Warner
Durenberger	Long	Wilson
Eagleton	Lugar	Zorinsky
Evans	Mathias	
Exon	Mattingly	

NOT VOTING—4

East	Laxalt
Glenn	Symms

So the motion to lay the amendment (No. 706) on the table was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question before the Senate is the amendment of the Senator from New Mexico, on which the yeas and nays have been ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

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

The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 706) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

SCHEDULE

Mr. DOLE. Mr. President, if I may have the attention of my colleagues, we will try to figure out what we are going to do the rest of tonight and tomorrow.

As I understand it, there will be one additional vote on this bill. There will be a couple of amendments that the managers are prepared to accept, and then there will be a rollcall vote on final passage, which could come as soon as 6:30.

Then we have the HUD appropriations bill and the D.C. appropriations bill and some other matters that I think we can take care of in what we refer to as wrap-up, where there will not be rollcall votes.

Is the Senator from Oregon prepared to start on the HUD measure?

Mr. HATFIELD. Senator GARN will manage the bill.

Mr. DOLE. How long will it take?

Mr. GARN. I would think 2 or 3 hours, depending on amendments.

Mr. HATFIELD. The D.C. measure is after that.

Mr. DOLE. I am advised by the chairman of the HUD appropriations subcommittee that he is prepared to move on that measure, so we will start on that right after the next vote.

I say to my colleagues that if we can complete action on the HUD appropriations bill this evening, we will do that; otherwise, we will go out until 10 o'clock tomorrow morning.

I think we will be here at least until 8 or 8:30 this evening, and we will take a look at the HUD bill. If it appears that we cannot finish it, we will come back tomorrow at 10 a.m.

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

Mr. DOLE. I yield.

Mr. METZENBAUM. I did not understand what the Senator said about the D.C. appropriations bill.

Mr. DOLE. We will take it up. It is my understanding that the distinguished chairman of the Appropriations Committee would like that to follow the HUD bill. There will be an abortion amendment, I am advised. That may take some time, in the event the amendment is not tabled. If it is tabled, it will not take that much time. Am I correct?

Mr. METZENBAUM. Yes.

Mr. SARBANES. Mr. President, will the majority leader yield for a question?

Mr. DOLE. I yield.

Mr. SARBANES. Could the majority leader lay for us what he plans to do on Monday of next week?

If I may take advantage of the opportunity to broaden that question, I ask the majority leader, with respect to the rest of the session, how he intends to handle Fridays and Mondays, because we seem to have moved into a pattern, without it being announced, of apparently staying here and voting on Fridays and not voting on Mondays.

I am not particularly questioning the pattern. What I am trying to find out is whether that is the pattern and whether it is something that Members ought to plan on and adjust to.

Mr. DOLE. First of all, we have tried to accommodate Members on Mondays by not having votes before 3 or 4 o'clock. That has sort of been the pattern all year long.

At the same time, we had a five-week recess, and we have a lot of work piling up. So we have been adding Fridays to the schedule by trying to restrain the votes on Fridays, so that Members will not miss more than two or three votes, and still trying to wrap up on Fridays by mid-afternoon.

So, on Monday we will take up Interior or Agriculture appropriations, and there will probably be 3 or 4 hours on each measure.

Then there is still the Compact of Free Association which we would like to resolve, but knowing that that would be amended, I am hesitant to say we will bring that up on Tuesday or Wednesday.

I am now advised that the reconciliation bill may not be available by Wednesday of next week. We had hope to finish this on Friday, October 4.

I have indicated to all my colleagues that we will go out the night of Thursday, October 10 until Tuesday October 15. There are about a dozen Members involved in an Interparliamentary Union conference in San Francisco. Also Columbus Day falls in there.

So for the next couple of weeks, I would say we will probably have votes this Friday and next Friday. The following Friday we will be in recess. There will be no votes on Monday, October 14.

If there are any votes on this coming Monday, they will not occur until 4 p.m. or after, to accommodate the Senator from Illinois and others.

Mr. BYRD. Mr. President, if the distinguished majority leader will yield, I was out of the Chamber when the distinguished majority leader began. He may have already addressed this question. What does the majority leader

see with respect to timing on the farm legislation and also on the extension to the debt limit?

Mr. DOLE. Mr. President, I have conferred with the chairman of the Finance Committee today on the debt ceiling. He would like to take that up no later than October 7.

I am advised, as I indicated earlier this morning, by the Treasury Secretary that October 7 is a bit late. That is when they start to crunch and may be some of the checks will not clear after that date.

So it could be that we want to move that into some time next week to see if we can dispose of it.

I will discuss that further with the chairman of the Finance Committee.

On the farm bill itself, I do not see how we are going to reach it until October 15. We do not have the bill yet. It has been reported. It is several hundred pages in length. The report is lengthy. There are 22 titles to the farm bill. Every one is a major issue. So it takes the staff considerable time just to put it together. They hope to have it out to us on the floor some time next week. The 3-day rule will expire. We will take it up hopefully before October 10. If not, we have it designated for October 15.

Mr. BYRD. I thank the distinguished majority leader.

Mr. PELL. Mr. President, will the distinguished majority leader yield for a question?

Mr. DOLE. I am happy to yield for a question.

Mr. PELL. What is the majority leader's intention with regard to the Genocide Convention? Will that be taken up prior to adjournment?

Mr. DOLE. Is that on the must list? I guess it is.

Mr. PELL. It is not on the must list. I wish it were.

Mr. DOLE. It is something we considered.

Mr. PELL. There is no more assurance than that?

Mr. DOLE. I would like to give the Senator more assurance, but I get different views on that particular item. It is a question of how much time we have. I am prepared to take it up.

I have asked the President to send us a letter suggesting he would like to have it done this year as he did last year.

Mr. PELL. I thank the majority leader.

Mr. DOLE. We are awaiting that letter.

Mr. NICKLES. Mr. President, will the majority leader yield?

Mr. DOLE. I yield.

Mr. NICKLES. Mr. President, it was my understanding, or correct me if I am wrong, is it scheduled to have any votes on Tuesday, October 15, the day after Columbus day?

Mr. DOLE. No, but we are going to have business that day.

Mr. NICKLES. I understand.

Mr. DOLE. I will not say no votes. If I do, no one shows up except the Presiding Officer. Hopefully, we can start, if we are on the farm bill, to make opening statements and lay down some amendments.

But the Senator from Oklahoma is correct. There will be no votes on that Tuesday because many Members are coming back from the west coast and could not be here in any event.

Mr. KERRY. Mr. President, will the majority leader yield?

Mr. DOLE. I yield.

Mr. KERRY. Mr. President, I thought I heard the majority leader say that it was his anticipation there would be votes tomorrow, is that correct?

Mr. DOLE. That is correct.

Mr. KERRY. I know the majority leader is aware of the storm that is moving up the coast. For a lot of us in New England States, if we do not get out of here tonight, we are not getting home.

Is there any way we could have a more certain schedule?

Mr. DOLE. Mr. President, let me make an offer. If you hurry on the HUD bill, we might not be in tomorrow. But if we start beyond 8 p.m., we are going to be in tomorrow.

So if anyone has an amendment, I am sure Senators would be happy to speed it up. We will try to speed it up.

Mr. KERRY. I thank the majority leader.

Mr. DOLE. We realize the problem in the New England area, and we wish to accommodate those Members.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS, 1986

SECOND EXCEPTED COMMITTEE AMENDMENT

Mr. ABDNOR. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the remaining committee amendment to the Treasury-Post Office appropriations bill.

Mr. ABDNOR. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the second excepted committee amendment.

The second excepted committee amendment was agreed to.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agree to.

The amendment follows:

SEC. 617. Notwithstanding any other provision of this Act, each amount appropriated by this Act not required to be appropriated by previously enacted law is hereby reduced by 2.65 per centum. The provisions of the preceding sentence shall not apply to funds appropriated or otherwise made available under title I of this Act for Federal Law Enforcement Training, the Bureau of Alcohol, Tobacco and Firearms, the United States Customs Service, the Internal Revenue Service, and the United States Secret Service, or title 11 of this Act for the Postal Service.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1986".

AMENDMENT NO. 708

(Purpose: To require a study of the effects of rulemaking with respect to distilled spirits)

Mr. DODD. 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 Connecticut [Mr. DODD] proposes an amendment numbered 708.

Mr. DODD. 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 follows:

On Pages 5, line 17 before the period insert the following: *Provided further,* That none of the funds made available by this Act or any other Act shall be used to promulgate or enforce any final rulemaking or other action concerning the labeling of low or reduced alcohol distilled spirits until such time as the appropriate committee of the Congress have been provided with a thorough study of the consequences of such potential labeling changes. Such study shall be undertaken under the direction of the Bureau of Alcohol, Tobacco and Firearms.

Mr. DODD. Mr. President, it has come to my attention that the Bureau of Alcohol, Tobacco, and Firearms [BATF] will issue a rule in the near future designating a new category of distilled spirits labeled as "low" or "reduced" alcohol content. Concern has been expressed that unless this new category is confined to a specified, limited proof it could invite a proliferation of mislabeled products, confusing the consumer and creating havoc in the marketplace. It is extremely important that we move deliberately here since a reduction in the proof of distilled spirits could result in the loss of revenues to the Treasury, which bases its excise taxes on alcohol proof or content.

My amendment simply requires the BATF provide the Congress with a study of the consequences of such a charge prior to final implementation. Beyond the fact that such a study should be thorough in seeking out all possible ramifications and points of view, the BATF would have total discretion in structuring such an examination which should not unduly delay the resolution of this matter.

Mr. President, very briefly, this amendment is one that has been agreed to by both the majority and minority.

As stated it calls for a study of an anticipated rule by the Bureau of Alcohol, Tobacco, and Firearms that would designate a new category of distilled spirits labeled as low or reduced alcohol content.

Mr. President, great concern has been expressed that unless this new category is confined to a specified, limited group, it could invite a proliferation of mislabeled products, causing great confusion among consumers.

Therefore, before such a rule would be implemented, this amendment calls for a study of that rule to examine thoroughly both the consumer issues as well as the potential loss of revenues to the Treasury which, of course, as we all know, bases its excise taxes on alcohol proof or content.

I have raised this amendment with both the majority and minority. I believe it is cleared on both sides.

Mr. President, I ask for its adoption.

Mr. ABDNOR. Mr. President, if my colleague will yield, I wish to say we feel this is a very important amendment and addresses a very important question with regard to public hearings. I am happy the Senator brought this to our attention. We are more than willing to accept the amendment.

Mr. DECONCINI. Mr. President, this side has no objection to the amendment and is prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment (No. 708) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ABDNOR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LET'S HOLD THE LINE

Mr. PROXMIRE. Mr. President, I intend to vote against the appropriations bill for Treasury, Postal Service, and against every appropriations measure which exceeds the President's budget. We have to start saying "no," as painful as that might be.

The managers have worked diligently on this bill. And the leaders of the Budget Committee have made a valiant effort to see that the bill is within the guidelines established by the budget resolution. Despite these efforts, the bill is still too high.

By this vote, I do not mean to endorse the priorities in the President's budget. Far from it. They are badly skewed—too much for the military. And the deficits are still far too high.

That brings me to the crux of the problem. The only way those deficits can be reduced is by slowing the growth of defense spending, which Congress is doing. This slowdown must be matched by restraint on the domestic side of the budget, as recommended by the administration. Combine the two—lower defense spending, as recommended by Congress and lower domestic spending as recommended by the administration—and we would be well on the way toward controlling spending.

Here is where I differ with some of my colleagues. They would use the money saved in defense to bolster domestic spending. I believe this money, and that saved from domestic spending, should be used to reduce the deficit.

This is not an easy course to follow. Many of the domestic programs which the administration wants to chop are desireable, even useful. But we cannot afford them. It is just that simple. We don't have the money.

Unfortunately, there are no easy ways to reduce the deficit. Everyone now agrees that we aren't going to grow our way out of it. And even if we cut into both domestic and defense spending, more revenues are going to be required.

If we continue with business as usual, as we have done for the past several years, deficits are going to remain around $200 billion. Remain, that is, until the next recession, when they will head toward $300 or even $400 billion. Then we will really be in a pickle. We will have gone a long way toward crippling the greatest economy the world has ever seen. Is that what we want to do? I sincerely believe not.

Mr. LEVIN. Mr. President, I would like to engage in a brief colloquy with the chairman of the Subcommittee on Treasury-Postal Appropriations relative to the need for more Customs inspectors at Michigan ports on the northern border.

H.R. 3036 includes appropriations for increasing the number of customs agents to allow for increased border patrol and other inspection and enforcement activities of the Customs Service. While I am all too familiar with the serious demands and needs of the southern border, I am concerned about the shortage of inspection personnel at the northern border as well. I am, therefore, pleased that this appropriation bill provides for an increase to other areas of the country on top of the increase for the southwest border initiative.

I would like to take this opportunity to impress upon the chairman and ranking member of the subcommittee of the particular need for increased Customs agents for the northern border as well. I believe it is important to do this in order to establish a record that Michigan should receive an appropriate share of the increase contained in this bill. In particular, I want to point out how this need may require raising the ceilings for customs officials in these offices as well as the need to fill out the vacancies which currently exist.

The Port of Detroit is the largest port of entry along the northern border. Complaints to my office are constant from both the travelling public and the business community about the long lines and intolerable wait at the Detroit-Windsor Tunnel, the Ambassador Bridge and the Blue Water Bridge between Port Huron and Sarnia. One constituent wrote to me on April 26, 1985, that she and her family were "held captive for 2½ hours" on the Ambassador Bridge. According to my constituent, during this period, "* * * cars were boiling over, clutches were smelling, and cars were being towed off * * ." The lines are so long and intolerable that fist fights have broken out in the tunnel. People have become ill while waiting and have not been able to move their cars out of the tunnel for help.

Mr. President, business in the Michigan area is being discouraged and even lost due to the cost of these lengthy waits and inconvenience at the Detroit-Canada border. Michigan's economy cannot tolerate a hardship that can so easily be avoided. I need not tell the chairman that our trade with Canada is vast and vital. It is in the interest of both our nations to restore our mutual border to the effective industrial and international link it once was. A letter I received from St. Clair County, MI, stated:

> At its meeting of August 28, 1985, the St. Clair County Board of Commissioners entered into considerable discussion on a problem that effects both the United States and Canada. The problem is the increasing amount of time that it takes to clear Customs and/or Immigration at various points of entry and specifically at the Blue Water Bridge between Port Huron and Sarnia. As you would appreciate, any delay has an impact upon the social and economic life of both countries, but as of late, the delay is becoming more and more apparent.

The problem can easily be identified. The volume of car truck traffic at entry points in Michigan has increased dramatically. For instance, traffic volume at the Ambassador Bridge in Detroit has increased by more than one-half million in the past decade. The increase at the Detroit/Windsor Tunnel has been greater than 300,000 for that same period.

I realize that resources are limited and that a principal goal in authorizing increased funding for inspection and enforcement activities by the Customs Service is the problem of illegal immigration at the southern border. I hope that the northern border will not be ignored because our needs are so great and we are also under a mandate from the national headquarters to increase enforcement efforts.

Can the chairman give me some assurance that the ports of entry on the northern border and specifically, the Port of Detroit and the Port of Port Huron, will receive some increase in

the number of inspection personnel under this legislation?

Mr. ABDNOR. We recognize that increase in the number of people entering ports on the northern border might well create a need for more inspectors. I will ask the Customs Service to look at the need for more inspectors at the Port of Detroit and the Port of Port Huron and to do everything possible to meet those needs.

Mr. DECONCINI. I can also understand the concern of the Senator from Michigan. I will join the chairman in asking the Customs Service to reevaluate the need for additional personnel in the areas that the Senator from Michigan has described.

Mr. MATTINGLY. Mr. President, I would call to the attention of our colleagues the fact that I had earlier intended to offer an amendment to the pending legislation. My amendment would have the effect of allowing the U.S. Customs Service, the Postal Service and our law enforcement agencies to more efficiently crack down on the importation by mail of obscene and pornographic materials. At present, action to have the materials seized for forfeiture and any determination by the U.S. attorney to lodge criminal charges must be handled in the Federal court district having jurisdiction over the location of the point of entry. This results in overloading the handful of districts where the vast majority of such pornographic materials enter the country.

My amendment would simply allow the Customs Service to forward the questionable materials to the U.S. attorney in the region to which such mail is addressed for delivery. This would give officials greater flexibility, and would also ensure that the community standards of each neighborhood, township, and locality would be considered in determining whether or not the materials are indeed obscene.

Mr. President, I see that our distinguished colleague, the chairman of the Senate Finance Committee, is present. I remember that only a short time ago I had another amendment dealing with the unfair way in which the IRS was dealing with farmer cooperatives and, of course, a matter over which Senator PACKWOOD's committee has jurisdiction. I want to extend my sincere thanks to the chairman for his prompt and efficient action in seeing that the issue was given expeditious hearings and in guiding it through markup as a provision in the reconciliation measure which will be before the Senate in the near future. As then, I realize that the subject matter of my amendment comes within the jurisdiction of Chairman PACKWOOD's committee, and I would inquire of the Senator at this time whether he would be in a position to express his thoughts regarding how we should handle my proposed amendment?

Mr. PACKWOOD. Mr. President, I thank the Senator from Georgia for his courtesy in asking my guidance as chairman of the Finance Committee. Our committee does have jurisdiction over the subject matter of his amendment. I believe we are faced with a situation which is indeed very similar to that presented by the Senator's farmer cooperative amendment which he and I discussed in this Chamber 2 or 3 months ago during Senate debate on the imputed interest measure. I am delighted that we were able to hold hearings in Senator CHAFEE's subcommittee on the co-op tax matter, and that during committee markup of reconciliation, Senator MATTINGLY's concerns and those of the committee were resolved to our mutual satisfaction.

I would suggest to the Senator from Georgia that we should deal with his present amendment in a manner similar to the co-op legislation, and I would extend my commitment to cooperate with him in every way possible to schedule a hearing on the issue and seek committee action on it as soon as possible.

Mr. MATTINGLY. Mr. President, I thank my distinguished colleague from Oregon for his kind words and sage advice. I know that he will exert every effort to see that we reach a speedy resolution of this matter through the regular procedures of the Finance Committee, and for that reason I will gladly withhold from offering my amendment to the pending measure.

Mr. DECONCINI. Mr. President, I know the time is late. I wish to thank the chairman and his staff and Bob Mills and others for their assistance here.

I particularly thank the chairman of the Appropriations Committee, the Senator from Oregon, for taking the time today to come over and I think lay out very clearly one of the most difficult problems that we have not addressed in this Chamber. That is, what figures are we going to use and when and where are we going to follow the budget resolution and if the budget says add something then are we going to come back and cut it on a 2-percent cut after the committee has already made cuts?

So, I thank the Chairman of the Appropriations Committee for taking the time and investing his efforts here, even though we did not succeed in defeating the amendment of the Senator from New Mexico. I think a good groundwork has been made, and I thank him sincerely for that effort.

Mr. MURKOWSKI. Mr. President, I commend my colleagues on the Senate Appropriations Committee for their recommendations with respect to funding for the U.S. Customs Service.

As the primary defense along our borders, Customs plays a key role in our country's drug interdiction efforts. This agency must be adequately funded to carry out its drug interdiction responsibilities.

Narcotics trafficking is now a multibillion-dollar business. With an estimated $100 billion in narcotics profits available, todays drug dealers are well armed with the most modern high tech communications equipment, planes, boats, and weapons. We cannot allow our law enforcement officers to find themselves consistently outmanned, outspent, and outgunned.

The Treasury, Postal Service, and General Government Appropriations bill for fiscal year 1986, provides funding for Customs to implement Phase I of the Mexican-United States border security and narcotics initiative. The legislation also provides funding for additional Customs Service manpower to be placed in those areas of the country most vulnerable to narcotics and commercial fraud enforcement problems.

This additional funding for Customs is particularly timely for me. A hearing I chaired in Alaska recently to examine the scope and impact of drug trafficking in the State revealed an alarming trend. Use of every type of illegal drug in Alaska exceeds the national average. Seizures of illegal drugs have doubled during the past 5 years. This trend toward increasing drug abuse can be translated into increased domestic violence, suicide, violent crime, and lost productivity. An analysis published by the National Institute on Drug Abuse showed that nationally we lost $49.9 billion due to the costs of drug abuse. That's 5 percent of the total Federal budget.

Coincidentally, just yesterday I had the opportunity to tour the Customs Service facility at Dulles International Airport. The U.S. Customs Service has the authority for the processing and regulation of people and cargo arriving on international flights. I was very impressed with the demonstration at Dulles and stress to my colleagues the importance of providing Customs adequate resources to continue effective narcotics interdiction programs at our international airports.

Overcoming drug abuse and drug trafficking is one of our most challenging national problems. I strongly support the Appropriations Committee's actions to strengthen U.S. Customs drug enforcement capabilities.

Mr. LAUTENBERG. Mr. President, I rise in support of H.R. 3036, the Treasury, Postal Service and General Government appropriation bill for fiscal year 1986. This legislation contains one provision of particular significance to the State of New Jersey—funds to construct a new Federal building-courthouse in Newark.

Earlier this year, I offered an amendment to S. 1030, the Public Buildings Authorization Act of 1985,

during its markup by the Environment and Public Works Committee. My amendment authorized $44,975,000 to construct a badly needed new Federal building-courthouse in Newark, NJ. H.R. 3036 provides the funds for construction of this building.

Mr. President, the U.S. District Court in Newark has one of the fastest growing caseloads in the Nation. The courts presently occupy 83,000 square feet of space in the U.S. Post-Office-courthouse. With the passage of the Bankruptcy Amendments and Federal Judgeship Act of 1984, the increased caseload of the Newark courts will require 108,722 square feet of expansion space by 1990. The additional space is needed to accommodate seven additional district judges and other judicial functions.

The construction of a new Federal building-courthouse is the most efficient way to meet this need because the alternative is to continue leasing space which is very expensive. In addition, providing funds for this project is consistent with the expressed policy of the courts and Congress to house court functions in Government-owned space.

Mr. President, this vital project for Newark would not have been possible without the patient assistance of the chairman of the Environment and Public Works Committee, Senator STAFFORD, and the ranking minority member, Senator BENTSEN. In addition, I very much appreciate the cooperation of the Senator from South Dakota, Senator ABDNOR, in including funds for this project in H.R. 3036. I thank my distinguished colleague for his help.

Mr. President, I urge adoption of this legislation.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? 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], the Senator from Nevada [Mr. LAXALT], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Idaho [Mr. SYMMS], are necessarily absent.

Mr. CRANSTON, I announce that the Senator from Ohio [Mr. GLENN], the Senator from Massachusetts [Mr. KENNEDY], are necessarily absent.

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

The result was announced—yeas 88, nays 6, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—88

Abdnor	Garn	Metzenbaum
Andrews	Goldwater	Mitchell
Armstrong	Gore	Moynihan
Baucus	Gorton	Murkowski
Bentsen	Gramm	Nickles
Biden	Grassley	Nunn
Bingaman	Harkin	Packwood
Boren	Hart	Pell
Boschwitz	Hatch	Pressler
Bradley	Hatfield	Pryor
Bumpers	Hawkins	Quayle
Burdick	Hecht	Riegle
Byrd	Heinz	Rockefeller
Chafee	Hollings	Rudman
Chiles	Inouye	Sarbanes
Cochran	Johnston	Sasser
Cohen	Kassebaum	Simon
Cranston	Kasten	Simpson
D'Amato	Kerry	Stafford
Danforth	Lautenberg	Stennis
DeConcini	Leahy	Stevens
Denton	Levin	Thurmond
Dixon	Long	Trible
Dodd	Lugar	Wallop
Dole	Mathias	Warner
Domenici	Matsunaga	Weicker
Durenberger	Mattingly	Wilson
Eagleton	McClure	Zorinsky
Evans	McConnell	
Ford	Melcher	

NAYS—6

Exon	Helms	Proxmire
Heflin	Humphrey	Roth

NOT VOTING—6

East	Kennedy	Specter
Glenn	Laxalt	Symms

So the bill (H.R. 3036), as amended, was passed.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. ABDNOR. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. ABDNOR, Mr. LAXALT, Mr. MATTINGLY, Mr. HATFIELD, Mr. DECONCINI, and Mr. STENNIS conferees on the part of the Senate.

Mr. ABDNOR. Mr. President, I want to say in closing that we now have a freestanding Treasury bill. We have not had one since 1980. Overall, it is a good bill. We did pass a bill last year but there were a couple of disagreements with the other body. Because of a shortage of time, we had to be included in the continuing resolution. That should not be the case this year.

I want to say in closing that again I want to offer my heartfelt thanks to Senator DECONCINI for all he has done on this bill. His knowledge of the agencies, as well as his leadership has been extremely helpful.

I certainly would be remiss if I did not offer my appreciation and thanks to members of his staff, Bobby Mills and Marilyn Washington. Also, we could not have gone through this without the very able help of the majority staff, Chuck Parkinson and Dorothy Pastis. Their contribution to the final product certainly deserves our thanks.

Mr. DOLE. Mr. President, let me extend my thanks to the distinguished managers of the bill, the distinguished Senator from South Dakota, Senator ABDNOR, and the distinguished Senator from Arizona, Senator DECONCINI. We have completed this bill in good order. There has been some good debate. There is no question in my mind but the distinguished managers of the bill have done an outstanding job, as well as members of their staff. We congratulate them.

Mr. President, we hope we can continue to take care of these appropriations bills and not cover everything in a continuing resolution.

BUDGET ACT WAIVER

Mr. DOLE. Mr. President, if the distinguished minority leader would have no objection, I would like to turn to calendar No. 305, the Budget Act waiver, Senate Resolution 216, the budget waiver for S. 801.

Mr. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 216) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 801.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

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

The resolution (S. Res. 216) was agreed to, as follows:

S. RES. 216

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 801, a bill to authorize appropriations for the National Science Foundation for fiscal year 1986. Such waiver is necessary to permit the authorization of funds for the National Science Foundation and for certain programs under the Education for Economic Security Act, relating to mathematics, science, foreign languages and computer learning.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SCIENCE FOUNDATION AUTHORIZATIONS, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of calendar No. 281, S. 801, the National Science Foundation authorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 801) to authorize appropriations for the National Science Foundation for fiscal year 1986.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike out all after the enacting clause, and insert the following:

S. 801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
That this Act may be cited as the "National Science, Engineering, and Mathematics Authorization Act of 1986".

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

SEC. 101. This title may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1986".

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. (a) There is authorized to be appropriated to the National Science Foundation $1,500,780,000 for the fiscal year 1986.

(b) Funds authorized for the fiscal year 1986 will be available for the following categories:

(1) Mathematical and Physical Sciences, $406,820,000.

(2) Engineering, $160,640,000.

(3) Biological, Behavioral, and Social Sciences, $261,010,000.

(4) Astronomical, Atmospheric, Earth and Ocean Sciences, $357,670,000.

(5) Scientific, Technological, and International Affairs, $37,770,000.

(6) Advanced Scientific Computing, $44,010,000.

(7) Program Development and Management, $72,230,000.

(8) United States Antarctic Program, $110,080,000.

(9) Science and Engineering Education and titles I and IV of the Education for Economic Security Act, $50,550,000 together with amounts available for fiscal year 1986 from funds previously appropriated for the purpose described in this paragraph.

(c) Notwithstanding any other provision of this Act, from the amounts authorized under subsection (a), not less than $1,000,000 shall be available for the ethics and values in science and technology program. The Foundation shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Science and Technology of the House of Representatives on the distribution of the funds made available under this subsection not later than December 30, 1986.

AVAILABILITY

SEC. 103. Appropriations made under authority provided in sections 102 and 105 shall remain available for obligation for periods specified in the Acts making the appropriations.

OFFICIAL EXPENSES

SEC. 104. From appropriations made under authorizations provided in this Act, not more than $3,500 for fiscal year 1986 may be used for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the National Science Foundation. The determination of the Director shall be final and conclusive upon the accounting officers of the Government.

FOREIGN CURRENCY AUTHORIZATION

SEC. 105. In addition to the sums authorized by section 102, not more than $1,000,000 for fiscal year 1986 are authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States, to be drawn from foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

TRANSFERS AUTHORIZED

SEC. 106. Funds may be transferred among the categories listed in section 102(b), so long as the net funds transferred to or from any category do not exceed 10 percent of the amount authorized for that category in section 102. The Director of the Foundation may propose transfers to or from any category exceeding 10 percent of the amounts authorized for that category in section 102. An explanation of any such proposed transfer must be transmitted in writing to the Speaker of the House, the President of the Senate, the Senate Committee on Labor and Human Resources, and the House Committee on Science and Technology. The proposed transfer may be made only when thirty calendar days have passed after submission of the written proposal.

NATIONAL SCIENCE FOUNDATION ADMINISTRATIVE AMENDMENTS

SEC. 107. (a) The last sentence of section 4(e) of the National Science Foundation Act of 1950 is amended by striking out "by registered mail or certified mail mailed to his last known address of record.

(b) Section 5(e) of the National Science Foundation Act of 1950 is amended to read as follows:

"(e)(1) The Director may make grants, contracts, and other arrangements pursuant to section 11(c) only with the prior approval of the Board or under authority delegated by the Board, and subject to such conditions as the Board may specify.

"(2) The authority delegated by the Board under paragraph (1) of this subsection and the conditions specified by the Board shall be reported to the Chairman of the Committee of the Labor and Human Resources of the Senate and the Committee on Science and Technology of the House of Representatives.".

(c) Section 9 of the National Science Foundation Act of 1950 is amended to read as follows:

"SPECIAL COMMISSIONS

"SEC. 9. (a) Each special commission established under section 4(h) shall be appointed by the Board and shall consist of such members as the Board considers appropriate.

"(b) Special commissions may be established to study and make recommendations to the Foundation on issues relating to research and education in science and engineering.".

(d) Section 10 of the National Science Foundation Authorization Act, Fiscal Year 1978 (Public Law 95-99) is repealed.

(e)(1) Subsection (b) of section 12 of the National Science Foundation Act of 1950 is repealed.

(2) Section 12 of such Act is amended by striking out "(a)".

(f)(1)(A) Subsection (b) of section 14 of the National Science Foundation Act of 1950 is repealed.

(B) Section 14 of such Act is amended by redesignating subsections (c), (d), (e), (f), (g), (h), and (i), and all references thereto, as subsections (b), (c), (d), (e), (f), (g), and (h), respectively.

(2) Section 14 of such Act (as amended by paragraph (1)) is further amended by adding at the end thereof the following new subsection:

"(i) Information supplied to the Foundation or a contractor of the Foundation by an industrial or commercial organization in survey forms, questionnaires, or similar instruments for the purposes of subsections (a)(5) or (a)(6) of section 3 of this Act may not be disclosed to the public unless such information has been transformed into statistical or aggregate formats which do not allow the identification of the supplier. The names of organizations supplying such information may not be disclosed to the public.".

(g) Section 6 of the National Science Foundation Authorization Act, Fiscal Year 1978 (Public Law 95-99) is repealed.

(h) Section 6(a) of the National Science Foundation Authorization Act, 1976 (Public Law 94-86) is amended—

(1) by striking out "a grant not to exceed $50,000 per year for a period not to exceed 3 years" in the second sentence of such section, and

(2) by adding at the end thereof the following new sentence: "The National Science Board shall establish the amount and period of each such grant.".

AMENDMENT TO THE NATIONAL SCIENCE FOUNDATION ACT OF 1950 RELATING TO ENGINEERING

SEC. 108. (a) Section 3(a)(1) of the National Science Foundation Act of 1950, hereafter in this section referred to as "the Act", is amended—

(1) by striking out "engineering,"; and

(2) by inserting after "other sciences," the following: "and to initiate and support research fundamental to the engineering process and programs to strengthen engineering research potential and engineering education programs at all levels in the various fields of engineering,"; and

(3) by striking "scientific and educational activities" and inserting in lieu thereof "scientific, engineering, and educational activities".

(b)(1)(A) Section 3(a)(3) of the Act is amended—

(i) by inserting "and engineering" after "scientific"; and

(ii) by inserting "and engineers" after "scientists".

(B) Section 3(a)(4) of the Act is amended—

(i) by inserting "and engineering" after "sciences"; and

(ii) by inserting "and engineering" after "sciences".

(C) Section 3(a)(5) of the Act is amended by inserting "and fields of engineering" after "sciences".

(D) Section 3(a)(6) of the Act is amended by striking out "technical" each place it appears and inserting in lieu thereof "engineering".

(E) Section 3(a)(7) of the Act is amended by inserting "and engineering" after "scientific".

(2) Section 3(b) of the Act is amended by inserting "and engineering" after "scientific" each place it appears.

(3) Section 3(c) of the Act is amended—

(A) by inserting "and engineering" after "scientific" in the first sentence; and

(B) by inserting "and engineering research" after "applied scientific research" in the second sentence.

(4) Section 3(d) of the Act is amended by striking out "basic research and education in the sciences" and inserting in lieu thereof "research and education in science and engineering".

(5) Section 3(e) of the Act is amended by inserting "and engineering" after "sciences".

(6) Section 4(c) of the Act is amended—

(A) by inserting "and engineering" after "scientific" in clause (3) of the first sentence;

(B) by inserting "and engineers" after "scientists" in the second sentence; and

(C) by inserting "the National Academy of Engineering," after "National Academy of Sciences,", and ", engineering," after "scientific", in the third sentence.

(7) The first sentence of section 10 of the Act is amended by striking out "scientific study or scientific work in the mathematical, physical, medical, biological, engineering, social, and other sciences" and inserting in lieu thereof "study and research in the sciences or in engineering".

(8) Section 11 of the Act is amended—

(A) by inserting "or engineering" after "scientific" each place it appears in subsections (c), (d), and (i);

(B) by inserting in subsection (g) ", engineering," after "scientific" where it first appears; and

(C) by inserting in subsection (g) "or engineering" before "value".

(9) Section 12(a) of the Act is amended by inserting "or engineering" after "scientific".

(10) Section 13 of the Act is amended—

(A) by inserting in subsection (a) "or engineering" after "scientific" each place it appears;

(B) by inserting in subsection (a) "or engineers" after "scientists";

(C) by striking out "scientific study or scientific work" and inserting in lieu thereof "study and research in the sciences or in engineering"; and

(D) by inserting in subsection (b)(1) "or engineering" after "scientific".

(11) Section 14 of the Act is amended—

(A) by inserting "or engineering" after "scientific" each place it appears in subsection (f); and

(B) by striking out "technical" in subsection (g) and inserting in lieu thereof "engineering".

(12) Section 15(b) of the Act is amended—

(A) by striking out "technical" in paragraph (1) and inserting in lieu thereof "engineering"; and

(B) by inserting "or engineering" after "scientific" in paragraph (2).

(c) Section 2(b) of the National Science Foundation Authorization Act, 1976 is amended by inserting "or engineering" after "science" each place it appears.

AMENDMENT TO SCIENCE AND TECHNOLOGY EQUAL OPPORTUNITY ACT RELATING TO ENGINEERING

SEC. 109. (a) Section 31 of the Science and Technology Equal Opportunities Act, hereafter in this section referred to as the "Act", is amended by striking out "Technology" and inserting in lieu thereof "Engineering".

(b)(1) Section 32(a) of the Act is amended—

(A) by striking out "technology" and inserting in lieu thereof "engineering"; and

(B) by inserting after "scientific" the following: "and engineering".

(2) The first sentence of section 32(b) of the Act is amended—

(A) by inserting after "science" a comma and the following: "engineering,";

(B) by striking out "technical" and inserting in lieu thereof "engineering";

(C) by inserting after "scientific" the second time it appears the following: "and engineering"; and

(D) by striking out "technology" and inserting in lieu thereof "engineering".

(3) The second sentence of section 32(b) of the Act is amended—

(A) by inserting after "science" the following: "and engineering"; and

(B) by striking out "technology" and inserting in lieu thereof "engineering".

(4) The third sentence of section 32(b) of the Act is amended by striking out "technology" both times it appears and inserting in lieu thereof "engineering" each such time.

(c) Section 33 of the Act is amended—

(1)(A) by striking out "technical" in clause (1)(A) and inserting in lieu thereof "engineering";

(B) by striking out "technology" in clause (1)(B) and inserting in lieu thereof "engineering";

(C) by striking out "technology" in clause (1)(C) and inserting in lieu thereof "engineering";

(2)(A) by inserting after "science" in clause (2) a comma and the following: "engineering,";

(B) by striking out "technical" in clause (2) and inserting in lieu thereof "engineering";

(3) by striking out "technical" in clause (3)(B) and inserting in lieu thereof "engineering";

(4)(A) by striking out "technology" in clause (4)(A) and inserting in lieu thereof "engineering";

(B) by striking out "technical" in clause (4)(B) and inserting in lieu thereof "engineering";

(5) by inserting after "scientists" in clause (5) the following: "and engineers";

(6) by striking out "technology" in clause (6) and inserting in lieu thereof "engineering";

(7) by striking out "technology" in clause (7) and inserting in lieu thereof "engineering";

(8) by inserting after "scientists" in clause (8) the following: "and engineers";

(9) by inserting after "science" in clause (10) the following: "and engineering"; and

(10) by striking out "science, engineering, and technology" in clause (11) and inserting in lieu thereof "science and engineering".

(d) Section 34 of the Act is amended—

(1) by inserting after "science" the following: "and engineering"; and

(2) by striking out "technology" and inserting in lieu thereof "engineering".

(e)(1)(A) The first sentence of section 36(a) of the Act is amended by striking out "Technology" and inserting in lieu thereof "Engineering".

(B) The second sentence of section 36(a) of the Act is amended by striking out "engineering, professional, and technical" and inserting in lieu thereof a comma and the following: "engineering and professional".

(2)(A) The first sentence of section 36(c) is amended by striking out "Technology" and inserting in lieu thereof "Engineering".

(B) The second sentence of section 36(c) is amended—

(i) by striking out "technology" and inserting in lieu thereof "engineering",

(ii) by striking out "technology" in clause (1) of such section and inserting in lieu thereof "engineering", and

(iii) by striking out "technology" in clause (2) and inserting in lieu thereof "engineering".

(3)(A) The first sentence of section 36(d) of the Act is amended by striking out "Technology" and inserting in lieu thereof "Engineering".

(B) The second sentence of such section is amended—

(i) by striking out "Technology" and inserting in lieu thereof "Engineering";

(ii) by striking out "technology" in clause (1) and inserting in lieu thereof "engineering"; and

(iii) by striking out "technology" in clause (2) and inserting in lieu thereof "engineering".

(4) The heading of section 36 of the Act is amended to read as follows:

"COMMITTEE ON EQUAL OPPORTUNITIES IN SCIENCE AND ENGINEERING".

(f) Section 37(b) of the Act is amended—

(1) by striking out "technical" in clause (1) and inserting in lieu thereof "engineering" in the matter preceding subclause (A) of clause (1);

(2) by striking out "technical" in clause (1)(A) and inserting in lieu thereof "engineering";

(3) by striking out "technical" in clause (1)(B) and inserting in lieu thereof "engineering";

(4) by striking out "technical" in clause (1)(C) and inserting in lieu thereof "engineering";

(5) by striking out "technical" in clause (1)(E) and inserting in lieu thereof "engineering";

(6) by striking out "technical" in clause (2) and inserting in lieu thereof "engineering";

(7) by striking out "Technology" in clause (3) and inserting in lieu thereof "Engineering".

(g) The heading of part B of the National Science Foundation Authorization and Science and Technology Equal Opportunities Act is amended to read as follows:

"PART B—WOMEN, MINORITIES, SCIENCE, AND ENGINEERING".

SCIENTIFIC REVIEW PRIOR TO CLOSURE OF A NATIONAL FACILITY

SEC. 110. Of the funds authorized to be appropriated in section 102, no funds shall be expended with respect to closure of a National facility without appropriate scientific review, including review by the National Science Foundation's appropriate advisory committee or committees and the National Science Board.

DATA COLLECTION AND ANALYSIS

SEC. 111. The National Science Foundation is authorized to design, establish, and maintain a data collection and analysis capability in the Foundation for the purpose of identifying and assessing the research facilities needs of universities. The needs of

universities, by major field of science and engineering, for construction and modernization of research laboratories, including fixed equipment and major research equipment, shall be documented. University expenditures for the construction and modernization of research facilities, the sources of funds, and other appropriate data shall be collected and analyzed. The Foundation, in conjunction with other appropriate Federal agencies, shall conduct the necessary surveys every 2 years and report the results to the Congress. The first report shall be submitted to the Congress by September 1, 1986.

TITLE II—EDUCATION FOR ECONOMIC SECURITY REAUTHORIZATION

PART A—NATIONAL SCIENCE FOUNDATION MATHEMATICS AND SCIENCE PROGRAMS

TEACHER INSTITUTES

SEC. 201. (a) Section 101 of the Education for Economic Security Act (hereafter in this title referred to as the "Act") is amended by striking out ", applying jointly,".

(b)(1) Section 102(a) of the Act is amended by—

(A) striking out in the first sentence "a joint" and inserting in lieu thereof "an";

(B) by striking out "jointly" in the second sentence; and

(C) by striking out "jointly" in the third sentence.

(2) Section 102(b) of the Act is amended—

(A) by redesignating clauses (3) and (4) as clauses (4) and (5); and

(B) by inserting after paragraph (2) the following new clause:

"(3) provide assurances that local educational agencies will be involved in the design and operation of the institute in the case of applications submitted by institutions of higher education, or that institutions of higher education will be involved in the design and operation of the institute in the case of applications submitted by State or local educational agencies;".

(c)(1) Section 113(a) of the Act is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end thereof the following new paragraph.

"(2) All applications made under this part shall be subject to a peer review prior to approval.".

(2) Section 113(b) of the Act is amended by striking out "$200,000" and inserting in lieu thereof "$300,000".

MATHEMATICS AND SCIENCE EDUCATION DEVELOPMENT PROGRAMS

SEC. 202. (a) Section 122(a)(1) of the Act is amended by striking out "in the case of a profession of a" and inserting in lieu thereof a comma and the following: "(C) in the case of a professional".

(b) Section 122(b)(2) of the Act is amended by striking out "and" and inserting in lieu thereof "or".

GRADUATE FELLOWSHIPS

SEC. 203. Title I of the Act is amended—

(1) by redesignating part E as part F, and

(2) by inserting immediately after part D the following new part:

"PART E—GRADUATE FELLOWSHIPS

"PROGRAM AUTHORIZED

"SEC. 151. (a) The Foundation is authorized, in accordance with the provisions of this part, to establish and carry out a program of graduate fellowships for the purpose of encouraging and assisting promising students to continue their education and research in science, mathematics, and engineering.

"(b) Application for graduate fellowships under this part shall be in such form and contain such information as the Foundation may require.".

AVAILABILITY OF FUNDS

SEC. 204. Section 164 of the Act is amended to read as follows:

"AVAILABILITY OF FUNDS

"SEC. 164. (a) From amounts authorized under section 102(b)(9) of the National Science Foundation Authorization Act for Fiscal Year 1986 for the category Science and Engineering Education for the fiscal year 1986, together with amounts available for fiscal year 1986 from funds previously appropriated for the purpose described in such section—

"(1) not less than $3,000,000 shall be available to carry out the provisions of part C of this title; and

"(2) the Foundation shall apportion funds remaining after complying with clause (1) of this subsection and subsection (b) of this section among parts A, B, D, and E of this title.

"(b) From the amounts described in subsection (a) of this section for fiscal year 1986 not more than $1,000,000 shall be available to carry out the provisions of title IV of this Act.".

PART B—EDUCATION FOR ECONOMIC SECURITY

DEFINITIONS

SEC. 221. Section 3(1) of the Act is amended by striking out "section 195(2) of the Vocational Education Act of 1965" and inserting in lieu thereof "section 521(3) of the Carl D. Perkins Vocational Educational Act.".

PROGRAM REAUTHORIZATION

SEC. 222. (a) Section 203(b) of the Act is amended—

(1) by striking out "and", and

(2) by inserting after "1985" a comma and the following: "and $350,000,000 for each of the fiscal years 1986, 1987, and 1988".

(b) Section 205 of the Act is amended by striking out "the fiscal years 1984 and 1985" each place it appears and inserting in lieu thereof "the fiscal years 1984, 1985, 1986, 1987, and 1988".

STATE ALLOTMENTS

SEC. 223. (a) Section 204(a)(2) of the Act is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) by striking out "the remaining 10 per centum" and inserting in lieu thereof "9 per centum of such amount"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) The Secretary shall reserve the remaining 1 per centum to carry out the provisions of subsection (c).".

(b) Section 204(c) of the Act is amended to read as follows:

"(c)(1) From the amount reserved for each fiscal year under subsection (a)(2)(B), the Secretary shall allot—

"(A) not less than one-half of that amount to whatever agency the Secretary determines appropriate for programs authorized by this title for children in elementary and secondary schools operated for Indian children by the Department of the Interior; and

"(B) the remainder of that amount among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title.

"(2) The Secretary shall make payments under paragraph (1)(A) on whatever terms the Secretary determines will best carry out the purpose of this title.

ELEMENTARY AND SECONDARY EDUCATION PROGRAM

SEC. 224. (a) Section 206(b)(1)(A) of the Act is amended by striking out "inservice training" and inserting in lieu thereof "training, inservice training,".

(b)(1) Section 206(b)(1)(B) of the Act is amended to read as follows:

"(B) if the local educational agency determines that the agency has met its need for training, inservice training, and retraining under subparagraph (A), subject to the provisions of section 210(c), such training, inservice training, and retraining in the fields of computer learning and foreign languages, and the acquisition of instructional materials and equipment related to mathematics and science instruction.".

(2) The fifth sentence of section 206(b)(1) of the Act is amended by inserting "training," before "inservice training".

(c) Section 206(b)(2)(A) of the Act is amended to read as follows:

"(2)(A) The State educational agency shall distribute 50 per centum of the funds available under this subsection to local educational agencies according to the relative enrollments in public and private nonprofit schools within the school district of such agencies. Such relative enrollments may be calculated, at the option of the State educational agency, on the basis of the total number of children enrolled in public schools and (i) private nonprofit schools, or (ii) private nonprofit schools desiring that their children and teachers participate in programs or projects assisted under this title. Nothing in the preceding sentence shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within their school districts in order to determine whether such schools desire that their children and teachers participate in programs or projects assisted under this title.".

(d) The first sentence of section 206(d) of the Act is amended—

(1) by striking out "for demonstration and exemplary programs" in the matter proceeding clause (1); and

(2) by inserting "demonstration and exemplary programs for" immediately after the clause designation in clauses (1), (2), and (3), respectively.

HIGHER EDUCATION

SEC. 225. (a) Section 207(b)(2)(B) of the Act is amended to read as follows:

"(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics, science, foreign languages, or computer learning to specialize in the teaching of mathematics, science, foreign languages, or computer learning, including the provision of stipends for participation in institutes authorized under title I; and".

(b)(1) Section 207 (b)(2)(C) of the Act is amended by striking out "and science" and inserting in lieu thereof a comma and the following: "science, foreign languages".

(2) The second sentence of section 207(b)(2) of the Act is amended by inserting after "science" a comma and the following: "foreign languages".

(c) The first sentence of section 207(c)(1) of the Act is amended—

(1) by striking out "private nonprofit organizations" and inserting in lieu thereof "nonprofit organizations"; and

(2) by inserting "computer learning" immediately before "and critical foreign languages".

STATE ASSESSMENT

SEC. 226. (a)(1) The second sentence of section 208(a) of the Act is amended by striking out "section 210" and inserting in lieu thereof "section 210(b)".

(2) The fourth sentence of section 208(a) of the Act is amended by striking out "first" and inserting "preliminary".

(b) Section 208(c)(1)(E) of the Act is amended by striking out "public" and inserting in lieu thereof "nonprofit".

(c) Section 208 of the Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall prepare and submit to the Congress a summary report of the final version of the assessments submitted by States under subsection (a) as soon as practicable after the receipt of such assessments.".

STATE APPLICATION

SEC. 227. Section 209(b) of the Act is amended—

(1) by striking out "sections 207 and 208" in clause (1) and inserting in lieu thereof "sections 206 and 207";

(2) by striking out "sections 207 and 208" in clause (3) and inserting in lieu thereof "sections 206 and 207";

(3) by striking out "by local educational agencies, institutes of higher education, junior or community colleges, and other organizations for programs described in section 206" in clause (4)(A) and inserting in lieu thereof "for programs described in sections 206 and 207"; and

(4)(A) by striking out "of such funds, be available for" in clause (6) and inserting in lieu thereof "or such Federal funds, be available from non-Federal sources for";

(B) by striking out "sections 207 and 208" in clause (6) and inserting in lieu thereof "sections 206 and 207"; and

(C) by inserting before the semicolon in clause (6) the following: "from non-Federal sources".

LOCAL EDUCATION ASSESSMENTS

SEC. 228. The first sentence of section 210(c) of the Act is amended—

(1) by striking out "retraining" and inserting in lieu thereof "training, retraining,"; and

(2) by striking out "its funds" and inserting in lieu thereof the following: "all or a portion of its funds".

SECRETARY'S DISCRETIONARY FUND FOR PROGRAMS OF NATIONAL SIGNIFICANCE

SEC. 229. (a) Section 212(a) of the Act is amended to read as follows:

"(a) From the amount reserved by the Secretary under section 204(a)(2)(A), the Secretary is authorized to carry out directly, or through grants, cooperative agreements, or contracts, projects which are authorized by this section.".

(b) Section 212(b)(1) of the Act is amended—

(1) by striking out "make grants to" in the first sentence and inserting in lieu thereof "make grants to and enter into cooperative agreements with"; and

(2) by striking out "awarding of grants" in the third sentence and inserting in lieu thereof "awarding of grants and cooperative agreements".

PAYMENTS

SEC. 230. Section 213(a) of the Act is amended by striking out "section 211" and inserting in lieu thereof "section 212".

PART C—PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

ADMINISTRATIVE AMENDMENT

SEC. 231. Title III of the Act is amended by striking out "Foundation" wherever it appears (other than in section 303(3)) in such title and inserting in lieu thereof "Secretary".

DEFINITIONS

SEC. 232. Section 303 of the Act is amended:

(1) by inserting "and" at the end of clause (2);

(2) by striking out clauses (3), (4), and (5); and

(3) by redesignating clause (6) as clause (3).

PARTNERSHIP PROGRAM AUTHORIZATION

SEC. 233. Section 304(b) of the Act is amended to read as follows:

"(b) There are authorized to be appropriated $50,000,000 for each of the fiscal years 1986, 1987, and 1988, to carry out the provisions of this title.".

PART D—PRESIDENTIAL AWARDS

AUTHORIZATION AND AVAILABILITY OF FUNDS

SEC. 241. (a) Section 403(a) of the Act is amended to read as follows:

"(a) From amounts authorized under section 102(b)(9) of the National Science Foundation Authorization Act for Fiscal Year 1986 for the category Science and Engineering for the fiscal year 1986, together with the amounts available for fiscal year 1986 from funds previously appropriated for the purpose described in such section, not more than $1,000,000 shall be available to carry out this title.".

(b) Section 403(b) of the Act is amended by inserting after "subsection (a)" the following: "and amounts made available under subsection (a)".

PART E—EXCELLENCE IN EDUCATION

PROGRAM REAUTHORIZATION

SEC. 251. Section 604(b)(1) of the Act is amended by striking out "the fiscal years 1984 and 1985" and inserting in lieu thereof "the fiscal year 1984 and each of the succeeding fiscal years ending prior to October 1, 1988,".

AMENDMENT NO. 709

(Purpose: To extend the authorization of appropriations for magnet schools assistance, to make certain technical corrections in the Carl D. Perkins Vocational Education Act, the Harry S Truman Act, the Education of the Handicapped Act, the Library Services and Construction Services Act, and for other purposes)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator STAFFORD and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. STAFFORD, proposes an amendment numbered 709.

Mr. DOLE. 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 41, after line 23, insert the following:

PART F—MAGNET SCHOOLS ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 261. Section 701 of the Act is amended by striking out "and 1986" and inserting in lieu thereof "1986, 1987, and 1988".

STATEMENT OF PURPOSE

SEC. 262. Section 703 of the Act is amended to read as follows:

"STATEMENT OF PURPOSE

"SEC. 703. It is the purpose of this title to support, through financial assistance to eligible local educational agencies—

"(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and

"(2) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.".

USES OF FUNDS

SEC. 263. Section 726 of the Act is amended to read as follows:

"USES OF FUNDS

"SEC. 706. Grants made under this title may be used by eligible local educational agencies for—

"(1) planning and promotional activities directly related to expansion and enhancement of academic programs and services offered at magnet schools;

"(2) the acquisition of books, materials, and equipment including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

"(3) the payment of or subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the state and who are necessary for the conduct of programs in magnet schools;

where with respect to clauses (2) and (3), such assistance is directly related to improving the knowledge of mathematics, science, history, english, foreign languages, art, or music, or to improving vocational skills.".

MODIFICATION OF PROHIBITION

SEC. 264. Section 709 of the Act is amended to read as follows:

"PROHIBITIONS

"SEC. 709. Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement.".

TITLE III—LIBRARY SERVICES PROGRAM

LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS

SEC. 301. (a) Section 3(12) of the Library Services and Construction Act (20 U.S.C. 351a(12)) (hereafter in this title referred to as the "Act") is amended by striking out "five-year program" and inserting in lieu thereof "program of not less than three nor more than five years".

(b) Section 3(15) of the Act is amended—

(1) by inserting "by the Secretary of the Interior" after "recognized"; and

(2) by striking out ", as determined by the Secretary after consultation with the Secretary of the Interior".

APPLICABILITY OF PUBLIC LIBRARY PROVISIONS TO HAWAIIAN NATIVE PROGRAM

SEC. 302. (a)(1) The first sentence of section 5(d)(2) of the Act (20 U.S.C. 351c(d)(2)) is amended by striking out "sections 403" and inserting in lieu thereof "sections 402(b), 403,".

(2) The second sentence of section 5(d)(2) of the Act is amended by striking out "(8)" and inserting in lieu thereof "(9)".

(3) Section 5(d)(2) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary shall issue criteria for the approval of applications and plans but the criteria may not include an allotment formula and may not contain a matching of funds requirement.".

(b) Section 6(b)(4) of the Act (20 U.S.C. 351d(b)(4)) is amended by inserting "(as defined in section 703(a) of the Bilingual Education Act)" after "limited English-speaking proficiency".

CORRECTION OF ADMINISTRATIVE COST MISINTERPRETATION

SEC. 303. (a) The references in section 8 of the Act (20 U.S.C. 351f) to "such titles" means, and shall be construed as meaning, the immediately preceding reference to "titles I, II, and III".

(b) The matter preceding clause (1) of section 102(b)(1) of the Act (20 U.S.C. 353(b)(1)) is amended by striking out "this title" and inserting in lieu thereof "this Act".

MAJOR URBAN RESOURCE LIBRARY RESERVED AMOUNTS

SEC. 304. Section 102(c)(1) of the Act (20 U.S.C. 353(c)(1)) is amended by inserting "(excluding the amount made available for Indian tribes and Hawaiian natives)" after "section 4(a)".

SERVICES TO TRIBES IN STATES WITHOUT INDIAN RESERVATIONS

SEC. 305. Title IV of the Act (20 U.S.C. 361 et seq.) is amended by adding at the end thereof the following new section:

"SERVICES IN STATES WITH INDIAN TRIBES NOT RESIDING ON OR NEAR RESERVATIONS

"SEC. 406. The provisions of this title requiring that services be provided on or near Indian reservations, or to only those Indians who live on or near Indian reservations, shall not apply in the case of Indian tribes and Indians in California, Oklahoma, and Alaska.".

TITLE IV—MINORITY INSTITUTIONS: MIGRATORY CHILDREN PROGRAM

MINORITY INSTITUTIONS SCIENCE IMPROVEMENT PROGRAM AUTHORIZATION

SEC. 401. The General Education Provisions Act is amended—

(1) by redesignating section 406A (as added by the Education Amendments of 1980; 94 Stat. 1497) as section 406B, and

(2) by inserting after such section the following new section:

"AUTHORIZATION OF APPROPRIATIONS FOR SCIENCE IMPROVEMENT PROGRAM

"SEC. 406C. There are authorized to be appropriated $5,000,000 for each of the fiscal years 1985 and 1986 for the purpose of carrying out the Minority Institutions Science Improvement Program transferred to the Secretary of Education from the National Science Foundation by section 304 of the Department of Education Organization Act.".

MIGRATORY CHILDREN RECORDS SYSTEM

SEC. 402. Section 143(a) of the Elementary and Secondary Education Act of 1965 is amended—

(1) by striking out "grants to, or enter into contracts with," and inserting in lieu thereof "enter into contracts with"; and

(2) by adding at the end thereof the following: "For the purpose of ensuring continuity in the operation of such system, the Secretary shall, not later than July 1 of each year, continue to award such contract to the State educational agency receiving the award in the preceding year, unless a majority of the States notify the Secretary in writing that such agency has substantially failed to perform its responsibilities under the contract during that preceding year. No activity under this section shall, for purposes of any Federal law, be treated as an information collection that is conducted or sponsored by a Federal agency.".

TITLE V—HARRY S. TRUMAN MEMORIAL SCHOLARSHIP PROGRAM

PROGRAM AMENDMENTS

SEC. 501. (a) Section 8 of the Harry S Truman Memorial Scholarship Act (20 U.S.C. 2007) is amended—

(1) by inserting "and" before "room", and

(2) by striking out ", or $5,000 which ever is less".

(b) Section 13(a)(3) of the Harry S. Truman Memoral Scholarship Act is amended by inserting before the semicolon at the end thereof a comma and the following: "and the amount of stipends payable under this Act".

TITLE VI—EDUCATION OF THE HANDICAPPED ACT

EDUCATION OF THE HANDICAPPED ACT AMENDMENTS

SEC. 601. (a) Section 611(c)(2)(A)(i)(II) of the Education of the Handicapped Act (20 U.S.C. 1411(c)(2)(A)(i)(II)) is amended by striking out "300,000" and inserting in lieu thereof "400,000".

(b) Section 611(c)(1)(B) of such Act is amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (4)".

EFFECTIVE DATE

SEC. 602. The amendment made by section 601(a) shall take effect on July 1, 1985.

TITLE VII—CARL D. PERKINS VOCATIONAL EDUCATION ACT TECHNICAL AMENDMENTS

TERRITORIAL HOLDHARMLESS

SEC. 701. Section 101(a)(3)(D) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2311(a)(3)(D)) (hereafter in this title referred to as the "Act") is repealed.

STATE ALLOCATION

SEC. 702. Section 102 of the Act is amended to read as follows:

"WITHIN STATE ALLOCATION

"SEC. 102. (a)(1) Each State shall reserve from its allotment of funds appropriated under section 2(a) for each fiscal year an amount that does not exceed 7 percent of the allotment for State administration of the State plan. If the cost of carrying out the provisions of section 111(b) exceeds 1 percent of a State may reserve that excess amount from that allotment in addition to the 7 percent authorized by the preceding sentence.

"(2) The amount reserved under paragraph (1) shall be considered as part of that portion of the state's allotment that is retained for State activities and is not distributed under section 113(b)(4).

"(b) From the remainder of its allotment of funds appropriated under section 3(a), each State shall reserve for each fiscal year—

"(1) 57 percent for activities described in part A of title II; and

"(2) 43 percent for activities described in part B of title II.".

STATE COUNCIL ON VOCATIONAL EDUCATION

SEC. 703. (a) Section 112(b) of the Act is amended to read as follows:

"(b) The State shall certify to the Secretary the establishment and membership of the State council by the beginning of each State plan period described in section 113(a)(1).".

(b) Section 112(d) of the Act is amended by striking out "(d)" and all that follows through clause (1) and inserting in lieu thereof the following:

"(d) During each State plan period described in section 113(a)91), each State council shall—

"(1) meet with the State board or its representatives to advise on the development of the subsequent State plan;".

(c)(1) Section 112(f)(1)(A) of the Act is amended by striking out "From' and inserting in lieu thereof "Except as provided in subparagraph (B), from".

(2) Section 112(f)(1)(B) of the Act is amended to read as follows:

"(B) From the amounts appropriated pursuant to section 3(c), for each fiscal year, the Secretary shall make grants of $50,000 to the State councils of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

STATE PLANS

SEC. 704. Section 133(b)(9)(C) of the Act is amended by striking out "not less than" and all that follows through "year" and inserting in lieu thereof "the projects, services, and activities supported under this Act of not less than 20 percent of the participating eligible recipients within the State in each fiscal year".

WITHIN STATE ALLOCATION

SEC. 705. Section 203(a)(3) of the Act is amended to read as follows:

"(3) The State board shall ensure that each eligible recipient that receives funds under paragraph (2) uses those funds to provide vocational education services and activities for individuals with limited English proficiency at least in proportion to the number of such individuals enrolled by that eligible recipient in the fiscal year preceding the fiscal year in which the determination is made as compared to the total number of disadvantaged individuals, including individuals with limited English proficiency, so enrolled in that fiscal year.".

CONSUMER AND HOMEMAKING EDUCATION

SEC. 706. (a) The heading of part B of title III of the Act is amended to read as follows:

"PART B—CONSUMER AND HOMEMAKING EDUCATION".

(b)(1) The first sentence of section 311 of the Act is amended by striking out "homemaker" and inserting in lieu thereof "homemaking".

(2) The heading of section 311 of the Act is amended to read as follows:

"CONSUMER AND HOMEMAKING EDUCATION GRANTS".

(c)(1) Subsection (b) of section 312 of the Act is amended by striking out "homemaker" and inserting in lieu thereof "homemaking" both places it appears.

(2) The heading of section 312 of the Act is amended to read as follows:

"USE OF FUNDS FROM CONSUMER AND HOMEMAKING EDUCATION GRANTS".

(d) The table of contents of the Act is amended by striking out the items relating to part B of title III and sections 311 and 312 and by inserting in lieu thereof the following:

"PART B—CONSUMER AND HOMEMAKING EDUCATION

"Sec. 311. Consumer and homemaking education grants.

"Sec. 312. Use of funds from consumer and homemaking education grants.".

CONSUMER AND HOMEMAKING EDUCATION STATE LEADERSHIP

SEC. 707. Section 313(b) of the Act is amended by striking out "to carry out leadership activities under this section." and inserting in lieu thereof "for State administration of projects, services, and activities under this part.".

CAREER GUIDANCE AND COUNSELING STATE LEADERSHIP

SEC. 708. Section 333(b) of the Act is amended by striking out "to carry out leadership activities under this section." and inserting in lieu thereof "for State administration of projects, services, and activities under this part.".

AUTHORIZATION OF GRANTS

SEC. 709. Section 342(c) of the Act is amended by striking out "subsection (b)(2)" both places it appears and inserting in lieu thereof "subsection (b)(3)".

MODEL CENTERS FOR VOCATIONAL EDUCATION FOR OLDER INDIVIDUALS

SEC. 710. Section 417(b) of the Act is amended by inserting "shall" immediately after "subpart".

FEDERAL SHARE

SEC. 711. (a) Section 502(a) of the Act is amended in the introductory clause by striking out "shall be" and inserting in lieu thereof "shall not exceed".

(b)(1) Section 502(a)(2) of the Act is amended by striking out "not to exceed".

(2) Section 502(b) of the Act is amended by adding at the end thereof the following new sentence: "The non-Federal contributions from local resources may be in cash or in kind, fairly valued, including facilities, overhead, personnel, equipment, and services, if the eligible recipient determines that it cannot otherwise provide such contribution.".

TRANSITION

SEC. 712. The matter preceding clause (1) of section 3(a) of Public Law 98-524 (98 Stat. 2487) is amended to read as follows: "Until July 1, 1986, a State or eligible recipient may use funds received under the Vocational Education Act of 1963 or the Carl D. Perkins Vocational Education Act to—".

TECHNICAL AMENDMENTS

SEC. 713. (a)(1) Section 113(b)(10) of the Act (20 U.S.C. 2323(b)(10)) is amended by inserting "of 1981" after "Education Consolidation and Improvement Act".

(2) Section 113(b)(11) of the Act is amended by inserting "provide assurances" before "that".

(3) Section 504(d)(1) of the Act is amended by striking out "section 434(c)" and inserting in lieu thereof "section 453".

(4) Section 521(15) of the Act is amended by inserting "or language" immediately after "speech".

(b)(1) Section 4(a)(1)(A) of Public Law 98-524 is amended by striking out "section 4(15)" and inserting in lieu thereof "section 521(19)".

(2) Section 4(a)(6)(D) of Public Law 98-524 is repealed.

EFFECTIVE DATE

SEC. 714. (a) Except as provided in subsection (b), the provisions of this title shall take effect July 1, 1985.

(b) Section 702 of this Act shall take effect July 3, 1986.

TITLE VIII—HIGHER EDUCATION PROGRAMS

NATIONAL DIRECT STUDENT LOAN APPORTIONMENT

SEC. 801. (a) Section 12 of the "Student Financial Assistance Technical Amendments Act of 1982" is amended—

(1) by inserting "(a)" after the section designation; and

(2) by inserting at the end thereof the following new subsection:

"(b) Notwithstanding subsections (a) and (b) of section 462 of the Higher Education Act of 1965, if in the fiscal year 1986 the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1980, the Secretary shall apportion the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1980 bears to the total amount appropriated pursuant to section 461(b)(1) for the fiscal year 1980.".

(b) The amendments made by this section shall take effect October 1, 1985.

NATIONAL GRADUATE FELLOWS PROGRAM

SEC. 802. The last sentence of section 931(a) of the Higher Education Act of 1965 is amended to read as follows: "In the fiscal year beginning October 1, 1985, and each succeeding fiscal year, all funds appropriated in each fiscal year shall be awarded to students by March 1 of the fiscal year for which the funds were appropriated. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.".

Mr. HATCH. Mr. President, I support the amendment to the math/science bill, specifically the reauthorization of the magnet schools provision. This amendment even more clearly focuses the Magnet School Program on its two purposes—desegregation and quality education.

The Magnet School Program is necessary because too many minority students attend very poor schools. We must reverse this situation. Thus, the Magnet School Program is meant primarily to improve the academic quality of these minority students' education, and to make these schools so attractive that students from all kinds of backgrounds want to attend them. That is precisely what a "magnet school" is—a school that, because it is good or special, draws, like a magnet, the willing attendance of students.

The amendment offered to the magnet school provision will make it even more certain that desegregation will be furthered and that the Federal money will be used solely for improvement in basic, academic courses offered in magnet schools. I thus am happy to support this amendment.

Mr. DANFORTH. Mr. President, I join my colleague, Senator EAGLETON, in supporting this amendment to the Harry S Truman Memorial Scholarship Act. The amendment would allow the board of trustees of the Truman Foundation to increase the $5,000 annual limit on Truman scholarships to cover higher educational costs.

The Harry S Truman Scholarship Foundation was established in 1974 to award scholarships to young people "who demonstrate outstanding potential for and who plan to pursue a career in public service." The scholarships were intended to cover tuition, fees, room, board, and books up to an annual maximum of $5,000. And in 1974, $5,000 adequately covered the annual educational costs for most of the Truman scholars.

As those of us who have had children in college in the 10 years since the establishment of the Truman Scholarship Program know, the costs of postsecondary education have soared during this period. Five thousand dollars is now woefully inadequate to cover the annual costs at most colleges and universities in our Nation. The $5,000 limit on the awards should therefore be raised to preserve the value of the Truman scholarships.

This amendment would authorize the board of trustees of the Truman Scholarship Foundation to raise the maximum annual scholarship award, after considering both the foundation's financial resources and the annual changes in the costs of eduation. The amendment does not authorize additional appropriations for the foundation. Rather, it allows the trustees to use the income of the foundation's trust fund to increase the amount of the awards.

I urge my colleagues to join us in supporting this amendment.

Mr. EAGLETON. Mr. President, I rise to support the pending amendment to eliminate the present statutory $5,000 maximum on the amount that can be awarded annually to a Truman scholar.

Ten years ago, when this body enacted the Truman Scholarship Act as a living memorial to Harry Truman, the 33d President of the United States, a $5,000 cap seemed reasonable and gave some leeway for inflationary increases. But even in 1974, during the Labor and Human Resources Committee hearing on the proposed scholarship legislation, the question was raised by the distinguished Senator from Rhode Island, Senator PELL, as to the adequacy of a $5,000 cap in future years. At that time, some thought was given to amending the proposed statute to allow the $5,000 to be adjusted for future inflation. However, no such amendment was forthcoming.

Given the 1985-86 academic year annual average cost of higher education of $5,300 at a 4-year public insti-

tution, and $10,000 at a 4-year private institution, the existing $5,000 cap is clearly inadequate.

In the 1983-84 academic year, the maximum $5,000 stipend covered the eligible costs of only 17 percent of the 333 Truman scholars participating in the program.

I would also point out that to translate 1975's $5,000 cap to today's dollar, that is, to apply a 10-year CPI inflator, would elevate the cap to $9,649.50 in 1985.

Some concern has been raised that elimination of the statutory maximum on the amount that can be awarded annually to a Truman scholar will allow the Foundation to reduce substantially the number of scholarships awarded annually.

In my view, the Foundation's scholarship award process to date gives no cause for such concern. Indeed, although the statute requires the Foundation to award a minimum of 53 new scholarships each year, 79 scholarships were awarded in 1980 and 1981, and 105 new scholarships have been awarded in each year since 1982.

In an effort to allay concerns about the Foundation's plans to reduce the number of scholarships in the future, I ask unanimous consent that a letter from Mr. Malcolm McCormack, Executive Secretary of the Foundation, be printed in the RECORD at this point.

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

HARRY S TRUMAN
SCHOLARSHIP FOUNDATION,
Washington, DC, May 31, 1985.

Hon. THOMAS F. EAGLETON,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR EAGLETON: The Foundation greatly appreciates your help in seeking congressional consideration of a bill to eliminate the present statutory $5,000 maximum on the amount that can be awarded annually to a Truman scholar.

This amount is woefully inadequate to meet the educational costs which have more than doubled since the Harry S. Truman Scholarship Act was passed ten years ago. The Foundation's Trustees thus voted unanimously to ask Congress to remove the $5,000 maximum, and to permit the Trustees each year to determine the appropriate ceiling after considering both existing educational costs and the Foundation's financial resources.

The statute requires, as you know, a minimum of 53 new scholarships each year—one for each state, the District of Columbia, Puerto Rico, and the Pacific Trust Territories. Although currently prohibited from increasing the annual stipend above $5,000, the Trustees are permitted to increase the number of scholarships, and they have twice done so. Seventy-nine scholarships were awarded in 1980 and 1981, and 105 new scholarships have been awarded in each year since 1982. There is no present plan or intent to reduce this number of scholarships.

Instead, the Trustees, at their most recent April 1985 meeting, voted to award the same number of new scholarships, 105, as in each of the last three years. They also voted, if authorized to do so by Congress, to raise the annual stipend to $7,000 for the 1985-86 academic year. The Foundation's expected fiscal 1986 income will be sufficient to permit this increase and still allow the trust fund's principal to grow enough to keep pace with anticipated inflation.

Please call me if the Foundation can provide any additional information.

Sincerely,

MALCOLM C. MCCORMACK,
Executive Secretary.

Mr. EAGLETON. Let me just highlight one portion of Mr. McCormack's letter in which he states:

There is no present plan or intent to reduce this number 105 of scholarships. Instead, the Trustees, at their most recent April 1985 meeting, voted to award the same number of new scholarships, 105, as in each of the last three years. They also voted, if authorized to do so by Congress, to raise the annual stipend to $7,000 for the 1985-86 academic year.

Finally, Mr. President, I emphasize that this amendment requires no additional appropriations. The raising of the scholarship award amounts would be done totally from within the Foundation's existing financial resources.

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

The amendment (No. 709) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 710

(Purpose: Make various amendments to the bill.)

Mr. DOLE. Mr. President, I now send an amendment to the desk on behalf of the distinguished Presiding Officer (Mr. GORTON) to the committee substitute.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. GORTON, proposes an amendment numbered 710.

Mr. DOLE. 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 15, line 14, strike "$1,500,780,000" and insert in lieu thereof "$1,517,156,000".

On page 15, line 19, strike "$406,820,000" and insert in lieu thereof "$408,820,000".

On page 15, line 20, strike "$160,640,000" and insert in lieu thereof "$169,796,000".

On page 15, line 22, strike "$261,010,000" and insert in lieu thereof "$262,010,000".

On page 15, line 24, strike "$357,670,000" and insert in lieu thereof "$359,670,000".

On page 16, line 1, strike "$44,010,000" and insert in lieu thereof "$46,230,000".

On page 18, line 10, strike "record." and insert in lieu thereof "record'.".

On page 18, line 20, strike "Chairman" and insert in lieu thereof "Chairmen".

On page 18, strike line 21 and insert in lieu thereof "tees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate and the".

On page 19, insert the following immediately after line 11:

(e) Section 11 of the National Science Foundation Act of 1950 is amended—

(1) by striking out "and" at the end of paragraph (i);

(2) by striking out the period at the end of paragraph (j) and inserting in lieu thereof "; and"; and

(e) by adding at the end thereof the following:

"(k) to indemnify grantees, contractors, and subcontractors associated with the Ocean Drilling Program under the provisions of section 2354 of title 10, United States Code, with all approvals and certifications required by such indemnification made by the Director.".

On page 19, line 12, strike "(e)" and insert in lieu thereof "(f)".

On page 20, line 15, strike "'a grant" and insert in lieu thereof "'and a grant".

● Mr. GORTON. Mr. President, I am delighted that we are considering a bill to authorize appropriations for the National Science Foundation for fiscal year 1986. This will be the first authorization bill for this agency that the Senate has passed since 1980. An authorization bill for 1986 is possible because of the statesmanlike conduct of the distinguished chairman of the Committee on Labor and Human Resources, Senator HATCH, the committee's ranking member, Senator KENNEDY, and the other members of that committee. They have recognized that the Committee on Commerce, Science, and Transportation has a strong and legitimate interest in the activities of the Foundation. I am delighted that the two committees can work together to restore the integrity of the authorization process and, more importantly, to support the National Science Foundation.

The National Science Foundation's budget reflects the importance of scientific research, even in this year of fiscal restraint. The Commerce Committee reported out on original bill, S. 903, which authorizes the Foundation at the level recommended by the President. The bill reported by the Labor Committee, which we are considering today under a unanimous consent agreement reached between the two committees, funds the agency at a lower, freeze level, but is otherwise similar to the bill reported by Commerce. It maintains support for the program on ethics and values in science and technology, and it includes a study of research facilities at universities, both of which were included in the Commerce bill.

The amendment I am offering today increases funding for two programs of special concern to the Commerce Com-

mittee. One is the Supercomputer Program, under which the Foundation has established four centers to provide the most advanced, scientific computers to our academic research community. The second is the Engineering Research Centers Program. These are centers for cooperative research between industry and universities.

Last year the Senate passed the Manufacturing Sciences and Technology Research and Development Act, a bill which I introduced to establish centers for research in manufacturing. These centers were to be cooperative research centers for industry and universities to collaborate in areas of engineering important to improving manufacturing. This bill, unfortunately, was not signed by the President. But the many of the goals of the bill are being realized today through the National Science Foundation's engineering research centers.

My amendment also adds $5 million, divided among three research directorates, to S. 801. These additional funds are intended to help the Foundation continue its program to improve instruments, equipment, and facilities for scientific research. This is an area of profound concern to the research community, and one in which Senator DANFORTH has been a leader in seeking solutions. His resolution, Senate Concurrent Resolution 60, addresses the problem of inadequate resources in a comprehensive fashion.

S. 801 includes a number of amendments to the Foundation's organic act and other legislation, to help the Foundation operate more efficiently. All of these amendments were also included in the Commerce-reported bill. These amendments, among other things, give the National Science Board more flexibility to delegate authority to the Director to approve grants, and emphasize that the Foundation's mission includes support of engineering as well as science.

Mr. President, the National Science Foundation has not been authorized for 4 years, because of an unfortunate dispute over jurisdiction between the Commerce and Labor Committees. The chairman of the Labor Committee has been receptive to the Commerce Committee's interest, and Senators HATCH, DANFORTH, KENNEDY, and HOLLINGS have reached an agreement to share jurisdiction over the Foundation. I am grateful to these Senators for the work they have put into reaching this agreement, and I look forward to working with them and with Senator RIEGLE in the future in support of the National Science Foundation.

I urge my colleagues to support my amendment to S. 801, and to support final passage of this bill.●

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

The amendment (No. 710) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I want to express my support for the amendment offered by Senator GORTON and for final passage of S. 801, the National Science Foundation authorization bill. It would be difficult to overstate the importance of support for fundamental scientific research in this country. Not only is our Nation's scientific leadership at stake, but our national security, our economic competitiveness in international trade, and our health and well being as well are built on the foundation of scientific research. No agency is more important in its support for basic research than the National Science Foundation.

I also want to express my sincere and deep gratitude to the chairman and ranking member of the Senate Committee on Labor and Human Resources and the ranking member of the Committee on Commerce, Science, and Transportation for their agreement to share jurisdiction over the Foundation with the Commerce Committee. This has been a difficult issue over the years, and has prevented us from working together in support of the Foundation.

I believe the agreement we have reached is a fair one that recognizes the strong interest of the Commerce Committee in the Foundation. I look forward to renewing this agreement in future Congresses, and to working with the members of the Labor Committee in support of scientific research.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. STAFFORD. Mr. President, it is with great pleasure that I rise today in support of S. 801, the "National Science, Engineering and Mathematics Authorization Act of 1986." This legislation designates the recommended funding levels for all National Science Foundation research and education activities for fiscal year 1986, and it reauthorizes the "Education for Economic Security Act of 1984," as well as providing other technical amendments and provisions.

We are all aware of the national problem of coping with rapidly changing technology and labor force requirements, as well as a pressing national need to improve our international economic competitiveness. These problems demand a response at the Federal level. When we first started considering this matter over 2 years ago, Americans were concerned about the problems with science and mathematics instruction in our schools. Today these concerns remain.

The reauthorization of the "Education for Economic Security Act of 1984" is essential in providing financial assistance through State educational agencies, school districts, and institutions of higher education, to promote inservice training and retraining in math and science instruction for teachers in our elementary and secondary schools. S. 801 also provides important funds for scholarships, programs of curriculum development, excellence in teaching awards, and the retention of teachers in these fields.

S. 801 holds great promise for continuing the initiative to improve the state of mathematics and science programs and teaching. I urge my colleagues to support this bill.

Mr. President, on behalf of the Senate Subcommittee on Education, Arts and Humanities I would like to introduce committee amendments to S. 801 which are primarily technical. Among the amendments are necessary changes added to the Library Services and Construction Act which had been overlooked during last year's reauthorization. One amendment corrects an error brought to my attention by Senator NICKLES which has prohibited Indians who are living off of reservations from receiving library funds.

The vocational education amendments are technical amendments provided by the administration which clarify and facilitate the understanding of the law's original intent. One important correction allows for the proper distribution of vocational education funds to the territories.

The amendment regarding the Harry S. Truman Scholarship Foundation is put forward on behalf of Senators EAGLETON and DANFORTH. This amendment eliminates the maximum amount for the scholarship awards and allows the Board of Trustees the authority to set the stipend limit. This will allow a more reasonable grant award limit in light of the dramatic increase in college costs since the enactment of this program in 1975.

Another amendment authorizes States to use up to $400,000 to administer Public Law 94-142 programs. This amendment will not effect appropriations nor will it take money away from direct services benefiting handicapped children.

An amendment has been made to correct a technical error made in the National Direct Student Loan Program, and another important change requires that funds appropriated for the Graduate Fellows Program must be spent in that same year.

Mr. President, I commend S. 801 and its amendments to the attention of my colleagues and ask for prompt approval of this measure.

Mr. HATCH. Mr. President, I am very pleased to recommend passage of S. 801, the National Science Foundation Authorization Act for 1986. This measure represents the concerted efforts of many Senators. I would especially like to mention the contributions of Senators STAFFORD, QUAYLE, KENNEDY, and PELL. In keeping with the tradition established years ago on the Labor and Human Resources Committee, it is a truly bipartisan measure designed to advance the commonly held goal of American scientific excellence.

The committee recommended an authorization of $1,501,780,000 for fiscal year 1986. This is the same as the amount appropriated to NSF for fiscal year 1985 and $67.7 million below the Foundation's request. The committee's decision to hold the 1986 NSF budget at the 1985 level was in response to the immediate need to reduce Federal expenditures. The total authorization level is consistent with both House and Senate passed budget resolutions as well as the budget compromise adopted in July. In no way should this action be interpreted as a sign that the committee is critical of the Foundation's programs. The committee continues to support NSF's basic research and education activities.

The committee's recommendation for fiscal year 1986 reflects the overall strategy and program priorities that are evident in the Foundation's proposals for fiscal year 1986. Thus, instead of a line item budget freeze, the committee's recommendations allow NSF to proceed with its highest priorities, although in some cases this would be at a rate less than originally proposed.

I will not take the Senate's time by going into a long description of the NSF programs this bill authorizes. For that, I refer Senators to the report of the Labor and Human Resources Committee (Rept. 99-131). I believe the new initiatives of the Foundation, particularly in advanced scientific computing and engineering, as well as its traditional support of basic research are of special consequence. The long-term importance of NSF's conduct of basic research cannot be understated. Even though our budget constraints do not permit a recommendation for as much money as we believe can usefully be expended, it is essential to support basic research at no less than a freeze level. Scientific breakthroughs which ultimately contribute to a higher standard of living for all Americans are most often the result of a constant and dedicated pursuit of basic research.

The bill makes changes in the NSF Organic Act of 1950 which incorporates technology and engineering as an official part of NSF's mission. The legislation also supports NSF programs for undergraduate research, women and minorities, ethics and values in science and technology, Presidential Young Investigators, and very importantly, scientific equipment and instrumentation.

S. 801 also extends the Education for Economic Security Act for an additional 3 years. Science and mathematics education in our country must be improved if we are to insure the supply of talented scientists, doctors, and engineers in the future. This legislation provides greater opportunities for teachers to upgrade their skills in these disciplines as well as encourages state and local schools to form partnerships with businesses and universities for innovative science and mathematics education projects. Because the new program for math and science education was enacted late in 1984, and because the NSF Science and Engineering Education Directorate has recently been reorganized, the funds authorized for the new program were not expended efficiently. S. 801, therefore, authorizes a freeze level for this NSF activity. These programs are now fully operational and it is expected that the full authorization—$50.5 million in new obligational authority plus $30.5 in carryover—will be used to fund quality science and math education projects around the Nation.

I thank my colleagues for their support of S. 801. I am also very pleased to have entered into an agreement with Senators DANFORTH, GORTON, and HOLLINGS on the issue of NSF jurisdiction. The interest of these Senators is proof of how high a priority the Senate attaches to the activities of the NSF and to the role of science and technology in meeting America's future economic needs.

Mr. KENNEDY. Mr. President, it is with great pleasure that I join Senator HATCH to bring the National Science Foundation authorization before the Senate.

Advances in science and engineering are vital building blocks for the future. Although the commanding lead of the United States in scientific research and industrial achievement was uncontested for many years, over the last decade worldwide acceleration in scientific and technologic innovation has transformed the world economy. Other nations have progressed and now match our achievement in many areas. This country will retain its place in the forefront only if we demonstrate a national commitment to do so. Reauthorizing the National Science Foundation gives us an opportunity to demonstrate that commitment.

This authorization bill continues the funding for many important areas of basic scientific research. It also allows for expansion of initiatives that are meant to upgrade our technologic capabilities and regain our world leadership in innovative manufacturing techniques. Engineering is key to the renewal of our manufacturing base. Such engineering is highlighted in this reauthorization bill. The establishment of engineering research centers which has already begun will be given impetus by this bill.

Engineering research centers embody a new concept to be implemented at six of our Nation's universities. This is the concept of academic institutions working cooperatively with industry to map out areas of research that have both scientific significance and practical application.

We in Massachusetts are also proud that Massachusetts Institute of Technology has been selected as one of the sites for a new engineering research center.

The MIT center will focus on biotechnology process engineering. Another center will involve collaboration between Harvard University and the University of Maryland for research on robotics, computer-aided engineering, and artificial intelligence.

I would also like to take this opportunity, to pay special tribute to the scientists at the Woods Hole Oceanographic Institute on Cape Cod who brought honor to themselves and their institution when they found the *Titanic* on the ocean floor earlier this month. This achievement represents years of research. The techniques used to locate the *Titanic* will allow us to explore the ocean floors extensively. These techniques have great implications for geological research and the secrets buried on the floor beneath the surface of our oceans.

Discovering the *Titanic* was heavily dependent on the development of the Argo sonar and video imaging system which is a brandnew technique that was tested in field trials over the last year. This technique was developed in part through funds supplied by the National Science Foundation. The other technique which played a key role in the discovery of the *Titanic* is the Angus technique developed during the 1970's. This was also developed in part with National Science Foundation funds.

I would like to cite the names of two Woods Hole scientists in particular. They are Dr. Robert Ballard, senior scientist in the Ocean Engineering Department and head of the Deep Submergence Laboratory, and Dr. Robert Spindel, chair of the Ocean Engineering Department. I would like to congratulate all who participated in the development and testing of the techniques used in this endeavor.

This bill also provides support for another recent initiative, advanced scientific computing—supercomputer—

centers. The Foundation has already announced the selection of five supercomputer centers. Each one of these centers will give access to state-of-the-art computers to multiple institutions of higher learning. These centers represent regionalization of expensive sophisticated technologies. They embody the finest accomplishments of the communications revolution and the computer revolution.

The Education for Economic Security Act of 1984 also is authorized in this legislation. This act, which was passed just last year, addresses improvements in science and engineering education. The National Science Foundation was originally given responsibility to implement titles I, III, and IV of this act, and the Department of Education responsibility for title II. This bill gives the Department of Education responsibility for title III as well.

There was strong bipartisan feeling on our committee that this would be the best place for administration of the title III partnership program. The National Science Foundation will continue to be responsible for the Presidential Awards for teaching excellence in mathematics and science, and for the other science and math education programs in title I.

It is especially important as we renew our commitment to the National Science Foundation that we also restate our belief in equal opportunity for women and minorities to participate in the scientific endeavor. This country must benefit from the talent of all its citizens. The capacity for genius is color blind and has no gender preference.

We must also renew our commitment to ethics and values in science. Rapid change creates new questions and dilemmas. Supercomputers, biotechnology, genetic engineering, and continued explorations of space will all contribute to changing the fabric of our daily lives. We must prepare to meet our future with integrity and virtue.

The Labor and Human Resources Committee is fortunate to have the responsibility for the reauthorization of the National Science Foundation. It is a pleasure to bring this bill, with full bipartisan support, before us as a piece of business before the Senate today.

The PRESIDING OFFICER. The bill is before the Senate and 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.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 82, H.R. 1210, the House companion bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1210) to authorize appropriations to the National Science Foundation for the fiscal year 1986, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the bill.

Mr. DOLE. Mr. President, I move to strike all after the enacting clause and insert the text of S. 801, as amended.

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

The motion was agreed to.

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

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

The bill (H.R. 1210), as amended, was read the third time, and passed, as follows:

H.R. 1210

Resolved, That the bill from the House of Representatives (H.R. 1210) entitled "An Act to authorize appropriations to the National Science Foundation for the fiscal year 1986, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "National Science, Engineering, and Mathematics Authorization Act of 1986".

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

SEC. 101. This title may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1986".

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. (a) There is authorized to be appropriated to the National Science Foundation $1,517,156,000 for the fiscal year 1986.

(b) Funds authorized for the fiscal year 1986 will be available for the following categories:

(1) Mathematical and Physical Sciences, $408,820,000.

(2) Engineering, $169,796,000.

(3) Biological, Behavioral, and Social Sciences, $262,010,000.

(4) Astronomical, Atmospheric, Earth and Ocean Sciences, $359,670,000.

(5) Scientific, Technological, and International Affairs, $37,770,000.

(6) Advanced Scientific Computing, $46,230,000.

(7) Program Development and Management, $72,230,000.

(8) United States Antarctic Program, $110,080,000.

(9) Science and Engineering Education and titles I and IV of the Education for Economic Security Act, $50,550,000 together with amounts available for fiscal year 1986 from funds previously appropriated for the purpose described in this paragraph.

(c) Notwithstanding any other provision of this Act, from the amounts authorized under subsection (a), not less than $1,000,000 shall be available for the ethics and values in science and technology program. The Foundation shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Science and Technology of the House of Representatives on the distribution of the funds made available under this subsection not later than December 30, 1986.

AVAILABILITY

SEC. 103. Appropriations made under authority provided in sections 102 and 105 shall remain available for obligation for periods specified in the Acts making the appropriations.

OFFICIAL EXPENSES

SEC. 104. From appropriations made under authorizations provided in this Act, not more than $3,500 for fiscal year 1986 may be used for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the National Science Foundation. The determination of the Director shall be final and conclusive upon the accounting officers of the Government.

FOREIGN CURRENCY AUTHORIZATION

SEC. 105. In addition to the sums authorized by section 102, not more than $1,000,000 for fiscal year 1986 are authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States, to be drawn from foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

TRANSFERS AUTHORIZED

SEC. 106. Funds may be transferred among the categories listed in section 102(b), so long as the net funds transferred to or from any category do not exceed 10 percent of the amount authorized for that category in section 102. The Director of the Foundation may propose transfers to or from any category exceeding 10 percent of the amounts authorized for that category in section 102. An explanation of any such proposed transfer must be transmitted in writing to the Speaker of the House, the President of the Senate, the Senate Committee on Labor and Human Resources, and the House Committee on Science and Technology. The proposed transfer may be made only when thirty calendar days have passed after submission of the written proposal.

NATIONAL SCIENCE FOUNDATION ADMINISTRATIVE AMENDMENTS

SEC. 107. (a) The last sentence of section 4(e) of the National Science Foundation Act of 1950 is amended by striking out "by registered mail or certified mail mailed to his last known address of record".

(b) Section 5(e) of the National Science Foundation Act of 1950 is amended to read as follows:

"(e)(1) The Director may make grants, contracts, and other arrangements pursuant to section 11(c) only with the prior approval of the Board or under authority delegated by the Board, and subject to such conditions as the Board may specify.

"(2) The authority delegated by the Board under paragraph (1) of this subsection and the conditions specified by the Board shall be reported to the Chairmen of the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives.".

(c) Section 9 of the National Science Foundation Act of 1950 is amended to read as follows:

"SPECIAL COMMISSIONS

"SEC. 9. (a) Each special commission established under section 4(h) shall be appointed by the Board and shall consist of such members as the Board considers appropriate.

"(b) Special commissions may be established to study and make recommendations to the Foundation on issues relating to research and education in science and engineering.".

(d) Section 10 of the National Science Foundation Authorization Act, Fiscal Year 1978 (Public Law 95-99) is repealed.

(e) Section 11 of the National Science Foundation Act of 1950 is amended—

(1) by striking out "and" at the end of paragraph (i);

(2) by striking out the period at the end of paragraph (j) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(k) to indemnify grantees, contractors, and subcontractors associated with the Ocean Drilling Program under the provisions of section 2354 of title 10, United States Code, with all approvals and certifications required by such indemnification made by the Director.".

(f)(1) Subsection (b) of section 12 of the National Science Foundation Act of 1950 is repealed.

(2) Section 12 of such Act is amended by striking out "(a)".

(g)(1)(A) Subsection (b) of section 14 of the National Science Foundation Act of 1950 is repealed.

(B) Section 14 of such Act is amended by redesignating subsections (c), (d), (e), (f), (g), (h), and (i), and all references thereto, as subsections (b), (c), (d), (e), (f), (g), and (h), respectively.

(2) Section 14 of such Act (as amended by paragraph (1)) is further amended by adding at the end thereof the following new subsection:

"(i) Information supplied to the Foundation or a contractor of the Foundation by an industrial or commercial organization in survey forms, questionnaires, or similar instruments for the purposes of subsections (a)(5) or (a)(6) of section 3 of this Act may not be disclosed to the public unless such information has been transformed into statistical or aggregate formats which do not allow the identification of the supplier. The names of organizations supplying such information may not be disclosed to the public.".

(h) Section 6 of the National Science Foundation Authorization Act, Fiscal Year 1978 (Public Law 95-99) is repealed.

(i) Section 6(a) of the National Science Foundation Authorization Act, 1976 (Public Law 94-86) is amended—

(1) by striking out "and a grant not to exceed $50,000 per year for a period not to exceed 3 years" in the second sentence of such section, and

(2) by adding at the end thereof the following new sentence: "The National Science Board shall establish the amount and period of each such grant.".

AMENDMENT TO THE NATIONAL SCIENCE FOUNDATION ACT OF 1950 RELATING TO ENGINEERING

SEC. 108. (a) Section 3(a)(1) of the National Science Foundation Act of 1950, hereafter in this section referred to as "the Act", is amended—

(1) by striking out "engineering,"; and

(2) by inserting after "other sciences," the following: "and to initiate and support research fundamental to the engineering process and programs to strengthen engineering research potential and engineering education programs at all levels in the various fields of engineering,"; and

(3) by striking "scientific and educational activities" and inserting in lieu thereof "scientific, engineering, and educational activities".

(b)(1)(A) Section 3(a)(3) of the Act is amended—

(i) by inserting "and engineering" after "scientific"; and

(ii) by inserting "and engineers" after "scientists".

(B) Section 3(a)(4) of the Act is amended—

(i) by inserting "and engineering" after "sciences"; and

(ii) by inserting "and engineering" after "sciences".

(C) Section 3(a)(5) of the Act is amended by inserting "and fields of engineering" after "sciences".

(D) Section 3(a)(6) of the Act is amended by striking out "technical" each place it appears and inserting in lieu thereof "engineering".

(E) Section 3(a)(7) of the Act is amended by inserting "and engineering" after "scientific".

(2) Section 3(b) of the Act is amended by inserting "and engineering" after "scientific" each place it appears.

(3) Section 3(c) of the Act is amended—

(A) by inserting "and engineering" after "scientific" in the first sentence; and

(B) by inserting "and engineering research" after "applied scientific research" in the second sentence.

(4) Section 3(d) of the Act is amended by striking out "basic research and education in the sciences" and inserting in lieu thereof "research and education in science and engineering".

(5) Section 3(e) of the Act is amended by inserting "and engineering" after "sciences".

(6) Section 4(c) of the Act is amended—

(A) by inserting "and engineering" after "scientific" in clause (3) of the first sentence;

(B) by inserting "and engineers" after "scientists" in the second sentence; and

(C) by inserting "the National Academy of Engineering," after "National Academy of Sciences,", and ", engineering," after "scientific", in the third sentence.

(7) The first sentence of section 10 of the Act is amended by striking out "scientific study or scientific work in the mathematical, physical, medical, biological, engineering, social, and other sciences" and inserting in lieu thereof "study and research in the sciences or in engineering".

(8) Section 11 of the Act is amended—

(A) by inserting "or engineering" after "scientific" each place it appears in subsections (c), (d), and (i);

(B) by inserting in subsection (g) ", engineering," after "scientific" where it first appears; and

(C) by inserting in subsection (g) "or engineering" before "value".

(9) Section 12(a) of the Act is amended by inserting "or engineering" after "scientific".

(10) Section 13 of the Act is amended—

(A) by inserting in subsection (a) "or engineering" after "scientific" each place it appears;

(B) by inserting in subsection (a) "or engineers" after "scientists";

(C) by striking out "scientific study or scientific work" and inserting in lieu thereof "study and research in the sciences or in engineering"; and

(D) by inserting in subsection (b)(1) "or engineering" after "scientific".

(11) Section 14 of the Act is amended—

(A) by inserting "or engineering" after "scientific" each place it appears in subsection (f); and

(B) by striking out "technical" in subsection (g) and inserting in lieu thereof "engineering".

(12) Section 15(b) of the Act is amended—

(A) by striking out "technical" in paragraph (1) and inserting in lieu thereof "engineering"; and

(B) by inserting "or engineering" after "scientific" in paragraph (2).

(c) Section 2(b) of the National Science Foundation Authorization Act, 1976 is amended by inserting "or engineering" after "science" each place it appears.

AMENDMENT TO SCIENCE AND TECHNOLOGY EQUAL OPPORTUNITY ACT RELATING TO ENGINEERING

SEC. 109. (a) Section 31 of the Science and Technology Equal Opportunities Act, hereafter in this section referred to as the "Act", is amended by striking out "Technology" and inserting in lieu thereof "Engineering".

(b)(1) Section 32(a) of the Act is amended—

(A) by striking out "technology" and inserting in lieu thereof "engineering"; and

(B) by inserting after "scientific" the following: "and engineering".

(2) The first sentence of section 32(b) of the Act is amended—

(A) by inserting after "science" a comma and the following: "engineering,";

(B) by striking out "technical" and inserting in lieu thereof "engineering";

(C) by inserting after "scientific" the second time it appears the following: "and engineering"; and

(D) by striking out "technology" and inserting in lieu thereof "engineering".

(3) The second sentence of section 32(b) of the Act is amended—

(A) by inserting after "science" the following: "and engineering"; and

(B) by striking out "technology" and inserting in lieu thereof "engineering".

(4) The third sentence of section 32(b) of the Act is amended by striking out "technology" both times it appears and inserting in lieu thereof "engineering" each such time.

(c) Section 33 of the Act is amended—

(1)(A) by striking out "technical" in clause (1)(A) and inserting in lieu thereof "engineering";

(B) by striking out "technology" in clause (1)(B) and inserting in lieu thereof "engineering";

(C) by striking out "technology" in clause (1)(C) and inserting in lieu thereof "engineering";

(2)(A) by inserting after "science" in clause (2) a comma and the following: "engineering,";

(B) by striking out "technical" in clause (2) and inserting in lieu thereof "engineering";

(3) by striking out "technical" in clause (3)(B) and inserting in lieu thereof "engineering";

(4)(A) by striking out "technology" in clause (4)(A) and inserting in lieu thereof "engineering";

(B) by striking out "technical" in clause (4)(B) and inserting in lieu thereof "engineering";

(5) by inserting after "scientists" in clause (5) the following: "and engineers";

(6) by striking out "technology" in clause (6) and inserting in lieu thereof "engineering";

(7) by striking out "technology" in clause (7) and inserting in lieu thereof "engineering";

(8) by inserting after "scientists" in clause (8) the following: "and engineers";

(9) by inserting after "science" in clause (10) the following: "and engineering"; and

(10) by striking out "science, engineering, and technology" in clause (11) and inserting in lieu thereof "science and engineering".

(d) Section 34 of the Act is amended—

(1) by inserting after "science" the following: "and engineering"; and

(2) by striking out "technology" and inserting in lieu thereof "engineering".

(e)(1)(A) The first sentence of section 36(a) of the Act is amended by striking out "Technology" and inserting in lieu thereof "Engineering".

(B) The second sentence of section 36(a) of the Act is amended by striking out "engineering, professional, and technical" and inserting in lieu thereof a comma and the following: "engineering and professional".

(2)(A) The first sentence of section 36(c) is amended by striking out "Technology" and inserting in lieu thereof "Engineering".

(B) The second sentence of section 36(c) is amended—

(i) by striking out "technology" and inserting in lieu thereof "engineering",

(ii) by striking out "technology" in clause (1) of such section and inserting in lieu thereof "engineering", and

(iii) by striking out "technology" in clause (2) and inserting in lieu thereof "engineering".

(3)(A) The first sentence of section 36(d) of the Act is amended by striking out "Technology" and inserting in lieu thereof "Engineering".

(B) The second sentence of such section is amended—

(i) by striking out "Technology" and inserting in lieu thereof "Engineering";

(ii) by striking out "technology" in clause (1) and inserting in lieu thereof "engineering"; and

(iii) by striking out "technology" in clause (2) and inserting in lieu thereof "engineering".

(4) The heading of section 36 of the Act is amended to read as follows:

"COMMITTEE ON EQUAL OPPORTUNITIES IN SCIENCE AND ENGINEERING".

(f) Section 37(b) of the Act is amended—

(1) by striking out "technical" in clause (1) and inserting in lieu thereof "engineering" in the matter preceding subclause (A) of clause (1);

(2) by striking out "technical" in clause (1)(A) and inserting in lieu thereof "engineering";

(3) by striking out "technical" in clause (1)(B) and inserting in lieu thereof "engineering";

(4) by striking out "technical" in clause (1)(C) and inserting in lieu thereof "engineering";

(5) by striking out "technical" in clause (1)(E) and inserting in lieu thereof "engineering";

(6) by striking out "technical" in clause (2) and inserting in lieu thereof "engineering";

(7) by striking out "Technology" in clause (3) and inserting in lieu thereof "Engineering".

(g) The heading of part B of the National Science Foundation Authorization and Science and Technology Equal Opportunities Act is amended to read as follows:

"PART B—WOMEN, MINORITIES, SCIENCE, AND ENGINEERING".

SCIENTIFIC REVIEW PRIOR TO CLOSURE OF A NATIONAL FACILITY

SEC. 110. Of the funds authorized to be appropriated in section 102, no funds shall be expended with respect to closure of a National facility without appropriate scientific review, including review by the National Science Foundation's appropriate advisory committee or committees and the National Science Board.

DATA COLLECTION AND ANALYSIS

SEC. 111. The National Science Foundation is authorized to design, establish, and maintain a data collection and analysis capability in the Foundation for the purpose of identifying and assessing the research facilities needs of universities. The needs of universities, by major field of science and engineering, for construction and modernization of research laboratories, including fixed equipment and major research equipment, shall be documented. University expenditures for the construction and modernization of research facilities, the sources of funds, and other appropriate data shall be collected and analyzed. The Foundation, in conjunction with other appropriate Federal agencies, shall conduct the necessary surveys every 2 years and report the results to the Congress. The first report shall be submitted to the Congress by September 1, 1986.

TITLE II—EDUCATION FOR ECONOMIC SECURITY REAUTHORIZATION

PART A—NATIONAL SCIENCE FOUNDATION MATHEMATICS AND SCIENCE PROGRAMS

TEACHER INSTITUTES

SEC. 201. (a) Section 101 of the Education for Economic Security Act (hereafter in this title referred to as the "Act") is amended by striking out ", applying jointly,".

(b)(1) Section 102(a) of the Act is amended by—

(A) striking out in the first sentence "a joint" and inserting in lieu thereof "an";

(B) by striking out "jointly" in the second sentence; and

(C) by striking out "jointly" in the third sentence.

(2) Section 102(b) of the Act is amended—

(A) by redesignating clauses (3) and (4) as clauses (4) and (5); and

(B) by inserting after paragraph (2) the following new clause:

"(3) provide assurances that local educational agencies will be involved in the design and operation of the institute in the case of applications submitted by institutions of higher education, or that institutions of higher education will be involved in the design and operation of the institute in the case of applications submitted by State or local educational agencies;".

(c)(1) Section 113(a) of the Act is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end thereof the following new paragraph.

"(2) All applications made under this part shall be subject to a peer review prior to approval.".

(2) Section 113(b) of the Act is amended by striking out "$200,000" and inserting in lieu thereof "$300,000".

MATHEMATICS AND SCIENCE EDUCATION DEVELOPMENT PROGRAMS

SEC. 202. (a) Section 122(a)(1) of the Act is amended by striking out "in the case of a profession of a" and inserting in lieu thereof a comma and the following: "(C) in the case of a professional".

(b) Section 122(b)(2) of the Act is amended by striking out "and" and inserting in lieu thereof "or".

GRADUATE FELLOWSHIPS

SEC. 203. Title I of the Act is amended—

(1) by redesignating part E as part F, and

(2) by inserting immediately after part D the following new part:

"PART E—GRADUATE FELLOWSHIPS

"PROGRAM AUTHORIZED

"SEC. 151. (a) The Foundation is authorized, in accordance with the provisions of this part, to establish and carry out a program of graduate fellowships for the purpose of encouraging and assisting promising students to continue their education and research in science, mathematics, and engineering.

"(b) Application for graduate fellowships under this part shall be in such form and contain such information as the Foundation may require.".

AVAILABILITY OF FUNDS

SEC. 204. Section 164 of the Act is amended to read as follows:

"AVAILABILITY OF FUNDS

"SEC. 164. (a) From amounts authorized under section 102(b)(9) of the National Science Foundation Authorization Act for Fiscal Year 1986 for the category Science and Engineering Education for the fiscal year 1986, together with amounts available for fiscal year 1986 from funds previously appropriated for the purpose described in such section—

"(1) not less than $3,000,000 shall be available to carry out the provisions of part C of this title; and

"(2) the Foundation shall apportion funds remaining after complying with clause (1) of this subsection and subsection (b) of this section among parts A, B, D, and E of this title.

"(b) From the amounts described in subsection (a) of this section for fiscal year 1986 not more than $1,000,000 shall be available to carry out the provisions of title IV of this Act.".

PART B—EDUCATION FOR ECONOMIC SECURITY

DEFINITIONS

SEC. 221. Section 3(1) of the Act is amended by striking out "section 195(2) of the Vocational Education Act of 1965" and inserting in lieu thereof "section 521(3) of the Carl D. Perkins Vocational Educational Act.".

PROGRAM REAUTHORIZATION

SEC. 222. (a) Section 203(b) of the Act is amended—

(1) by striking out "and", and

(2) by inserting after "1985" a comma and the following: "and $350,000,000 for each of the fiscal years 1986, 1987, and 1988".

(b) Section 205 of the Act is amended by striking out "the fiscal years 1984 and 1985" each place it appears and inserting in lieu thereof "the fiscal years 1984, 1985, 1986, 1987, and 1988".

STATE ALLOTMENTS

SEC. 223. (a) Section 204(a)(2) of the Act is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) by striking out "the remaining 10 per centum" and inserting in lieu thereof "9 per centum of such amount"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) The Secretary shall reserve the remaining 1 per centum to carry out the provisions of subsection (c).".

(b) Section 204(c) of the Act is amended to read as follows:

"(c)(1) From the amount reserved for each fiscal year under subsection (a)(2)(B), the Secretary shall allot—

"(A) not less than one-half of that amount to whatever agency the Secretary determines appropriate for programs authorized by this title for children in elementary and secondary schools operated for Indian children by the Department of the Interior; and

"(B) the remainder of that amount among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title.

"(2) The Secretary shall make payments under paragraph (1)(A) on whatever terms the Secretary determines will best carry out the purpose of this title.

ELEMENTARY AND SECONDARY EDUCATION PROGRAM

SEC. 224. (a) Section 206(b)(1)(A) of the Act is amended by striking out "inservice training" and inserting in lieu thereof "training, inservice training,".

(b)(1) Section 206(b)(1)(B) of the Act is amended to read as follows:

"(B) if the local educational agency determines that the agency has met its need for training, inservice training, and retraining under subparagraph (A), subject to the provisions of section 210(c), such training, inservice training, and retraining in the fields of computer learning and foreign languages, and the acquisition of instructional materials and equipment related to mathematics and science instruction.".

(2) The fifth sentence of section 206(b)(1) of the Act is amended by inserting "training," before "inservice training".

(c) Section 206(b)(2)(A) of the Act is amended to read as follows:

"(2)(A) The State educational agency shall distribute 50 per centum of the funds available under this subsection to local educational agencies according to the relative enrollments in public and private nonprofit schools within the school district of such agencies. Such relative enrollments may be calculated, at the option of the State educational agency, on the basis of the total number of children enrolled in public schools and (i) private nonprofit schools, or (ii) private nonprofit schools desiring that their children and teachers participate in programs or projects assisted under this title. Nothing in the preceding sentence shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within their school districts in order to determine whether such schools desire that their children and teachers participate in programs or projects assisted under this title.".

(d) The first sentence of section 206(d) of the Act is amended—

(1) by striking out "for demonstration and exemplary programs" in the matter proceeding clause (1); and

(2) by inserting "demonstration and exemplary programs for" immediately after the clause designation in clauses (1), (2), and (3), respectively.

HIGHER EDUCATION

SEC. 225. (a) Section 207(b)(2)(B) of the Act is amended to read as follows:

"(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics, science, foreign languages, or computer learning to specialize in the teaching of mathematics, science, foreign languages, or computer learning, including the provision of stipends for participation in institutes authorized under title I; and".

(b)(1) Section 207 (b)(2)(C) of the Act is amended by striking out "and science" and inserting in lieu thereof a comma and the following: "science, foreign languages".

(2) The second sentence of section 207(b)(2) of the Act is amended by inserting after "science" a comma and the following: "foreign languages".

(c) The first sentence of section 207(c)(1) of the Act is amended—

(1) by striking out "private nonprofit organizations" and inserting in lieu thereof "nonprofit organizations"; and

(2) by inserting "computer learning" immediately before "and critical foreign languages".

STATE ASSESSMENT

SEC. 226. (a)(1) The second sentence of section 208(a) of the Act is amended by striking out "section 210" and inserting in lieu thereof "section 210(b)".

(2) The fourth sentence of section 208(a) of the Act is amended by striking out "first" and inserting "preliminary".

(b) Section 208(c)(1)(E) of the Act is amended by striking out "public" and inserting in lieu thereof "nonprofit".

(c) Section 208 of the Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall prepare and submit to the Congress a summary report of the final version of the assessments submitted by States under subsection (a) as soon as practicable after the receipt of such assessments.".

STATE APPLICATION

SEC. 227. Section 209(b) of the Act is amended—

(1) by striking out "sections 207 and 208" in clause (1) and inserting in lieu thereof "sections 206 and 207";

(2) by striking out "sections 207 and 208" in clause (3) and inserting in lieu thereof "sections 206 and 207";

(3) by striking out "by local educational agencies, institutes of higher education, junior or community colleges, and other organizations for programs described in section 206" in clause (4)(A) and inserting in lieu thereof "for programs described in sections 206 and 207"; and

(4)(A) by striking out "of such funds, be available for" in clause (6) and inserting in lieu thereof "or such Federal funds, be available from non-Federal sources for";

(B) by striking out "sections 207 and 208" in clause (6) and inserting in lieu thereof "sections 206 and 207"; and

(C) by inserting before the semicolon in clause (6) the following: "from non-Federal sources".

LOCAL EDUCATION ASSESSMENTS

SEC. 228. The first sentence of section 210(c) of the Act is amended—

(1) by striking out "retraining" and inserting in lieu thereof "training, retraining,"; and

(2) by striking out "its funds" and inserting in lieu thereof the following: "all or a portion of its funds".

SECRETARY'S DISCRETIONARY FUND FOR PROGRAMS OF NATIONAL SIGNIFICANCE

SEC. 229. (a) Section 212(a) of the Act is amended to read as follows:

"(a) From the amount reserved by the Secretary under section 204(a)(2)(A), the Secretary is authorized to carry out directly, or through grants, cooperative agreements, or contracts, projects which are authorized by this section.".

(b) Section 212(b)(1) of the Act is amended—

(1) by striking out "make grants to" in the first sentence and inserting in lieu thereof "make grants to and enter into cooperative agreements with"; and

(2) by striking out "awarding of grants" in the third sentence and inserting in lieu thereof "awarding of grants and cooperative agreements".

PAYMENTS

SEC. 230. Section 213(a) of the Act is amended by striking out "section 211" and inserting in lieu thereof "section 212".

PART C—PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

ADMINISTRATIVE AMENDMENT

SEC. 231. Title III of the Act is amended by striking out "Foundation" wherever it appears (other than in section 303(3)) in such title and inserting in lieu thereof "Secretary".

DEFINITIONS

SEC. 232. Section 303 of the Act is amended:

(1) by inserting "and" at the end of clause (2);

(2) by striking out clauses (3), (4), and (5); and

(3) by redesignating clause (6) as clause (3).

PARTNERSHIP PROGRAM AUTHORIZATION

SEC. 233. Section 304(b) of the Act is amended to read as follows:

"(b) There are authorized to be appropriated $50,000,000 for each of the fiscal years 1986, 1987, and 1988, to carry out the provisions of this title.".

PART D—PRESIDENTIAL AWARDS

AUTHORIZATION AND AVAILABILITY OF FUNDS

SEC. 241. (a) Section 403(a) of the Act is amended to read as follows:

"(a) From amounts authorized under section 102(b)(9) of the National Science Foundation Authorization Act for Fiscal Year 1986 for the category Science and Engineering for the fiscal year 1986, together with the amounts available for fiscal year 1986 from funds previously appropriated for the purpose described in such section, not more than $1,000,000 shall be available to carry out this title.".

(b) Section 403(b) of the Act is amended by inserting after "subsection (a)" the following: "and amounts made available under subsection (a)".

PART E—EXCELLENCE IN EDUCATION

PROGRAM REAUTHORIZATION

SEC. 251. Section 604(b)(1) of the Act is amended by striking out "the fiscal years 1984 and 1985" and inserting in lieu thereof "the fiscal year 1984 and each of the succeeding fiscal years ending prior to October 1, 1988,".

PART F—MAGNET SCHOOLS ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 261. Section 701 of the Act is amended by striking out "and 1986" and inserting in lieu thereof "1986, 1987, and 1988".

STATEMENT OF PURPOSE

SEC. 262. Section 703 of the Act is amended to read as follows:

STATEMENT OF PURPOSE

SEC. 703. It is the purpose of this title to support, through financial assistance to eligible local educational agencies—

"(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and

"(2) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.".

USES OF FUNDS

"SEC. 263. Section 706 of the Act is amended to read as follows:

"USES OF FUNDS

"SEC. 706. Grants made under this title may be used by eligible local educational agencies for—

"(1) planning and promotional activities directly related to expansion and enhancement of academic programs and services offered at magnet schools;

"(2) the acquisition of books, materials, and equipment including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

"(3) the payment of or subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of programs in magnet schools;

where with respect to clauses (2) and (3), such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.".

MODIFICATION OF PROHIBITION

SEC. 264. Section 709 of the Act is amended to read as follows:

"PROHIBITIONS

"SEC. 709. Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement.".

TITLE III—LIBRARY SERVICES PROGRAM

LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS

SEC. 301. (a) Section 3(12) of the Library Services and Construction Act (20 U.S.C. 351a(12)) (hereafter in this title referred to as the "Act") is amended by striking out "five-year program" and inserting in lieu thereof "program of not less than three nor more than five years".

(b) Section 3(15) of the Act is amended—

(1) by inserting "by the Secretary of the Interior" after "recognized"; and

(2) by striking out ", as determined by the Secretary after consultation with the Secretary of the Interior".

APPLICABILITY OF PUBLIC LIBRARY PROVISIONS TO HAWAIIAN NATIVE PROGRAM

SEC. 302. (a)(1) The first sentence of section 5(d)(2) of the Act (20 U.S.C. 351c(d)(2)) is amended by striking out "sections 403" and inserting in lieu thereof "sections 402(b), 403,".

(2) The second sentence of section 5(d)(2) of the Act is amended by striking out "(8)" and inserting in lieu thereof "(9)".

(3) Section 5(d)(2) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary shall issue criteria for the approval of applications and plans but the criteria may not include an allotment formula and may not contain a matching of funds requirement.".

(b) Section 6(b)(4) of the Act (20 U.S.C. 351d(b)(4)) is amended by inserting "(as defined in section 703(a) of the Bilingual Education Act)" after "limited English-speaking proficiency".

CORRECTION OF ADMINISTRATIVE COST MISINTERPRETATION

SEC. 303. (a) The references in section 8 of the Act (20 U.S.C. 351f) to "such titles" mean, and shall be construed as meaning, the immediately preceding reference to "titles I, II, and III".

(b) The matter preceding clause (1) of section 102(b)(1) of the Act (20 U.S.C. 353(b)(1)) is amended by striking out "this title" and inserting in lieu thereof "this Act".

MAJOR URBAN RESOURCE LIBRARY RESERVED AMOUNTS

SEC. 304. Section 102(c)(10) of the Act (20 U.S.C. 353(c)(1)) is amended by inserting "(excluding the amount made available for Indian tribes and Hawaiian natives)" after "section 4(a)".

SERVICES TO TRIBES IN STATES WITHOUT INDIAN RESERVATIONS

SEC. 305. Title IV of the Act (20 U.S.C. 361 et seq.) is amended by adding at the end thereof the following new section:

"SERVICES IN STATES WITH INDIAN TRIBES NOT RESIDING ON OR NEAR RESERVATIONS

"SEC. 406. The provisions of this title requiring that services be provided on or near Indian reservations, or to only those Indians who live on or near Indian reservations, shall not apply in the case of Indian tribes and Indians in California, Oklahoma, and Alaska.".

TITLE IV—MINORITY INSTITUTIONS: MIGRATORY CHILDREN PROGRAM

MINORITY INSTITUTIONS SCIENCE IMPROVEMENT PROGRAM AUTHORIZATION

SEC. 401. The General Education Provisions Act is amended—

(1) by redesignating section 406A (as added by the Education Amendments of 1980; 94 Stat. 1497) as section 406B; and

(2) by inserting after such section the following new section:

AUTHORIZATION OF APPROPRIATIONS FOR SCIENCE IMPROVEMENT PROGRAM

"SEC. 406C. There are authorized to be appropriated $5,000,000 for each of the fiscal years 1985 and 1986 for the purpose of carrying out the Minority Institutions Science Improvement Program transferred to the Secretary of Education from the National Science Foundation by section 304 of the Department of Education Organization Act.".

MIGRATORY CHILDREN RECORDS SYSTEM

SEC. 402. Section 143(a) of the Elementary and Secondary Education Act of 1965 is amended—

(1) by striking out "grants to, or enter into contracts with," and inserting in lieu thereof "enter into contracts with"; and

(2) by adding at the end thereof the following: "For the purpose of ensuring continuity in the operation of such system, the Secretary shall, not later than July 1 of each year, continue to award such contract to the State educational agency receiving the award in the preceding year, unless a majority of the States notify the Secretary in writing that such agency has substantially failed to perform its responsibilities under the contract during that preceding year. No activity under this section shall, for purposes of any Federal law, be treated as an information collection that is conducted or sponsored by a Federal agency.".

TITLE V—HARRY S. TRUMAN MEMORIAL SCHOLARSHIP PROGRAM

PROGRAM AMENDMENTS

SEC. 501. (a) Section 8 of the Harry S. Truman Memorial Scholarship Act (20 U.S.C. 2007) is amended—

(1) by inserting "and" before "room", and

(2) by striking out ", or $5,000 whichever is less".

(b) Section 13(a)(3) of the Harry S. Truman Memorial Scholarship Act is amended by inserting before the semicolon at the end thereof a comma and the following: "and the amount of stipends payable under this Act".

TITLE VI—EDUCATION OF THE HANDICAPPED ACT

EDUCATION OF THE HANDICAPPED ACT AMENDMENTS

SEC. 601. (a) Section 611(c)(2)(A)(i)(II) of the Education of the Handicapped Act (20 U.S.C. 1411(c)(2)(A)(i)(II)) is amended by striking out "300,000" and inserting in lieu thereof "400,000".

(b) Section 611(c)(1)(B) of such Act is amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (4)".

EFFECTIVE DATE

SEC. 602. The amendment made by section 601(a) shall take effect on July 1, 1985.

TITLE VII—CARL D. PERKINS VOCATIONAL EDUCATION ACT TECHNICAL AMENDMENTS

TERRITORIAL HOLDHARMLESS

SEC. 701. Section 101(a)(3)(D) of the Carl D. Perkins Vocational Educational Act (20 U.S.C. 2311(a)(3)(D)) (hereafter in this title referred to as the "Act") is repealed.

STATE ALLOCATION

SEC. 702. Section 102 of the Act is amended to read as follows:

"WITHIN STATE ALLOCATION

"SEC. 102. (a)(1) Each State shall reserve from its allotment of funds appropriated under section 3(a) for each fiscal year an amount that does not exceed 7 percent of the allotment for State administration of the State plan. If the cost of carrying out the provisions of section 111(b) exceeds 1 percent of a State's allotment of funds appropriated under section 3(a), the State may reserve that excess amount from that allotment in addition to the 7 percent authorized by the preceding sentence.

"(2) The amount reserved under paragraph (1) shall be considered as part of that portion of the State's allotment that is retained for State activities and is not distributed under section 113(b)(4).

"(b) From the remainder of its allotment of funds appropriated under section 3(a), each State shall reserve for each fiscal year—

"(1) 57 percent for activities described in part A of title II; and

"(2) 43 percent for activities described in part B of title II.".

STATE COUNCIL ON VOCATIONAL EDUCATION

SEC. 703. (a) Section 112(b) of the Act is amended to read as follows:

"(b) The State shall certify to the Secretary the establishment and membership of the State council by the beginning of each State plan period described in section 113(a)(1).".

(b) Section 12(d) of the Act is amended by striking out "(d)" and all that follows through clause (1) and inserting in lieu thereof the following:

"(d) During each State plan period described in section 113(a)(1), each State council shall—

"(1) meet with the State board or its representatives to advise on the development of the subsequent State plan;".

(c)(1) Section 112(f)(1)(A) of the Act is amended by striking out "From" and inserting in lieu thereof "Except as provided in subparagraph (B), from".

(2) Section 112(f)(1)(B) of the Act is amended to read as follows:

"(B) From the amounts appropriated pursuant to section 3(c), for each fiscal year, the Secretary shall make grants of $50,000 to the State councils of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

STATE PLANS

SEC. 704. Section 113(b)(9)(C) of the Act is amended by striking out "not less than" and all that follows through "year" and inserting in lieu thereof "the projects, services, and activities supported under this Act of not less than 20 percent of the participating eligible recipients within the State in each fiscal year".

WITHIN STATE ALLOCATION

SEC. 705. Section 203(a)(3) of the Act is amended to read as follows:

"(3) The State board shall ensure that each eligible recipient that receives funds under paragraph (2) uses those funds to provide vocational education services and activities for individuals with limited English proficiency at least in proportion to the number of such individuals enrolled by that eligible recipient in the fiscal year preceding the fiscal year in which the determination is made as compared to the total number of disadvantaged individuals, including individuals with limited English proficiency, so enrolled in that fiscal year.".

CONSUMER AND HOMEMAKING EDUCATION

SEC. 706. (a) The heading of part B of title III of the Act is amended to read as follows:

"Part B—Consumer and Homemaking Education".

(b)(1) The first sentence of section 311 of the Act is amended by striking out "homemaker" and inserting in lieu thereof "homemaking".

(2) The heading of section 311 of the Act is amended to read as follows:

"CONSUMER AND HOMEMAKING EDUCATION GRANTS".

(c)(1) Subsection (b) of section 312 of the Act is amended by striking out "homemaker" and inserting in lieu thereof "homemaking" both places it appears.

(2) The heading of section 312 of the Act is amended to read as follows:

"USE OF FUNDS FROM CONSUMER AND HOMEMAKING EDUCATION GRANTS".

(d) The table of contents of the Act is amended by striking out the items relating to part B of title III and sections 311 and 312 and by inserting in lieu there of the following:

"PART B—CONSUMER AND HOMEMAKING EDUCATION

"Sec. 311. Consumer and homemaking education grants.

"Sec. 312. Use of funds from consumer and homemaking education grants.".

CONSUMER AND HOMEMAKING EDUCATION STATE LEADERSHIP

SEC. 707. Section 313(b) of the Act is amended by striking out "to carry out leadership activities under this section." and inserting in lieu thereof "for State administration of projects, services, and activities under this part.".

CAREER GUIDANCE AND COUNSELING STATE LEADERSHIP

SEC. 708. Section 333(b) of the Act is amended by striking out "to carry out leadership activities under this section." and inserting in lieu thereof "for State administration of projects, services, and activities under this part.".

AUTHORIZATION OF GRANTS

SEC. 709. Section 342(c) of the Act is amended by striking out "subsection (b)(2)" both places it appears and inserting in lieu thereof "subsection (b)(3)".

MODEL CENTERS FOR VOCATIONAL EDUCATION FOR OLDER INDIVIDUALS

SEC. 710. Section 417(b) of the Act is amended by inserting "shall" immediately after "subpart".

FEDERAL SHARE

SEC. 711. (a) Section 502(a) of the Act is amended in the introductory clause by striking out "shall be" and inserting in lieu thereof "shall not exceed".

(b)(1) Section 502(a)(2) of the Act is amended by striking out "not to exceed".

(2) Section 502(b) of the Act is amended by adding at the end thereof the following new sentence: "The non-Federal contributions from local resources may be in cash or in kind, fairly valued, including facilities, overhead, personnel, equipment, and services, if the eligible recipient determines that it cannot otherwise provide such contribution.".

TRANSITION

SEC. 712. The matter preceding clause (1) of section 3(a) of Public Law 98-524 (98 Stat. 2487) is amended to read as follows: "Until July 1, 1986, a State or eligible recipient may use funds received under the Vocational Education Act of 1963 or the Carl D. Perkins Vocational Education Act to—".

TECHNICAL AMENDMENTS

SEC. 713. (a)(1) Section 113(b)(10) of the Act (20 U.S.C. 2323(b)(10)) is amended by inserting "of 1981" after "Education Consolidation and Improvement Act".

(2) Section 113(b)(11) of the Act is amended by inserting "provide assurances" before "that".

(3) Section 504(d)(1) of the Act is amended by striking out "section 434(c)" and inserting in lieu thereof "section 453".

(4) Section 521(15) of the Act is amended by inserting "or language" immediately after "speech".

(b)(1) Section 4(a)(1)(A) of Public Law 98-524 is amended by striking out "section 4(15)" and inserting in lieu thereof "section 521(19)".

(2) Section 4(a)(6)(D) of Public Law 98-524 is repealed.

EFFECTIVE DATE

SEC. 714. (a) Except as provided in subsection (b), the provisions of this title shall take effect July 1, 1985.

(b) Section 702 of this Act shall take effect July 1, 1986.

TITLE VIII—HIGHER EDUCATION PROGRAMS

NATIONAL DIRECT STUDENT LOAN APPORTIONMENT

SEC. 801. (a) Section 12 of the "Student Financial Assistance Technical Amendments Act of 1982" is amended—

(1) by inserting "(a)" after the section designation; and

(2) by inserting at the end thereof the following new subsection:

"(b) Notwithstanding subsections (a) and (b) of section 462 of the Higher Education Act of 1965, if in the fiscal year 1986 the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1980, the Secretary shall apportion the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1980 bears to the total amount appropriated pursuant to section 461(b)(1) for the fiscal year 1980.".

(b) The amendments made by this section shall take effect October 1, 1985.

NATIONAL GRADUATE FELLOWS PROGRAM

SEC. 802. The last sentence of section 931(a) of the Higher Education Act of 1965 is amended to read as follows: "In the fiscal year beginning October 1, 1985, and each succeeding fiscal year, all funds appropriated in each fiscal year shall be awarded to students by March 1 of the fiscal year for which the funds were appropriated. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that Calendar No. 75, S. 903, and Calendar No. 281, S. 801, be indefinitely postponed.

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

SEQUENTIAL REFERRAL OF NSF AUTHORIZATION

Mr. DOLE. Mr. President, I ask unanimous consent that the National Science Foundation Authorization Act for fiscal year 1987, after being reported by the Committee on Labor and Human Resources, be sequentially referred to the Committee on Commerce, Science, and Transportation for a period not to exceed 30 days, after which the bill will be automatically discharged and placed on the Senate Calendar, I request further, that any amendments agreed to by the Commerce, Science, and Transportation Committee shall be considered first after the bill is brought to the floor for the consideration of the full Senate, and that the Commerce, Science, and Transportation Committee be allowed to appoint two conferees, one majority and one minority, should a conference with the House of Representatives be required. I request further that the jurisdiction of this sequential referral extend only to the Foundation's research and related ac-

tivities, Antarctic and Special Foreign Currency Programs.

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

Mr. DOLE. Mr. President, let me suggest the absence of a quorum to see what may be following this action. Let me thank the principals involved in the National Science Foundation. It is the first time, I believe, in about 5 years that we have been able to pass this legislation. I commend all my colleagues.

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 (Mr. GRASSLEY). Without objection, it is so ordred.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate to my colleagues what we are planning to do this evening. I have been advised by the distinguished chairman of the Appropriations Committee, Senator HATFIELD, he would not like to proceed with any additional appropriations bills. HUD will not be considered tonight, nor will the D.C. appropriations bill. We are trying to get an agreement to take up intelligence authorization, with a 1-hour time limit. I do not want to stay very late, if that is a possibility. I know the distinguished Senator from Vermont and the Senator from Minnesota may have been discussing that.

Mr. LEAHY. I am sorry, Mr. President, I did not hear what the distinguished majority leader raised.

Mr. DOLE. I was indicating there would be no HUD bill, no appropriations bills. I have raised the possibility of an intelligence authorization bill, if we can reach some agreement on that.

Mr. LEAHY. As the ranking member on both those bills I am happy to proceed with either one of them tonight. I have just spoken with the distinguished chairman of the Intelligence Committee. I think that I speak accurately of what he says. He is prepared to proceed as well. I informed him that it is my understanding that there are a number of Senators on our side of the aisle who may have an amendment. I have asked staff to check with them. I believe the amendment relates to Nicaragua. It is my hope that they would be willing to agree to a relatively short time agreement, perhaps 45 minutes or an hour evenly divided. I mentioned that as a possibility to the distinguished chairman of the committee. That did not seem to pose any problem for him. In my capacity as vice chairman of the Intelligence Committee or as ranking member of HUD, I am perfectly willing to proceed on either piece of legislation.

Mr. DOLE. How many amendments, maybe the distinguished Senator could advise me, would there be to the intelligence authorization bill?

Mr. LEAHY. I think there are the ones that the distinguished majority leader saw in the proposed unanimous-consent agreement, in addition to an amendment on Contra aid. With the exception of that Nicaraguan amendment I do not know of anything of real controversy, and even those issues have been rehashed enough that I should imagine it could be handled very briefly.

Mr. DOLE. Mr. President, the majority leader will contact the chairman of the committee, Senator DURENBERGER. If we can dispose of this bill rather quickly, we will not be in session tomorrow. So I will contact the chairman. If it is going to extend into a whole new debate on Contra aid, we had better be prepared to be here tomorrow. Let me check with the chairman of the committee.

Mr. LEAHY. Mr. President, I am looking down the list of proposed amendments. They all seem to be fairly technical amendments which would not require rollcall votes.

I suggest that if there is a Contra amendment, I think Senator DURENBERGER and I would be perfectly willing to enter into a very limited time agreement. Maybe other Senators might not be willing to do that. Senator DURENBERGER and I would be willing to do that.

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

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

The 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, it is my understanding that the distinguished managers of the intelligence authorization bill have reached a tentative agreement. If that is the case, that bill can be disposed of without a rollcall vote.

I would like to do a couple of wrapup matters first, if there is further discussion which is needed.

If the distinguished minority leader has no objection, I will proceed to some of the wrapup.

Mr. BYRD. That will be fine.

EXTENSION OF CERTAIN EXCISE TAX RATES

Mr. DOLE. Mr. President, I send a bill to the desk on behalf of the distinguished Senator from North Carolina [Mr. HELMS] and the distinguished Senator from Kentucky [Mr. FORD].

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1712) to provide an extension of certain excise tax rates.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the bill.

The Senate proceeded to consider the bill.

Mr. HELMS. Mr. President, the purpose of this legislation is simply to extend the 16-cents-per-pack Federal cigarette excise tax for 45 days. The current 16-cents-per-pack Federal excise tax on cigarettes was included in the Tax Equity and Fiscal Responsibility Act of 1982. Also a part of that legislation was an amendment to "sunset" the tax back to its original 8 cents on October 1, 1985.

Just recently the Senate Finance Committee reported their budget reconciliation package and included in it was a provision making the 16-cent cigarette tax permanent. This legislation will be reported to the Senate Budget Committee, and action on the Senate floor should take place in October. It is clearly the intent of the Senate Finance Committee to keep the tax at 16 cents.

The House of Representatives has also taken similar action with respect to the cigarette tax. An extension of the 16 cents tax is included in the House Ways and Means Committee Budget Reconciliation package, although this committee does dedicate 1 cent of the tax to fund the tobacco program. Nevertheless, the House of Representatives seems to be in complete agreement as to their intent to keep the tax at 16 cents.

The problem occurs if and when this legislation is not passed by both bodies of Congress and signed by the President prior to October 1, 1985. Because of other pressing business, it is clear that Congress will be unable to enact budget reconciliation legislation by October 1. The Federal tax sunsets back to 8 cents for a short period of time, only to go back up to some other level when the legislation is enacted. Meanwhile, 17 States have on the books statutes that automatically would increase their excise tax on cigarettes should the Federal excise tax sunset on October 1. Of those 17 States, 7 have automatic rollback provisions that would reduce the State excise tax by 8 cents should Congress later act to reinstate the 16 cents Federal excise tax. The remaining 10

States have no such rollback provisions and therefore their excise taxes would remain at the higher level even after Congress acts to reinstate the 16 cents Federal excise tax.

Such action causes much disruption in the business sector of the tobacco economy—particularly in the wholesaling and distribution business. These people have no way of knowing what the tax level will be. They do not know whether to deplete their inventories and hold off purchasing new cigarettes until after October 1, or to keep doing business as usual. The cigarette "pipeline" is backing up on some of the cigarette manufacturers and causing layoffs and other disruptions in the production of cigarettes.

In the absence of a temporary extension of the 16 cents Federal excise tax, the U.S. Treasury will lose approximately $6 million for each day that Congress fails to enact the budget reconciliation action. States will go through an administrative nightmare moving their excise taxes up and down to compensate for Congress's inability to act on this measure on a timely basis.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment.

Mr. METZENBAUM. Mr. President, the only thing this measure does is to deal with the extension of the 16-cents-per-package tax on cigarettes. Is that correct?

Mr. DOLE. That is correct.

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

The bill (S. 1712) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 283(c) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "October 1, 1985" and inserting in lieu thereof "November 15, 1985."

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY TO ESTABLISH AND ADMINISTER FLEXIBLE AND COMPRESSED WORK SCHEDULES FOR GOVERNMENT EMPLOYEES

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 3414, a bill to provide that the authority to establish and administer flexible and compressed work schedules for Federal Government employees be extended through October 31, 1985.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3414) to provide that the authority to establish and administer flexible and compressed work schedules for Federal Government employees be extended through October 31, 1985.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the bill.

The Senate proceeded to consider the bill.

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

The bill (H.R. 3414) was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2409.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 2409) entitled "An Act to amend the Public Health Service Act to revise and extend the authorities under that Act relating to the National Institutes of Health and National Research Institutes, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Dingell, Mr. Waxman, Mr. Scheuer, Mr. Broyhill, and Mr. Madigan be the managers of the conference on the part of the House.

Mr. DOLE. Mr President, I move that the Senate insist on its amendments and agree to the conference requested by the House and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Chair appointed Mr. HATCH, Mr. QUAYLE, Mr. NICKLES, Mr. KENNEDY, and Mr. DODD conferees on the part of the Senate.

CALENDAR

Mr. DOLE. Mr President, I inquire of the minority leader if he is in a position to pass any of the following calendar items:

Calendar No. 312, Senate Resolution 228;

Calendar No. 313, Senate Resolution 229;

Calendar No. 314, Senate Resolution 230;

Calendar No. 315, Senate Resolution 231;

Calendar No. 316, Senate Resolution 232;

Calendar No. 317, Senate Resolution 181; and

Calendar No. 319, S. 1701.

Mr. BYRD. Mr. President, there is no objection to considering and acting on any or all of those measures.

Mr. DOLE. I thank the distinguished minority leader.

GRATUITY TO KATHERINE M. RYAN

The resolution (S. Res. 228) to pay a gratuity to Katherine M. Ryan, was considered and agreed to, as follows:

S. RES. 228

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Katherine M. Ryan, widow of Vincent G. Ryan, an employee of the Senate at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. DOLE. I move to reconsider the vote by which the measure was agreed to.

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

The motion to lay on the table was agreed to.

GRATUITY TO CHRISTINE NELSON GALLOWAY

The resolution (S. Res. 229) to pay a gratuity to Christine Nelson Galloway, was considered, and agreed to; as follows:

S. RES. 229

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Christine Nelson Galloway, widow of J.C. Galloway, an employee of the Senate at the time of his death, a sum equal to four months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. DOLE. I move to reconsider the vote by which the measure was agreed to.

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

The motion to lay on the table was agreed to.

GRATUITY TO EVERETT D. SHEAFFER

The resolution (S. Res. 230) to pay a gratuity to Everett D. Sheaffer, was considered, and agreed to; as follows:

S. RES. 230

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Everett D. Sheaffer, widower of Mary R. Sheaffer, an employee of the Senate at the time of her death, a sum equal to one years' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. DOLE. I move to reconsider the vote by which the measure was agreed to.

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

The motion to lay on the table was agreed to.

AUTHORIZING PRINTING OF A REVISED EDITION OF THE "STANDING RULES OF THE SENATE"

The resolution (S. Res. 231) authorizing the printing of a revised edition of the "Standing Rules of the Senate," as a Senate document, was considered, and agreed to; as follows:

S. RES. 231

Resolved, That the Committee on Rules and Administration hereby is directed to prepare a revised edition of Senate Document Numbered 98-10, entitled "Standing Rules of the Senate", and that such standing rules shall be printed as a Senate document.

SEC. 2. There shall be printed two thousand five hundred additional copies of the document specified in section 1 of this resolution for the use of the Committee on Rules and Administration.

Mr. DOLE. I move to reconsider the vote by which the measure was agreed to.

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

The motion to lay on the table was agreed to.

PURCHASE OF CALENDARS

The resolution (S. Res. 232) relating to the purchase of calendars, was considered, and agreed to, as follows:

S. RES. 232

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $67,980 for the purchase of one hundred and three thousand calendars. The calendars shall be distributed as prescribed by the committee.

Mr. DOLE. I move to reconsider the vote by which the measure was agreed to.

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

The motion to lay on the table was agreed to.

AUTHORIZING THE PRINTING OF A REPORT

The resolution (S. Res. 181) authorizing the printing of the report entitled "Highway Bridge Replacement and Rehabilitation Program, Sixth Annual Report to Congress," as a Senate document, was considered, and agreed to, as follows:

S. RES. 181

Resolved, That the annual report of the Secretary of Transportation to the Congress of the United States in compliance with section 144(i) of title 23, United States Code entitled, "Highway Bridge Replacement and Rehabilitation Program, Sixth Annual Report to Congress" be printed as a Senate document.

SEC. 2. There shall be printed three hundred additional copies for the use of the Committee on Environment and Public Works.

Mr. DOLE. I move to reconsider the vote by which the measure was agreed to.

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

The motion to lay on the table was agreed to.

TRANSFER OF CERTAIN AUTHORITY TO THE STATES OF MAINE AND NEW HAMPSHIRE

The bill (S. 1701) to authorize a partial transfer of the authority of the Maine-New Hampshire Interstate Bridge Authority to the States of Maine and New Hampshire, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1701

Be it enacted by the Senate and House of Representatives of the United Staes of America in Congress assembled, That the Act approved July 28, 1937 (50 Stat. 535), is amended by striking out in the first paragraph thereof, "and approaches thereto" and by inserting at the end thereof "The States of Maine and New Hampshire are authorized to assume all construction, maintenance, and operational authority over the approach roads and grade separation structures in their respective areas. As provided in Maine Private and Special Law, Chapter 38, 1985, and New Hampshire Statutes, Chapter 415, 1985, the respective States shall require the Authority to provide Authority funds for capital improvements.".

Mr. DOLE. I move to reconsider the vote by which the measure was agreed to.

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

The motion to lay on the table was agreed to.

STAR PRINT OF REPORT NO. 99-105

Mr. DOLE. Mr. President, I ask unanimous consent that Senate Report No. 99-105 be star printed to reflect the following changes which I send to the desk.

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

STAR PRINT OF REPORT NO. 99-135

Mr. DOLE. Mr. President, I ask unanimous consent that Senate Report No. 99-135 be star printed to reflect the following changes which I send to the desk.

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

TITLE AMENDMENT TO H.R. 2005

Mr. DOLE. Mr. President, I ask unanimous consent that the title of H.R. 2005 be amended so as to read:

A bill to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the following nominations on the Executive Calendar.

Mr. BYRD. Mr. President, I am not prepared to do that yet.

Mr. DOLE. Mr. President, as I understand it, the managers handling the intelligence authorization bill will not require a rollcall vote. Is that correct?

Mr. LEAHY. My understanding on this side, Mr. President, is that there will not be a request for a rollcall. There will be a short colloquy that the chairman of the committee and I shall have regarding Contra aid. That will obviate the necessity of an amendment and a rollcall. I know of no rollcalls that are going to be requested on this side of the aisle.

Mr. DURENBERGER. Mr. President, as far as the Chair is concerned, there is no reason for a rollcall vote. There will be two minor amendments, one on behalf of Senator BENTSEN, the other on behalf of Senator SIMPSON, neither of which requires a rollcall vote. No rollcall will be necessary on passage.

Mr. DOLE. Mr. President, on that basis, and I think the distinguished minority leader might agree, with that assurance on both sides that no rollcall vote will be requested, I think we can indicate to Members that there will be no rollcall votes tonight. We will not be in session tomorrow. We will come in at approximately 11 a.m. on Monday, and there will be no votes on Monday until 4 p.m.

Mr. BYRD. Mr. President, I think that would be desirable.

Mr. DOLE. I thank the managers of the bill. I yield the floor.

Mr. President, there will be no more rollcall votes this evening and we will not be in session tomorrow.

INTELLIGENCE AUTHORIZATION, 1986

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the Senate now turn to Calendar No. 287, S. 1271, the Intelligence Authorization Act.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1271) to authorize appropriations for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services and on behalf of the Committee on Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for fiscal year 1986".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1986 for the conduct of the intelligence activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1986, for the conduct of the intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Select Committee on Intelligence of the Senate. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and the House of Representatives, and to the President. The President shall provide for suitable distribution of the schedule, or of appropriate portions of the schedule, within the executive branch.

CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF PROGRAM AUTHORIZATIONS

SEC. 103. During fiscal year 1986, funds may not be made available for any intelligence activity unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of Congress of the intent to make such funds available for such activity, except that in no case may reprogramming or transfer authority be used by the Director of Central Intelligence or the Secretary of Defense unless for higher priority intelligence acitivities, based on unforeseen requirements, than those for which funds were originally authorized, and in no case where the intelligence activity for which funds were requested has been denied by Congress.

PERSONNEL CEILING ADJUSTMENTS

SEC. 104. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1986 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

AUTHORIZATION OF APPROPRIATIONS FOR DESIGN AND CONSTRUCTION OF A RESEARCH AND ENGINEERING FACILITY AT THE NATIONAL SECURITY AGENCY HEADQUARTERS COMPOUND

SEC. 105. The National Security Agency is authorized to secure the design and constuction of a research and engineering facility at its headquarters compound at Ft. Meade, Maryland. A single continuous contract may be employed to facilitate completion of the building authorized by this section, and the Secretary of Defense is authorized to contract for design and construction in advance of appropriations therefor, but the cost of such facility may not exceed $75,064,000. Of the amounts authorized to be appropriated under section 101(4) of this Act, there is authorized to be appropriated for fiscal year 1986 the sum of $21,364,000 for design and construction of the facility authorized by this section during fiscal year 1986.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1986 the sum of $22,283,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two-hundred-and-thirty-three full-time personnel as of September 30, 1986. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1986, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence activities.

(c) During fiscal year 1986, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1986, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 430a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1986 the sum of $101,400,000.

TITLE IV—GENERAL PROVISIONS

AUTHORITY FOR THE CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 401. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

SEC. 402. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for any increases in such employee compensation or benefits authorized by law.

TITLE V—FACILITATING NATURALIZATION OF CERTAIN FOREIGN INTELLIGENCE SOURCES

IMMIGRATION AND NATIONALITY ACT AMENDMENT

SEC. 501. Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end thereof the following new subsection:

"(g)(1) Whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine that a petitioner otherwise eligible for naturalization has made an extraordinary contribution to the national security of the United States or to the conduct of United States intelligence activities, the petitioner may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of section 313 of this Act, and no residence within the jurisdiction of the court shall be required.

"(2) A petition for naturalization may be filed pursuant to this subsection in any district court of the United States, without regard to the residence of the petitioner. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods and activities.

"(3) The number of aliens naturalized pursuant to this subsection in any fiscal year shall not exceed fifteen. The Director of Central Intelligence shall notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on In-

telligence of the House of Representatives each time a determination is made to apply the provisions of this subsection.".

TITLE VI—ADMINISTRATIVE PROVISIONS

USE OF PROCEEDS FROM DEFENSE DEPARTMENT COUNTERINTELLIGENCE OPERATIONS

SEC. 601. (a) During fiscal year 1986, the Secretary of Defense may authorize use of proceeds from counterintelligence operations conducted by components of the Military Departments to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code.

(b) As soon as the net proceeds from any such counterintelligence operation are no longer necessary for the conduct of that operation, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

RETIREMENT BENEFITS FOR CERTAIN CENTRAL INTELLIGENCE AGENCY EMPLOYEES SERVING IN UNHEALTHFUL AREAS

SEC. 602. Section 251 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "(a)" after "SEC. 251." and by adding at the end thereof the following new subsection:

"(b) The Director of Central Intelligence may from time to time establish, in consultation with the Secretary of State, a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of service of a participant under this Act for the purpose of retirement, fractional months being considered as full months in computing such service. No extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 of title 5, United States Code, for such service.".

[COMPENSATION OF DIRECTOR AND DEPUTY DIRECTOR OF GENERAL INTELLIGENCE

SEC. 603. (a) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following: "Director of Central Intelligence.".

(b) Section 5313 of title 5, United States Code, is amended by inserting "Deputy" before "Director of Central Intelligence.".

(c) Section 5314 of title 5, United States Code, is amended by striking out "Duputy Director of Central Intelligence.".]

APPLICATION OF FOREIGN MISSIONS ACT TO INDIVIDUALS ON SECONDMENT TO THE UNITED NATIONS SECRETARIAT

SEC. [604.] *608.* The Secretary of State is directed to apply to all individuals who are on secondment from their respective governments to the United Nations Secretariat any and all terms, limitations, restrictions, or conditions applicable to indivduals pursuant to the Foreign Missions Act of 1982 (22 U.S.C. 4301 et seq.), as may from time to time be applied to members of the consulates, embassies, or missions to the United Nations of those respective governments in the United States, pursuant to the Foreign Missions Act.

TITLE VII—DIPLOMATIC EQUIVALENCE AND RECIPROCITY

SHORT TITLE

SEC. 701. This title may be cited as the "Diplomatic Equivalence and Reciprocity Act of 1985".

POLICY

SEC. 702. (a) It is the policy of the United States that the number of nationals of the Soviet Union admitted to the United States who serve as diplomatic or consular personnel of the Soviet Union in the United States shall not exceed the number of United States nationals admitted to the Soviet Union who serve as diplomatic or consular personnel of the United States in the Soviet Union unless the President determines and so certifies to the Congress that additional admissions of such personnel would be in the best interests of the United States.

(b) The policy contained in subsection (a) shall not apply to dependents or spouses who do not serve as diplomatic or consular personnel.

REPORTING REQUIREMENT

SEC. 703. Not later than six months after the date of enactment of this title, the Secretary of State and the Attorney General shall prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth a plan for ensuring that the number of Soviet nationals described in section 701 does not exceed the limitation described in such section.

DEFINITIONS

SEC. 704. For purposes of this title—

(1) the term "diplomatic or consular personnel" means the members of the diplomatic mission or the members of the consular post, as the case may be;

(2) the term "members of the diplomatic mission" is used within the meaning of article 1(b) of the Vienna Convention on Diplomatic Relations, done on April 18, 1961; and

(3) the term "members of the consular post" is used within the meaning of article 1(g) of the Vienna Convention on Consular Relations, done April 24, 1963.

TITLE VIII—ACCESS TO CRIMINAL HISTORY RECORDS FOR NATIONAL SECURITY PURPOSES

CONGRESSIONAL FINDINGS AND POLICIES

SEC. 801. The Congress finds—

(1) that under the Constitution, Congress has the responsibility and power to provide for the common defense and security of our Nation;

(2) that the interests of national security require that the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency conduct investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services;

(3) that the interests of national security require that the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency have access to criminal history record information when conducting investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services; and

(4) that the interests of national security have been adversely affected by the reluctance and refusal of some State and local criminal justice agencies to provide criminal history record information to the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency for use in investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services.

SEC. 802. Chapter 31 of title 10, United States Code, is amended by striking out section 520a and substituting the following:

"§ 520a. Criminal history record information for national security purposes

"(a) As used in this chapter:

"(1) The term 'criminal justice agency' includes Federal, State, and local agencies and means: (A) courts, or (B) Government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or Executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

"(2) The term 'criminal history record information' means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising therefrom, sentencing, correction supervision, and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system. The term does not include those records sealed pursuant to a lawful order of a court of law.

"(3) The term 'classified information' means information or material designated pursuant to the provisions of a statute or Executive order as requiring protection against unauthorized disclosure for reasons of national security.

"(4) The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of Pacific Islands, and any other territory or possession of the United States.

"(5) The term 'local" and 'locality' means any local government authority or agency or component thereof within a State having jurisdiction over matters at a county, municipal, or other local government level.

"(b)(1) Upon request by the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency, criminal justice agencies shall make available criminal history record information regarding individuals under investigation by the Department of Defense, the Office of Personnel Management or the Central Intelligence Agency for the purpose of determining eligibility for (A) access to classified information, (B) assignment to or retention in sensitive national security duties, or (C) acceptance or retention in the armed services. Fees charged for providing criminal history record information pursuant to this subsection shall not exceed those charged to other criminal justice agencies for such information.

"(2) This subsection shall apply notwithstanding any other provision of law or regulation of any State or of any locality within a State, or any other law of the United States.

"(c) The Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency shall not obtain criminal history record information pursuant to this section unless it has received written consent from the individual under

investigation for the release of such information for one or more of the purposes set forth in subsection (b).

"(d) Criminal history record information received under this section shall not be disclosed except for the purposes set forth in subsection (b) or as provided by section 552a of title 5, United States Code.".

SEC. 803. The amendments made shall become effective with respect to any inquiry which begins after the date of enactment of this Act conducted by the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency, for any of the purposes specified in subsection (b) of section 520a of title 10, United States Code, as added by this Act.

SEC. 804. These amendments are made pursuant to the powers vested in Congress as found in section 8 of article I of the United States Constitution.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the amendments of the Committees on Armed Services and Governmental Affairs be agreed to and that the bill as amended be treated as original text for the purpose of future amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments were agreed to.

AMENDMENT NO. 711

Mr. DURENBERGER. Mr. President, on behalf of the Select Committee on Intelligence, I send to the desk amendments to amend title VI and title VII and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself and Mr. LEAHY, proposes an amendment numbered 711.

Beginning on page 10, line 12, strike out all through page 12, line 16.

Mr. DURENBERGER. Mr. President, it is my privilege to bring to the floor the intelligence authorization bill which authorizes appropriations for U.S. intelligence activities for fiscal year 1986.

The Select Committee on Intelligence views the annual budget authorization process as one of the principal means of fulfilling its oversight responsibilities because of the insight and leverage that this process provides in influencing the long-term scope and direction of U.S. intelligence efforts.

The legislation which we are laying before the Senate today authorizes appropriations for those programs and activities of the U.S. Government which serve the intelligence needs of our national policymakers. This includes the Central Intelligence Agency and the National Security Agency, as well as the national intelligence activities of the Departments of Defense, State, Treasury, and Energy, and the Federal Bureau of Investigation. The bill also authorizes appropriations for the intelligence community staff and the Central Intelligence Agency retirement and disability system, and it includes several legislative provisions to enhance the effectiveness of our intelligence agencies.

This year, as in the past, the committee conducted a comprehensive examination of the intelligence budget request. However, for the first time since the committee was formed, the entire budget authorization process was reviewed at the full committee rather than the subcommittee level, which enhanced member participation. Twelve hearings were held which included testimony from the Director and Deputy Director of Central Intelligence, key Defense Department officials, and each of the principal intelligence program managers.

Because of the sensitivity of the matters dealt with in the intelligence authorization bill, I cannot discuss details in open session. These recommendations have, however, been set forth in the classified annex to the committee's report, which has been available to Members under the provisions of Senate Resolution 400 since June.

As is stressed in our reports, the committee believes that strengthening and improving the U.S. intelligence system should remain among our highest national priorities. As we have emphasized in the past, investment in intelligence must grow to ensure that the intelligence community is able to meet the challenges that our Nation will face in the late 1980's and beyond. The committee recognizes that increased investment alone will not necessarily lead to the intelligence capabilities required in the years ahead. We must also be more innovative in crafting the Nation's intelligence activities to assure our capability to meet the challenges U.S. policymakers will face as we rapidly approach the 21st century. Our assessment continues to be the same; we see no lessening of the worldwide competition with our principal adversaries while, at the same time, developments in the Third World and global issues will grow in importance to our national security. We see an ever-increasing threat against us, both as individuals who are potentially targeted for terrorist actions and as a nation which must keep an ever-constant vigil for those who would threaten our security.

The committee feels that it is becoming increasingly important to structure the intelligence capability so that our Nation is assured of the peace and independence upon which it was founded. In its charter in Senate Resolution 400, the committee was assigned the responsibility to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence to the executive and legislative branches. With these factors in mind, the members of the committee have identified and established a long-range goal that will provide a framework for our future review of intelligence budget proposals.

Our first major goal became the formulation of a requirement for the administration to develop and submit a strategy for national intelligence. The committee agreed early in the year on this goal for a national intelligence strategy. We will examine the fiscal year 1986 budget in terms of the strategy and expect the fiscal year 1987 budget to reflect adherence to the strategy process. While intelligence activities will remain unique, the process employed will not be dissimilar to the posture statement and resource allocation exercise currently utilized by the DOD.

We intend this strategy to be updated annually and to be the basis for understanding what is being done in intelligence and what is proposed.

There has never been a comprehensive strategy for the intelligence community which was based on a disciplined, consistent standard against which one could measure the state of American intelligence. The intelligence target is infinite, and our resources will always be limited. Yet, there is no vehicle which explains our strengths and weaknesses in intelligence in terms other than "more intelligence is better than less" and "faster processing and dissemination is better than slower."

To address these concerns and to achieve our goal, the committee has designed a series of hearings to be held in phases. We have already completed phase I in this hearing process and are now well into phase II. These hearings allow us to look at specific areas to see whether strategic thinking is guiding intelligence decisions. We are calling in experts from the intelligence community—those consumers and decision makers from both the current as well as the prior arena of intelligence.

From these hearings, the committee is developing a set of guidelines for the intelligence community. The Director of Central Intelligence will then develop a national intelligence strategy which will form the backbone of the committee's annual comprehensive examination of the intelligence budget request.

It is because the committee feels so strongly the importance of strengthened national security that it has taken on these added responsibilities of contributing to a more structured and coordinated effort toward our country's intelligence capabilities.

With that in mind, the committee believes that the investments included in the authorization before you now, as well as continued investments are absolutely essential. Intelligence is the Nation's first line of defense; it is also one of our major assets for maintaining world peace. In these perilous times, when miscalculations could have such devastating consequences, it is more important than ever that this Nation maintain a strong intelligence system. I strongly urge my colleagues' support for this important legislation.

Mr. President, I ask unanimous consent that a letter from the Congressional Budget Office, submitted pursuant to section 403 of the Congressional Budget Act of 1974, be included in the RECORD.

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

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 30, 1985.

Hon. DAVID DURENBERGER,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate on S. 1271, the Intelligence Authorization Act for Fiscal Year 1986, as ordered reported by the Senate Select Committee on Intelligence on June 11, 1985.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

With best wishes,

Sincerely,

RUDOLPH G. PENNER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number.—S. 1271

2. Bill title.—Intelligence Authorization Act for fiscal year 1986.

3. Bill Status.—As ordered reported by the Senate Select Committee on Intelligence on June 11, 1985.

4. Bill purpose.—To authorize appropriations for the fiscal year 1986 for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability Fund, and for other purposes.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1986	1987	1988	1989	1990
Authorization amount [1]	145.0				
Estimated outlays [1]	123.2	7.7	6.4	3.9	2.1

[1] Does not include costs of Sec. 101 or receipts from Sec. 601 which are classified.

Basis for Estimate.—The authorization amounts are stated in the bill. The estimate assumes the funds will be appropriated for the full amount of the authorization. Expenditure of these funds is assumed to follow historical patterns.

Section 101 authorizes funds for the conduct of intelligence activities of several elements of the United States government. The amounts authorized by this section are classified and are excluded from this cost estimate.

Section 105 authorizes $21.4 million for the construction of a research and engineering facility at Fort Meade, Maryland for the National Security Agency.

Section 201 authorizes $22.3 million for the Intelligence Community staff. This amount provides for 233 full-time personnel as of September 30, 1986.

Section 301 provides $101.4 million for the Central Intelligence Agency Retirement and Disability Fund.

Section 601 authorizes the Secretary of Defense to use the proceeds of counterintelligence operations conducted by components of the Military Departments to offset necessary and reasonable expenses incurred in such operations. Surplus funds are to be deposited in the Treasury as miscellaneous receipts. The amounts involved in this provision are classified and are excluded from this cost estimate.

Section 602 authorizes the Director of Central Intelligence to establish a list of posts deemed unhealthful. Personnel would receive one and one half years credit toward retirement for each year served in such a post. Because the number of posts determined to be unhealthful and the number of personnel affected by such a determination are not known, it is not possible to estimate the budgetry impact of this provision.

The bill includes other provisions that do not have significant budgetary impacts.

6. Estimated cost to state and local governments.—None.

7. Estimate comparison.—None.

8. Previous cost estimate.—None.

9. Estimate prepared by.—Jonathan Tyson (226-2840).

10. Estimate approved by.—James L. Blum, Assistant Director for Budget Analysis.

Mr LEAHY. Mr. President, I compliment the distinguished chairman of the committee for his remarks. We have done something different this year than I have seen in the slightly over 5 years that I have served on the Intelligence Committee: that is to handle the budget at the full committee rather than the subcommittee level. Having served at both levels, I think there had been distinct advantages to allowing all members of the Intelligence Committee involved in the budget process. With the complement of new members on both sides of the aisle, hallowed members to have a better idea of what is in often a very complex and, of course, very secret budget. I think the only way one fully understands what goes in the intelligence community is by analysis of the budget. As the Intelligence Committee has found, no matter how well-intentioned all of us are, often the only real oversight control we have is through the budget process.

So it was a good experiment to try this year. I think it is one that should be continued for the next fiscal year. I am most pleased with the committees activism in the area of terrorism. It is one that I have encouraged for years. As recent events have shown us, terrorist activity throughout the world contitutes one of the major, if not the major, nonnuclear threats to the security of the United States and to our interests worldwide as well as to our domestic security.

I believe this legislation takes very affirmative action to address the threat posed by terrorism.

Mr. President, I yield to the distinguished chairman of the committee.

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

The amendment (No. 711) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendments was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 713

(Purpose: To require notification of the Judiciary Committees that certain naturalization requirements do not apply to certain aliens because of their extraordinary contribution to United States national security, and for other purposes)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk on behalf of the Senator from Wyoming [Mr. SIMPSON] 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], for Mr. Simpson, proposes an amendment numbered 713.

Mr. DURENBERGER. 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 8, beginning on line 12, strike out "fifteen" and all that follows through "Intelligence" on line 15 and insert in lieu thereof the following: "Ten. The Director of Central Intelligence shall notify the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary".

Mr. DURENBERGER. Mr. President, the purpose of this amendment very simply is to require notification of the Judiciary Committees that certain naturalization requirements do not apply to certain aliens because of the extraordinary contributions to U.S. national security. It is a very appropriate amendment on behalf of our colleague from Wyoming, who is also chairman of the Immigration and Naturalization Subcommittee of Judiciary. He spotted an oversight on the part of the committee, and I highly recommend its adoption.

Mr. LEAHY. Mr. President, I thoroughly concur with the statement of the Senator from Minnesota and also urge adoption of this amendment.

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

The amendment (No. 713) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 714

(Purpose: To provide additional funding and authority for the Federal Bureau of Investigation in order to improve the counter-terrorist capabilities of the Bureau)

Mr. LEAHY. Mr. President, I send an amendment to the desk on behalf of the Senator from Texas [Mr. BENTSEN], for himself, Mr. DURENBERGER, myself, and other Senators listed on the amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. BENTSEN, Mr. DURENBERGER, Mr. LEAHY, Mr. COHEN, Mr. BOREN, Mr. ROTH, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. ZORINSKY, Mr. SPECTER, Mr. BRADLEY, Mr. LONG, and Mr. GRASSLEY, proposes an amendment numbered 714.

Mr. LEAHY. 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 appropriate place in the bill, insert the following:

SEC. . (a) There are authorized to be appropriated for fiscal year 1986, $59,539,000 for the Federal Bureau of Investigation to carry out the counterterrorism activities.

(b) Notwithstanding any other provision of law, the Federal Bureau of Investigation may purchase for fiscal year 1986, an additional 40 vehicles to be used in counterterrorist activities.

(c) Notwithstanding any other provision of law, the Attorney General may make payments in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism.

Mr. BENTSEN. Mr. President, it has been 3 months now since the hijacking of TWA Flight 847 and the execution of Navy diver Robert Stethem by Middle Eastern terrorists. As the circumstances surrounding this tragic event lose their sharp edge in our collective memory, it would be all too easy for us to lapse into complacency and to ignore the growing potential for terrorist activities here in the United States.

Ignoring the reality of terrorism, however, would be exceedingly shortsighted. We are fortunate that terrorist activity in this country has not risen to the heights that it reaches routinely elsewhere in the world, but we cannot assume that it will remain at a reduced level. Indeed, on a worldwide basis the number of terrorist incidents is increasing steadily. And for the past few years over 40 percent of these incidents have been directed against the U.S. Government or U.S. citizens or their property.

Nor are internationl terrorists the only threat we face. This past week in Seattle, 11 members of a neo-Nazi group called "The Order" went on trial for committing 67 crimes designed to finance the overthrow of the U.S. Government and establish a white supremacist society. And barely 3 weeks ago the FBI arrested 13 members of the Puerto Rican terrorist organization "Los Macheteros," the group that was apparently responsible for the killing of two sailors in an attack on a United States Navy bus in Puerto Rico.

The actual number of terrorist incidents in the United States has decreased over the past few years, but the number of incidents the FBI has prevented has increased significantly. Furthermore, according to FBI statistics, there were no terrorist actions in the United States in 1983 attributable to Middle Eastern groups, and only one such incident in 1984. I am not at all confident that this trend will continue.

As a case in point, the Reverend Ben Weir, the Presbyterian minister who was held captive by Moslem extremists in Lebanon for 16 months, was recently released. We were all delighted to have the Reverend Weir back with us, safe and unharmed. But he brought with him his captors' threats of more kidnappings and more executions of Americans.

Given what we know about how Libya's Colonel Qadhafi and Iran's Ayatollah Khomeini feel about us, and given the number of pro-Qadhafi Libyans and pro-Khomeini Iranians resident here in the United States, I do not believe that this is the time to relax and let down our guard. Those concrete barricades that block the entrances onto the Capitol grounds are not there to enhance the beauty of the place.

On the contrary, the very openness of our society makes us vulnerable to terrorist attacks, particularly attacks directed at Government offices, communications centers, transportation hubs, or power grids.

Our first line of defense against domestic terrorism is the Federal Bureau of Investigation, and the FBI has been doing a good job. Despite the increasing threat of terrorism, though, the FBI budget in this area has not even been enough to keep up with inflation.

For fiscal year 1985 the FBI's counter-terrorism budget was just under $40 million. For fiscal year 1986, OMB froze the counter-terrorism budget at that same level and rejected a request for an $11 million supplemental appropriation for fiscal year 1985. Subsequently, the FBI has identified additional needs in this area. After talking with them and working over the figures very carefully, the total requirement for the FBI in this area for fiscal year 1986 has been established at $59.5 million. This represents an increase of about $20 million over both the actual budget for fiscal year 1985 and the proposed budget for fiscal year 1986, and it is money which I believe would be well spent to help protect the people of the United States against the threat of terrorism in this country.

Now, what will this additional funding provide in counter-terrorist capability?

First, it will allow the FBI to hire 75 more agents and 45 support staff for counter-terrorism task forces in seven major cities. It will allow 11 more agents for the hostage rescue team, 40 additional positions in support of the Terrorist Research and Analytical Center, and 20 more analysts to support counter-terrorist operations. It will also provide support and equipment for a secure teleconferencing capability for hostage-counter-terrorist coordination, will provide additional automobiles, equipment, training, and weapons for counter-terrorism, and will allow the FBI to reimburse local law enforcement agencies for their overtime assistance to the FBI in this area. The details of some of this funding are classified, and it is the intention of this amendment that appropriate language be included in the classified annex to the committee report on this authorization, explaining how certain of these funds will be expended.

Mr. President, the total reflected in this amendment will be money well spent when compared with the potential cost of just one terrorist attack. I believe this amount is reasonable and is a wise investment to help protect the citizens of this country against the growing danger of terrorist activities. I urge your support of this amendment.

Mr. LEAHY. Mr. President, the purpose of the amendment is to increase the assistance needed by the FBI in their counterterrorist activity. I believe the increase is vitally needed. From my dual role as a member of the Intelligence Committee and the Judiciary Committee, I can state that during the past 4 years the FBI has significantly improved its counterterrorist activities, I believe this amendment will further enhance the FBI's counterterrorist activities. I congratulate my distinguished colleague from Texas, Senator BENTSEN on his fine work.

Mr. DURENBERGER. Mr. President, I concur in the judgment of my colleague, the ranking member of the Intelligence Committee, and that of the Senator from Texas who proposed the amendment which we have joined

in cosponsoring. I, too, urge its immediate adoption.

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

The amendment (No. 714) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I ask for third reading.

Mr. LEAHY. Mr. President, will the Senator withhold just for a moment?

Mr. DURENBERGER. Yes, I will.

Mr. LEAHY. A question arose earlier this evening, Mr. President, as we were preparing to go forward with this bill, by a number of Senators concerned, as a number of us have been, with our policy in Nicaragua. Specifically they were concerned about the funds for humanitarian assistance provided by this bill to the insurgents in Nicaragua. I do not mean to revisit the whole debate we have on the floor of the Senate. We have had a series of votes on it. But the assurance I have given to Senators, if I might say, Mr. President, is that we have passed legislation which allows humanitarian aid to the Contras, to be administered by the only office of Nicaragua Humanitarian Assistance in the Department of State under certain restrictions that have been voted on in the past by both bodies and signed into law by the President in an amount of $28 million.

I have further assured these Senators that the $28 million for this aid to be administered through the Department of State is included in this bill in the CIA's contingency fund. I have assured them further that only the funds only can be used for humanitarian assistance.

Furthermore, no other moneys for the CIA or any other agency or Department covered by this bill can be used in excess of that $28 million. As I said, that $28 million is to be administered only by the Department of State. I have given that assurance to those Senators who at one point had considered bringing further amendments to this bill.

I ask my good friend from Minnesota, the distinguished chairman of the committee, if the assurances I have outlined are accurate in his understanding.

Mr. DURENBERGER. Mr. President, I say to my colleague from Vermont that if I accurately understand the gist of his characterization, I certainly do agree with it.

As he well knows and many others know, I made a point at the end of 1984 of declaring my personal opposition to continued use of covert activity in Nicaragua. I took a similar position as chairman of the committee since January of this year.

In the committee, we have deliberately steered a course of neutrality on the issue of utilization of the CIA or other intelligence agencies in some of the areas that my colleague talked about.

In effect, what we accomplished as we went through the budget process was to say that whatever the authorization on the floor of the Senate with regard to the appropriation for Nicaragua, that authorization would control any expenditures from the reserve account. Specifically, for our colleagues, this issue is dealt with in a classified supplement through the Intelligence Committee's report, and even more specifically is dealt with on page 82 of the Intelligence Committee's classified supplement.

The committee moved the $28 million requested for Nicaraguan paramilitary to the reserve, to be spent only for humanitarian assistance to the so-called Nicaraguan democratic resistance, in an amount and in a manner consistent with congressional action on this issue. Because congressional action has proscribed CIA and DOD administration of the humanitarian aid funds—all of it in the separate authorization, as I indicated—the Intelligence Committee's action, in effect, has been overtaken by events.

I say to my colleague and the others, particularly on his side of the aisle, who have expressed a concern about this issue, that he is correct in his characterization of our authority.

Mr. LEAHY. With that assurance, Mr. President—and it is also my understanding—I have been told by the Senators who have a concern about this that they do not intend to bring up another amendment and thus revisit something that has been voted on.

The Senators who raised the point have been on the losing side before, and they realize that the vote would be the same if held again. I think they realize that the Intelligence Committee handled this matter in a straightforward fashion. It is clear we in the committee watch how and where the money is spent; to be certain it is done so in a manner prescribed by the law.

With that assurance, I assure the chairman that there will not be amendments on this side on this matter.

Mr. DURENBERGER. I thank the Senator.

Mr. President, I ask for third reading of S. 1271.

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.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2419, Calendar No. 239, a companion bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2419), to authorize appropriations for fiscal year 1986 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DURENBERGER. Mr. President, I move to strike all after the enacting clause of H.R. 2419 and substitute in lieu thereof the text of S. 1271, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

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

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

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 2419, as amended) was passed, as follows:

H.R. 2419

Resolved, That the bill from the House of Representatives (H.R. 2419) entitled "An Act to authorize appropriations for fiscal year 1986 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Intelligence Authorization Act for fiscal year 1986".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1986 for the conduct of the intelligence activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1986, for the conduct of the intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Select Committee on Intelligence of the Senate. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and the House of Representatives, and to the President. The President shall provide for suitable distribution of the schedule, or of appropriate portions of the schedule, within the executive branch.

CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF PROGRAM AUTHORIZATIONS

SEC. 103. During fiscal year 1986, funds may not be made available for any intelligence activity unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of Congress of the intent to make such funds available for such activity, except that in no case may reprogramming or transfer authority be used by the Director of Central Intelligence or the Secretary of Defense unless for higher priority intelligence activities, based on unforeseen requirements, than those for which funds were originally authorized, and in no case where the intelligence activity for which funds were requested has been denied by Congress.

PERSONNEL CEILING ADJUSTMENTS

SEC. 104. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1986 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

AUTHORIZATION OF APPROPRIATIONS FOR DESIGN AND CONSTRUCTION OF A RESEARCH AND ENGINEERING FACILITY AT THE NATIONAL SECURITY AGENCY HEADQUARTERS COMPOUND

SEC. 105. The National Security Agency is authorized to secure the design and construction of a research and engineering facility at its headquarters compound at Ft. Meade, Maryland. A single continuous contract may be employed to facilitate completion of the building authorized by this section, and the Secretary of Defense is authorized to contract for design and construction in advance of appropriations therefor, but the cost of such facility may not exceed $75,064,000. Of the amounts authorized to be appropriated under section 101(4) of this Act, there is authorized to be appropriated for fiscal year 1986 the sum of $21,364,000 for design and construction of the facility authorized by this section during fiscal year 1986.

FUNDING AND AUTHORITY FOR FEDERAL BUREAU OF INVESTIGATION TO IMPROVE ITS COUNTERTERRORIST CAPABILITIES

SEC. 106. (a) There are authorized to be appropriated for fiscal year 1986, $59,539,000 for the Federal Bureau of Investigation to carry out the counterterrorist activities.

(b) Notwithstanding any other provision of law, the Federal Bureau of Investigation may purchase for fiscal year 1986, an additional 40 vehicles to be used in counterterrorist activities.

(c) Notwithstanding any other provision of law, the Attorney General may make payments in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1986 the sum of $22,283,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two-hundred-and-thirty-three full-time personnel as of September 30, 1986. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1986, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence activities.

(c) During fiscal year 1986, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1986, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 430a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1986 the sum of $101,400,000.

TITLE IV—GENERAL PROVISIONS

AUTHORITY FOR THE CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 401. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

SEC. 402. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for any increases in such employee compensation or benefits authorized by law.

TITLE V—FACILITATING NATURALIZATION OF CERTAIN FOREIGN INTELLIGENCE SOURCES

IMMIGRATION AND NATIONALITY ACT AMENDMENT

SEC. 501. Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end thereof the following new subsection:

"(g)(1) Whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine that a petitioner otherwise eligible for naturalization has made an extraordinary contribution to the national security of the United States or to the conduct of United States intelligence activities, the petitioner may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of section 313 of this Act, and no residence within the jurisdiction of the court shall be required.

"(2) A petition for naturalization may be filed pursuant to this subsection in any district court of the United States, without regard to the residence of the petitioner. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods and activities.

"(3) The number of aliens naturalized pursuant to this subsection in any fiscal year shall not exceed ten. The Director of Central Intelligence shall notify the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives each time a determination is made to apply the provisions of this subsection.".

TITLE VI—ADMINISTRATIVE PROVISIONS

USE OF PROCEEDS FROM DEFENSE DEPARTMENT COUNTERINTELLIGENCE OPERATIONS

SEC. 601. (a) During fiscal year 1986, the Secretary of Defense may authorize use of proceeds from counterintelligence operations conducted by components of the Military Departments to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code.

(b) As soon as the net proceeds from any such counterintelligence operation are no longer necessary for the conduct of that operation, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

RETIREMENT BENEFITS FOR CERTAIN CENTRAL INTELLIGENCE AGENCY EMPLOYEES SERVING IN UNHEALTHFUL AREAS

SEC. 602. Section 251 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "(a)" after "SEC. 251." and by adding at the end thereof the following new subsection:

"(b) The Director of Central Intelligence may from time to time establish, in consultation with the Secretary of State, a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of service of a participant under this Act for the purpose of retirement, fractional months being considered as full months in computing such service. No

extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 of title 5, United States Code, for such service.".

TITLE VII—ACCESS TO CRIMINAL HISTORY RECORDS FOR NATIONAL SECURITY PURPOSES

CONGRESSIONAL FINDINGS AND POLICIES

SEC. 701. The Congress finds—

(1) that under the Constitution, Congress has the responsibility and power to provide for the common defense and security of our Nation;

(2) that the interests of national security require that the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency conduct investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services;

(3) that the interests of national security require that the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency have access to criminal history record information when conducting investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services; and

(4) that the interests of national security have been adversely affected by the reluctance and refusal of some State and local criminal justice agencies to provide criminal history record information to the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency for use in investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services.

SEC. 702. Chapter 31 of title 10, United States Code, is amended by striking out section 520a and substituting the following:

"§ 520a. Criminal history record information for national security purposes

"(a) As used in this chapter:

"(1) The term 'criminal justice agency' includes Federal, State, and local agencies and means: (A) courts, or (B) Government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or Executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

"(2) The term 'criminal history record information' means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising therefrom, sentencing, correction supervision, and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system. The term does not include those records sealed pursuant to a lawful order of a court of law.

"(3) The term 'classified information' means information or material designated pursuant to the provisions of a statute or Executive order as requiring protection against unauthorized disclosure for reasons of national security.

"(4) The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of Pacific Islands, and any other territory or possession of the United States.

"(5) The term 'local' and 'locality' means any local government authority or agency or component thereof within a State having jurisdiction over matters at a county, municipal, or other local government level.

"(b)(1) Upon request by the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency, criminal justice agencies shall make available criminal history record information regarding individuals under investigation by the Department of Defense, the Office of Personnel Management or the Central Intelligence Agency for the purpose of determining eligibility for (A) access to classified information, (B) assignment to or retention in sensitive national security duties, or (C) acceptance or retention in the armed services. Fees charged for providing criminal history record information pursuant to this subsection shall not exceed those charged to other criminal justice agencies for such information.

"(2) This subsection shall apply notwithstanding any other provision of law or regulation of any State or of any locality within a State, or any other law of the United States.

"(c) The Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency shall not obtain criminal history record information pursuant to this section unless it has received written consent from the individual under investigation for the release of such information for one or more of the purposes set forth in subsection (b).

"(d) Criminal history record information received under this section shall not be disclosed except for the purposes set forth in subsection (b) or as provided by section 552a of title 5, United States Code.".

SEC. 703. The amendments made shall become effective with respect to any inquiry which begins after the date of enactment of this Act conducted by the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency, for any of the purposes specified in subsection (b) of section 520a of title 10, United States Code, as added by this Act.

SEC. 704. These amendments are made pursuant to the powers vested in Congress as found in section 8 of article I of the United States Constitution.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses on H.R. 2419 and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. DURENBERGER, Mr. COHEN, Mr. HATCH, Mr. MURKOWSKI, Mr. HECHT, Mr. MCCONNELL, Mr. LEAHY, Mr. BENTSEN, Mr. NUNN, Mr. BOREN, and Mr. BRADLEY conferees on the part of the Senate.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that S. 1271 be indefinitely postponed.

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

Mr. LEAHY. Mr. President, I compliment the distinguished chairman of the committee for his expeditious handling of this matter. It has been a pleasure to work with him in putting this bill together.

Also, we have an excellent and nonpartisan staff that has helped us.

In carrying out my duties, I especially want to thank Eric Newsom, Dan Finn, and George Tenet. In mentioning those three, I do not mean in any way to preclude others, because we have some of the finest men and women serving on the Intelligence Committee, working with Senators on both sides of the aisle, of any committee on which I have served.

Mr. DURENBERGER. Mr. President, I am grateful to my colleague from Vermont for his comments.

I am particularly grateful to the majority leader and the minority leader for the wisdom they have demonstrated in January in the appointment of nine new members to a committee which is incredibly important to this body.

I compliment in particular the nine of our colleagues who are new to the Intelligence Committee, for the effort they have put in during the last 8 months in mastering a difficult subject under somewhat difficult conditions.

In addition, the six of us who were holdovers had to adjust to some new realities, in which most of us did quite well. The new staff and the old staff have performed incredibly well under the direction of the new staff director, to whom I am most grateful, Mr. Bernie McMahon, who left the U.S. Navy for much more challenging responsibilities here.

All the members of the majority and minority staff are gifted and have made and will continue to make outstanding contributions to this effort. On my behalf and on behalf of my colleague from Vermont, I am grateful to them for the expeditious way in which this matter was handled, and to our colleagues who may have had some concerns about the content, for permitting us to go ahead with this bill this evening.

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

Mr. MELCHER. Mr. President, reserving the right to object, I wonder if the assistant majority leader can inform me whether I can call up the extension of the dairy program.

Mr. SIMPSON. Mr. President, we have——

The PRESIDING OFFICER. If the Chair may state, the pending business is the quorum call that has yet to be withdrawn.

Is there objection to withdrawal of the quorum?

Mr. MELCHER. I object.

The PRESIDING OFFICER. Objection is heard.

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. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following enrolled bill and joint resolution:

September 19, 1985:

S.J. Res. 31, Joint Resolution to designate the week of November 24 through November 30, 1985, and the week of November 23 through November 29, 1986, as "National Family Week."

September 25, 1985:

S. 444, An act to amend the Alaska Native Claims Settlement Act.

MESSAGES FROM THE HOUSE

At 3:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill and joint resolution, without amendment:

S. 1617. An Act to amend title 38, United States Code, to provide interim extensions of the authority of the Veterans' Administration to operate a regional office on 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; and

S.J. Res. 127. Joint resolution to grant the consent of Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

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

H.R. 1246. An act to establish a federally declared Floodway for the Colorado River below Davis Dam;

H.R. 2453. An act to amend the Older Americans Act of 1965 to increase the amounts authorized to be appropriated for fiscal years 1985, 1986, and 1987 for commodity distribution, and for other purposes; and

H.R. 3166. An act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 3:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 1689, An act to amend various provisions of the Public Health Service Act;

S.J. Res. 127. Joint resolution to grant the consent of Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois; and

H.J. Res. 388. Joint resolution making continuing appropriations for the fiscal year 1986, and for other purposes.

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

At 5:41 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3414. An act to provide that the authority to establish and administer flexible and compressed work schedules for Federal Government employees be extended through October 31, 1985.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1246. An act to establish a federally declared Floodway for the Colorado River below Davis Dam; to the Committee on Environment and Public Works.

H.R. 2453. An act to amend the Older Americans Act of 1965 to increase the amounts authorized to be appropriated for fiscal years 1985, 1986, and 1987 for commodity distribution, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 3166. An act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Relations.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The PRESIDENT pro tempore (Mr. THURMOND) announced that yesterday, September 25, 1985, he had signed the following enrolled bill and joint resolutions which had previously been signed by the Speaker of the House of Representatives:

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".

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, September 26, 1985, she had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 1514. An act to approve the Interstate Cost Estimate and Interstate Substitute Cost Estimate;

S. 1689. An act to amend various provisions of the Public Health Service Act;

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. 127. Joint resolution to grant the consent of Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois;

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".

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-438. A resolution adopted by the Senate of the State of Illinois; to the Committee on Appropriations.

"SENATE RESOLUTION No. 424

"Whereas, The KILnGAS Commercial Module in East Alton has been established

to develop a new, efficient and clean process to efficiently utilize high sulphur Illinois No. 6 coal by providing an alternative to conventional pulverized coal-fired power plants with fuel gas desulfphurization systems; and

"Whereas, KILnGAS demonstrated its ability to convert high sulphur Illinois coal into low BTU gas, which is a secure, economical fuel source for power generation, by processing more than 17,000 tons during demonstration runs in 1984; and

"Whereas, These tests showed that the KILnGAS process has the ability to reduce sulphur emissions by well over 90%, with very low particulate concentrations in the product gas; and

"Whereas, Because the gas contains a significant fraction of nitrogen, it burns at a temperature several hundred degrees lower than conventional fuels or other synthetic gases, resulting in substantially lower NO_x emission; and

"Whereas, The process is a cost-efficient and effective solution for utilizing Illinois coal for power generation while protecting air quality; and

"Whereas, The KILnGAS process has the potential to provide a secure, clear fuel source to the Nation's electric utilities; and

"Whereas, The KILnGAS process deliberately avoids the problems associated with oxygen-blown medium BTU gas production, which is more complicated, costly, and less flexible; and

"Whereas, Substantial non-Federal funds, in excess of $217 million, have supported the project throughout its five-year history and it's timely for the Federal government to provide some funding for the program now that near term commercial applications are appearing; and

"Whereas, The State of Illinois has invested $28 million in the KILnGAS demonstration to date, or about 12.9 percent of its total cost; and

"Whereas, A $15 million Federal appropriation for funding KILnGAS 1986 operations, when coupled with the $7.38 million provided for the 1985 program, will represent only 8.4 percent of the total project cost, which is a far smaller fraction of support than has been provided by the Federal government to any other coal gasification demonstration program; therefore, be it

"Resolved, by the Senate of the eighty-fourth general assembly of the State of Illinois, That we urge the Illinois Congressional Delegation to seek a $15,000,000 appropriation in support of the KILnGAS demonstration in the 1986 Federal budget; and be it further

"Resolved, That a suitable copy of this preamble and resolution be presented to the Speaker of the House of Representatives and the President of the Senate of the United States Congress, and to each member of the Illinois Congressional Delegation."

POM-439. A resolution adopted by the Council of the City of Steubenville, Ohio concerning the Fair Labor Standards Act and sovereign immunity for the City of Steubenville, Ohio; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 274. A bill to provide for the national security by allowing access to certain Federal criminal history records (Rept. No. 99-143).

By Mr. PACKWOOD, from the Committee on Finance, without amendments:

H.J. Res. 372. Joint resolution increasing the statutory limit on the public debt (with additional views) (Rept. No. 99-144).

By Mr. HATCH, from the Committee on Labor and Human Resources, without amendment and with a preamble:

S.J. Res. 97. Joint resolution designating the Study Center for Trauma and Emergency Medical Systems at the Maryland Institute for Emergency Medical Services Systems at the University of Maryland as the National Study Center for Trauma and Emergency Medical Systems.

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. 158. Joint resolution designating October 1985 as "National Community College Month."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 189. Joint resolution designating the week beginning January 12, 1986 as "National Fetal Alcohol Syndrome Awareness Week."

S.J. Res. 201. Joint resolution to designate the week beginning September 22, 1985, as "National Needlework Week."

S.J. Res. 206. Joint resolution to authorize and request the President to designate the month of December 1985, as "Made in America Month."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

David A. Nelson, of Ohio, to be United States Circuit Judge for the Sixth Circuit;

James L. Ryan, of Michigan, to be United States Circuit Judge for the Sixth Circuit;

Henry T. Wingate, of Mississippi, to be United States District Judge for the Southern District of Mississippi;

Brian P. Joffrion, of Louisiana, to be United States Marshal for the Western District of Louisiana for the term of four years;

Stephen M. McNamee, of Arizona, to be United States Attorney for the District of Arizona for the term of four years; and

Patrick M. McLaughlin, of Ohio, to be United States Attorney for the Northern District of Ohio for the term of four years.

Marshall Jordan Brefer, of the District of Columbia, to be Chairman of the Administrative Conference of the United States for the term of five years.

(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. ROTH, from the Committee on Governmental Afairs:

James C. Miller III, of the District of Columbia, to be Director of the Office of Management and Budget.

(The above nomination was reported from the Committee on Governmental Affairs 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.)

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. BURDICK:

S. 1705. A bill for the relief of Gregorio L. Sianghio, M.D.; to the Committee on the Judiciary.

By Mr. STAFFORD (for himself, Mr. BENTSEN, and Mr. MOYNIHAN):

S. 1706. A bill to authorize the Architect of the Capitol, in cooperation with the Union Station Redevelopment Corp., to design a building or buildings adjacent to Union Station in Washington, DC; to the Committee on Evironment and Public Works.

By Mr. SIMON:

S. 1707. A bill to authorize the President to present a gold medal to the parents of Father Jerzy Popieluszko; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MITCHELL:

S. 1708. A bill for the relief of Fernando Esquivel, Marcos Antonio Esquivel, and Nieves Julio Esquivel; to the Committee on the Judiciary.

By Mr. JOHNSTON:

S. 1709. A bill to return the ad valorem and specific duties on necktie imports to the levels in effect as of January 1, 1981, for a period of 5 years; to the Committee on Finance.

By Mr. HOLLINGS (for himself, Mr. TRIBLE, Mr. FORD, Mr. RIEGLE, Mr. EXON, Mr. GORE, and Mr. HEFLIN):

S. 1710. A bill to establish a motor carrier administration in the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DANFORTH (by request):

S. 1711. A bill to amend subtitle IV of title 49, United States Code, to reduce regulation of motor carriers of property, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE (for Mr. HELMS (for himself, Mr. FORD, and Mr. MITCHELL)):

S. 1712. A bill to provide an extension of certain excise-tax rates; considered and passed.

By Mr. COCHRAN (for himself, Mr. MITCHELL, Mr. HELMS, Mr. THURMOND, Mr. MATTINGLY, Mr. NUNN, and Mr. BURDICK):

S.J. Res. 208. Joint resolution to designate the week of October 27, 1985, through November 2, 1985, as "National Alopecia Areata Awareness Week"; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mrs. HAWKINS, Mr. DECONCINI, and Mr. MOYNIHAN):

S.J. Res. 209. Joint resolution to designate the period from October 28, 1985, through October 28, 1986, as the Centennial Year of Liberty in the United States; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD:

S. Res. 234. A resolution to authorize the printing of a report entitled, "The Superpowers at a Crossroads: Soviet-American Relations in the Autumn of 1985—Report by the Senate Delegation to Hungary and the Soviet Union Led by Senators Robert C. Byrd and Strom Thurmond August 27-September 6, 1985"; considered and agreed to.

By Mr. KENNEDY:

S. Con. Res. 73. A concurrent resolution expressing support of Congress for early and peaceful return of democratic rule in Chile; to the Committee on Foreign Relations.

By Mr. SIMON (for himself, Mr. HATFIELD, and Mr. GRASSLEY):

S. Con. Res. 74. A concurrent resolution expressing the support of the Congress for an initiative to involve the United States and the Soviet Union in a constructive dialog via television to further mutual understanding; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STAFFORD (for himself, Mr. BENTSEN, and Mr. MOYNIHAN):

S. 1706. A bill to authorize the Architect of the Capitol, in cooperation with the Union Station Redevelopment Corp., to design a building or buildings adjacent to Union Station in Washington, DC; to the Committee on Environment and Public Works.

UNION STATION AREA DEVELOPMENT

● Mr. STAFFORD. Mr. President, I am pleased today to introduce legislation to initiate a process that will lead to the appropriate development of a portion of the Capitol Grounds adjacent to Union Station in Washington, DC. At the same time, the bill should increase the efficiency of the administration of the Federal judicial system.

I am particularly pleased that this bill is cosponsored by the distinguished ranking member of the Committee on Environment and Public Works [Mr. BENTSEN], as well as the distinguished Senator from New York [Mr. MOYNIHAN]. Both have worked with me in recent months and years to resolve the longstanding problems over development at, and adjacent to, Union Station.

Before explaining the specifics contained in this bill, I would like to discuss briefly its background.

For quite some time, Congress has sought to redevelop Washington's Union Station. Initially, we made the mistake of seeking to convert it into a National Visitors Center. In 1981, we passed the Union Station Redevelopment Act as Public Law 97-125. The concept of that law was to revive Union Station as a station for Amtrak, while attracting commercial development into the building. Just today, work has begun to remove the asbestos that exists in certain areas of the station; some interior demolition work is to begin next month.

As a part of Public Law 97-125, Congress included a provision allowing the Department of Transportation, which is in charge of the revival of Union Station, to obtain from the Architect of the Capitol the use of two squares—721 and 772—on the north side of Massachusetts Avenue. For the past decade, these two squares have been used as open, ground-level parking for Senate staff.

In that 1981 law, Congress took the position, which remains valid today, that development on these squares must occur in a manner that complements the revival of Union Station.

But because the Department of Transportation has dragged its feet, and has not requested use of that land, control over those two squares remains somewhat uncertain. The land continues to be a part of the Capitol Grounds, yet is subject to an option that has not been exercised.

When it became clear that both the Union Station Act and the Master Plan for Capitol projected copnstruction of some sort of Federal building on squares 721 and 722, discussions began to focus on the opportunity to locate there the Administrative Office of the United States Courts and related judicial activities.

The Administrative Office currently faces a severe housing problem. In fiscal year 1986, its 635 employees, along with another 122 persons assigned to the Federal Judicial Center, will be scattered among eight buildings in Washington, many of them several miles from the Supreme Court, to which they are responsible ultimately.

On July 17 of this year, the Committee on Environment and Public Works conducted a hearing on the options for squares 721 and 722. It is important to note that each witness favored, to one degree or another, the use of the site for the Administrative Office. Three basic alternatives were presented:

The first grew out of H.R. 2416, a bill reported from the House Committee on Public Works and Transportation. That bill would authorize the Architect of the Capitol to spend $70.5 million in Federal money to build a project with 455,000 square feet—about half the size of the Hart Senate Office Building—plus underground parking.

Second, there was the option, which still exists in the law, allowing the Department of Transportation to exercise its rights to develop the site for the Administrative Office, in connection with Union Station.

Third, a private developer suggested a public-private partnership, permitting private interests to develop and lease the property to the Administrative Office. Private developers, who control the land immediately north of squares 721 and 722, suggested they could do a combined project more rapidly and less expensively than the Architect's plan, with the Federal Government retaining ownership of the land and controlling the building's design.

It seems to me that each of these approaches contains both opportunities and flaws. For example, I doubt that we can, or should, appropriate $70 million for another Federal building. I also doubt we should simply turn over the use of Capital Grounds to a private developer.

In an effort to resolve this question, my committee colleagues and I have worked up what we hope is a rational alternative, one that will move the project forward, while retaining the proper degree of public control.

This bill will not slow down development. Rather, it provides $2 million to the Architect of the Capitol, then directs that he, working with DOT's Union Station Redevelopment Corp., make an 11-month study to produce the following information for the Congress:

Plans for how much space should be built, both the space needed for the Administrative Office and related uses, as well as other potential uses. For example, the best proposal might be a building far larger than needed simply to accommodate the Administrative Office. Such a building could include restaurants, shops, and other offices.

Results of a national architectual competition on the building's design. Such a competition, as I see it, would involve selection of half a dozen or so leading architects, each of whom would be paid a sum, possibly $10,000 or $25,000, to develop a basic design. The building's ultimate design would be selected from these submissions, with work on the drawings to begin immediately, using much of the $2 million authorized in this bill. It is my expectation that such an open process will develop a building design of international significance. It is important that the design befits the magnificance of the setting next to Union Station. I will oppose, and urge the Senate to oppose, simply "another" Federal building.

Finally, several options for financing the building or buildings. We should expect to receive plans for alternative financing that would lessen or eliminate any need for a direct Federal capital investment. While the study is undertaken by the Architect, in cooperation with DOT's Union Station agency, it is intended to be sufficiently flexible so that developers can bid at a later date to participate in the financing and construction.

I believe this is a sound approach. But I would stress a few points: This is a cooperative venture, between the Architect and the DOT's Union Station Redevelopment Corp. I shall be very disappointed if the conclusion of this study is yet another proposal for total Federal financing. I shall be extremely disappointed if the design fails to be innovative and worthy of international attention. I shall be most disappointed if the design simply allows for space for the Administrative Office, and fails to meet the spirit of the Public Building Cooperative Use Act. And I shall be particularly disappointed if the plan fails to enhance Union Station visually and economically.

Due to time constraints, it is our intent to ask that the Committee on Appropriations include, subject to authorization, an appropriation of $2 million in H.R. 2965, the fiscal year 1986 bill for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies. We recognize that this is an unusual procedure, one to which I normally would object. But I am convinced that, in this unusual case, such an approach is appropriate.

Mr. President, I urge that my colleagues give their attention to this bill and I ask unanimous consent that a copy 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. 1706

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of Section 116, Subtitle B, of the National Visitors Center Facilities Act of 1968, as amended by Public Law 97-125, the Architect of the Capitol shall, by August 15, 1986, file a report, with recommendations, to the Committees on Appropriation and Environment and Public Works of the Senate and the Committees on Appropriations and Public Works and Transportation of the House of Representatives for the construction on Squares 721 and 722 in the District of Columbia of a building or buildings for the use of the Administrative Office of the United States Courts, the Federal Judicial Center, and other judicial functions (hereinafter referred to as the "administrative agencies of the Federal judiciary").

(b) In the report authorized by this section, the Architect of the Capitol, in cooperation with the Union Station Redevelopment Corp. (hereinafter referred to as the "Corporation"), shall:

(1) study alternatives for the size, design, and estimated costs of constructing a building or buildings on Squares 721 and 722 to meet the current and future needs of the administrative agencies of the Federal judiciary, together with such other commercial, governmental, cultural, educational, and recreational activities as may appropriately occupy such building or buildings in a manner that benefits the United States;

(2) seek to utilize Squares 721 and 722 in a manner that complements the surrounding area, fulfills the goals of mixed use contained in the Public Building Cooperative Use Act (Public Law 94-541), and is not inconsistent with either the Master Plan for the United States Capitol or the intent of Section 116 of Public Law 97-125; and

(3) make specific recommendations on the most feasible and most economical method for financing and constructing such building or buildings in the shortest possible time.

(c) As studies warrant, the Architect of the Capitol shall file interim reports under this Act with the committees of the Congress specified in subsection (a) of this section.

SEC. 2. (a) In preparing the report required by Section 1 of this Act, the Architect of the Capitol, as soon as possible, contract with the Corporation to:

(1) develop a program of space utilization that will accommodate the current and future needs of the administrative agencies of the Federal judiciary and provide for the renting, leasing, or use of any space not needed immediately by the administrative agencies of the Federal judiciary; Provided, that no space in the building or buildings shall be rented or leased to anyone having business before, or whose business would be incompatible with the mission of, the administrative agencies of the Federal judiciary;

(2) develop a plan that will compatible with the authorized redevelopment of Union Station and with other developments in the vicinity, including residential neighborhoods; and

(3) recommend ways that will minimize or eliminate the initial capital investment in such project by the United States through the use, when appropriate, of a public-private partnership to finance and construct such project: Provided, however, that such property remains in the ownership of the United States.

(b) In cooperation with the Corporation, the Architect of the Capitol shall devise and undertake a limited and selected competition to choose an architect for such building or buildings, based on the excellence of design.

SEC. 3. For the purposes of this Act, the sum of $2,000,000 is authorized to be appropriated to the Architect of the Capitol in the fiscal year ending September 30, 1986, such sum to remain available until expended.●

By Mr. SIMON:

S. 1707. A bill to authorize the President to present a gold medal to the parents of Father Jerzy Popieluszko; to the Committee on Banking, Housing, and Urban Affairs.

PRESENTATION OF A GOLD MEDAL TO THE PARENTS OF FATHER JERZY POPIELUSZKO

● Mr. SIMON. Mr. President, human rights in Poland suffered a severe blow when Father Jerzy Popieluszko was murdered last year. The authorities have all but admitted that their security men carried out this heinous act because of Father Popieluszko's involvement with and support for solidarity. Rather than weakening opposition to the regime, the Polish Government instead martyred Father Popieluszko.

There is not much we in Congress can do to persuade the Jaruzelski Politburo to resume church-state-union negotiations, or to stop its persecution of human rights activists. We can, however, express our profound dissatisfaction with the regime's lack of respect for basic rights, and for its tragic role in murdering an innocent priest.

I am pleased to introduce this bill authorizing the President to bestow on Father Popieluszko's parents a U.S. gold medal. This resolution has already been introduced as H.R. 2263 in the House of Representatives. By presenting a posthumous gold medal to the parents of Father Popieluszko, we in Congress send a very strong message to the Polish government: that we are proud of the work done by Father Popieluszko on behalf of the poor and the oppressed, and that the flame ignited by Solidarity will never be forgotten or ignored in the United States.

Mr. President, Dr. Paul S. Anderson—the "S" stands for Simon, I'm pleased to say, though to my knowledge we are not related—wrote an article for the Christian Science Monitor about the conversion of the defense force to some more constructive avenues that lead to peace.

Obviously, we have to maintain an adequate defense, and you could not use too high a percentage of the Armed Forces in the direction he suggests now. But it could be done gradually.

I don't think the numbers could be as massive as suggested in his article, and I do not agree completely with his characterization of Colombia, but the idea of a gradual conversion and constructive cooperation with other countries is an idea that makes sense.

I ask unanimous consent that Dr. Anderson's article be inserted in the RECORD at this point, and I urge my colleagues to read it.

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

RIP VAN WINKLER: 2010

(By Paul S. Anderson)

On a pleasant Saturday afternoon in 1985, Mr. Vance Winkler prepared to wash his car. He was a typical middle-aged American in his thoughts on baseball, prosperity, welfare, patriotism, justice, politics and war (which are listed in their order of importance and understanding to him). On this particular day he would have been happier discussing any of those topics, but his wife had nagged him all morning: "Van, get the car washed, and have Junior help you." Finding the hose all in snarls, he gave it a mighty pull. The hose turned into a rubber whip with a steel tip that hit him on the second vertebra in the back of his neck. Everything went black even before he hit the pavement.

Four men were clustered around him when his eyes opened. One said: "Hello? Mr. Winkler, can you hear me?"

Van nodded slightly.

"The operation was successful."

Another man moved in closer. He looked so much like Vance Winkler that Van's eyes widened and a short 'Ah" came from his mouth.

"Dad, it's me, Junior. I've grown up. You've been in a coma for twenty-five years. Welcome to the year 2010."

The rehabilitation period was an ordeal, but not because of the physical therapy or adjustments to technological changes. He even adapted quickly to his son's family, his own wife having passed away several years earlier. His ordeal was to comprehend the political and socio-economic conditions of the world in 2010 without knowing the past twenty-five years of history.

"You see, Dad, the world is at peace. No World War III. Not even any small wars lately."

"What happened? I missed the whole thing! Did the Communists give up? Are we still on top?"

"There was a war, but not what you'd expect. Let me start from the beginning," said the younger Winkler. "In the mid-1980's a simple but radical idea was proposed. It called for helping the opposition. The industrialized nations were asked to give massive development aid to semi-socialist Third World countries. Do you remember Angola, Mozambique, Nicaragua,—"

"Like it was yesterday."

"And Comlashi, Jenu and Pilcobeni."

"What?"

"I guess those countries changed their names while you were in the coma. With over a hundred developing countries it's hard to keep track of them.

As Junior described the plan for the western capitalist nations to support countries adopting leftist policies, Van remembered that the USA had done exactly the opposite to Allende's Chile, post-Somoza Nicaragua and even post-colonial Vietnam and Angola. "After all, Dad, semi-socialist programs have long been part of American society in Social Security, unemployment benefits, Medicare and other welfare efforts. Also, democratic socialism was very popular in Western Europe. Land reform was advocated by the USA for El Salvador, so why didn't we actively support it in Nicaragua? We were just driving them into the hands of the Soviets and Cubans. Many countries considered us the bad guys. We supported some repressive, elitist governments, and when they were overthrown we didn't have the courage to support real change that was directed toward the impoverished masses. We refused to face the fact that in poor nations the people might actually desire some welfare/socialist conditions instead of a capitalist system in which a new elite class could easily gain power."

"But why not put aid into a country like Colombia?"

"You mean where the people in control were the elite who were unwilling to make major, fundamental changes what would benefit the populace and reduce the power of the elite? The friendly governments in such countries were really a minority of people who maintained control, partly with our assistance. We had no allegiance from the common people because we offered nothing to them. Even in the 1960s John F. Kennedy said: 'If the only alternatives for the people of Latin America are the status quo and Communism, then they will inevitably choose Communism.' Little progress toward peace was made by orthodox methods between 1960 and 1985. You saw that period. Well, that was the same number of years as from 1985 to 2010. Something unorthodox was needed."

"But I can't believe the USA changed, not with Reagan in the White House."

"It didn't, Dad," he said slowly. "It didn't. The plan was taken up by other countries, mainly in Europe. I think Sweden was one of the first, and maybe West Germany and Australia; I don't really remember. It was called the Plowshare Plan because the massive aid was primarily in the form of unarmed military troops to develop education, agriculture and industry. The name came from the Biblical verse 'Let us beat our swords into plowshares.' The project was financed from military budgets."

Junior explained that only three conditions were required of the receiving countries. One was to permit and cooperate with a prearranged develoment plan, including open access to voluntary birth control information after death rates dropped. Another was that the receiving country had to implement a parliamentary form of government in which a multi-member executive council was elected from within the parliament. That way the elections were held more frequently and fought separately in each province where they could be carefully watched by the international plowshare workers. The final condition was that the individuals and the countries that benefited must participate almost immediately in helping others less fortunate.

Two countries agreed to those conditions and within six months the Plowshare nations had almost twenty thousand unarmed soldiers improving the drinking water, health care, schools, factories, tourism, and everything else. It was treated as a military operation where practical training, distance education and cooperative experience were given top priority. There were also student exchanges and high level political and economic study groups, but the focus was on grass roots development. Within a year dramatic changes started to appear in the statistics on infant mortality, school enrollments, and some export sectors. Other benefits became visible later. Politically, the people became experienced in voting by having more frequent and closely supervised elections.

Junior recounted how the Plowshare countries agreed to increase their aid in the second year to over fifty thousand troops plus operational supplies. As expected, they had some benefits in return, like increased foreign trade and tremendous goodwill. Other donor nations were attracted to the program. A couple of Eastern European countries joined, partly to keep an eye on the initial Plowshare soldiers and partly to show that the Communists could help too. They made very significant contributions, and the constructive competition was seen as a plus by both sides. Counting the work of the recipient people, there was a massive surge of progress, all paid for out of the military budgets of those countries. The progress wasn't as fast as hoped for, but some five and ten year assistance agreements were signed and those nations eventually became models for others. Most of Europe, both communist and capitalist, made contributions to the project, often in their reform-oriented former colonies, like Tanzania. In the third year of operation the Plowshare Plan was a clear success with a waiting list of recipient nations. Candidate countries were reviewed on the basis of potential for gain to the common people. Meanwhile, the balance between the Superpowers was not affected.

"And that is when Uncle Sam joined in and showed up the Ruskies, right?" said Van with a grin.

"Not quite. You see America wasn't ready for the Plowshare challenge. Public opinion wasn't strong enough to shift the Reagan attitude toward places like Angola and Nicaragua. Dad, I hate to tell you this, but the Soviets made a commitment to the Plowshare Plan before we did. A five percent pledge. They caught us by surprise, and our leaders claimed that it was not a real disarmament effort. We responded with a token commitment. Dumb! Real Dumb! We could have led, but instead we dragged behind. The Plowshare Plan became a major political issue in the Congressional elections of 1990 when the pro-Plowshare candidates won enough seats to get some action started. They held their own for two years, and then a pro-Plowshare presidential candidate won in '92. That was when the big war began."

Vance was confused. "But you said there was no big war."

"Not a fighting war; a development war. The USA put ten percent of its military budget into the Plowshare project. The traditionalist, right leaning countries with elite populations in control were quick to propose superficial reforms so that they would get the American aid. But fortunately by then the reviewing system for candidate countries was well established and only places with true reforms were acceptable recipients. So we put eighty thousand troops to work in two reform-minded countries. The Soviets counter-attacked by raising their support to twelve percent and we quickly went to sixteen, which they matched two months later. It was a wartime scene. Food shipments to Comlashi and elsewhere boosted our farmers. Our industry boomed for anything that was of use in Third World countries."

"And so we finally did it!"

"No, Dad. Look at reality. We just got on the bandwagon. We had big muscle, but we weren't driving. Some of the original Plowshare countries had over half of their defense budgets in the projects. And in 1994 they challenged us and the Soviets to go to twenty-five percent. Considering that most of our military budget is in personnel, that means sending one out of every four soldiers, and a quarter of the civil service in the Defense Department, to work in foreign development, plus the equipment so they could work effectively. In 1985 money, that represented about eighty billion dollars."

"Go on," said Van.

"I'm sure there was some haggling, until finally it was announced that the two Superpowers would mutually withdraw some troops from Europe and elsewhere and deploy them in the Plowshare Plan. They weren't the same troops, of course. We discharged the fighters and trained the enlistees in rural development, health, small business management, construction, and many other appropriate skills. That's when I joined, and the three years overseas really opened my eyes. One of the best parts was the slum improvement campaign I worked on with a fine Russian fellow named Boris." Junior proudly told Van about his enlistment and how Boris became a life-long friend.

"I'm glad you went, son. The experience seems to have made a lasting impression on you."

"When I got back to the USA in 1997, forty percent of the defense budget from both Superpowers was for Plowshare, enough even to tackle a couple big countries. That doesn't mean we were defenseless. The overkill firepower still remained. Then the call came for an even higher percentage, plus increased inputs from the other federal departments. It was starting

to look like a real war. Full employment, but some commodities were in short supply. The budget deficit was unreal! Taxes were up and some people began to grumble. However, in the developing nations real progress was made in food production, literacy, health—you name it. Most of them stayed strongly socialist, although not hard-line communist. Unfortunately, the Plowshare project was seen by some as a Marxist trick. The result was a strong backlash in the 1998 elections. The President held on course, but the conservatives won the presidency in 2000 and drastically cut the Plowshare portion of the defense budget. The United Kingdom and a few other western countries did too. Trade became less linked with aid, and we bought big quantities of lower cost items from previously 'undesirable' regimes like those in Chile, the Philippines and South Africa. Prices of imports fell and things looked good for the American pocketbook for awhile. Those countries became staunch allies and we provided the weapons to stabilize their regions of the world. It was back to business as usual for the military-industrial complex that Eisenhower had warned us against. He said: 'In the councils of government, we must guard against the acquistion of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist.' "

"But the developing countries," Junior continued, "didn't want to return to the old ways. They put up a weak boycott of American goods. The participating Plowshare nations rebuked us. Of course they had no power over us and our allies. It looked like the end of the Plowshare era as soon as the Soviets would cut their commitment. The arms race was ready to start anew."

"Ah ha! See, Reagan was right."

"Maybe, but the Communists had new, younger leaders and they launched a surprise attack. Without firing a shot they almost buried us. Instead of increasing their weapons, they increased their input for Plowshare! Most of the world cheered. We called it a trick, but it was monitored by the other nations. Within twelve months the United Kindgom went back to its Plowshare commitment, further isolating the USA."

Van was dismayed. "You make us sound like the villain. We're the good guys, remember. We're the ones who want to allow any individual to rise to the top. We stand for free elections and justice."

"I know, Dad. We all thought that way in the 1980s. But you see, we wanted it on our terms because we were the biggest kid on the block. We wanted developing countries to have free enterprise to utilize their cheap labor to make products to trade with us. We let their elite do the dirty work of exploitation. Free enterprise without social-minded balances does not work well in poor countries because there isn't any large middle class to act as a balance mechanism." Junior pointed out how in 200 years America had developed numerous measures against abuses by the wealthy and powerful. Safeguards included antitrust laws, income and estate taxes, fair trade practices, and legalization of labor unions. "Power corrupts, so we controlled it in our country. But we traditionally supported the powerful elites who ruled their countries along our guidelines. That is why the initial Plowshare challenge was to support what we had not supported in the past. Even Richard Nixon wrote that if Americans exported their revolution, the Communists would have nothing to offer the developing world. But it had to be a revolution of true justice, not some warped parody that gives opportunities to a few and exploitation to everyone else."

"That sounds mighty 'pinko' to me, Junior. If you follow that line, then Americans would have to make some big sacrifices in their standard of living."

"For a guy twenty-five years out of date, you catch on fast. Fear of a reduction of living standards scared many Americans into defending the obsolete idea that people who are born with advantages have a right to ignore the needs of others. During the initial years of the Twenty-first Century, when we were leading the anti-Plowshare nations, much of the world called us 'greedy fat-cat warmongers' and 'hypocrites who only wanted equality among the rich'. We were increasingly isolated because of selfishness even though we had more than anyone else on Earth. Our only saving grace was that many Americans really did want to be among the good guys, even if it meant reducing our conspicuous consumption. They organized politically and the Plowshare Coalition won the presidential elections in 2004 and 2008. They called for constructive war overseas and sacrifices at home. Billions of dollars and millions of lives, but not deaths, went into the project. Some did it to beat the Soviets, but we found that everyone was a winner. Americans and Europeans still live well; education, health care, employment and security are abundant. But the truly frivolous things are much less common. Some people grumble about the sacrifices of peace, but they are far more tolerable than the sacrifices of war."

Van was very interested in the changes in other countries. Junior told him how the oppressive regimes died as the tide of world sentiment plus uncontrollable internal pressures literally demanded change. Even the Communist countries couldn't prevent change within themselves. After several million Soviets and Eastern Europeans spent a year or more in international service, some of their old ideas broke down. They became more democratic and incentive oriented at the same time the capitalists were adopting some socialist ways.

Concerning the military and the national defense systems, Junior explained how the Department of Defense was given responsibility for the mobilization of the Plowshare resources. The military actually grew by playing a leading role in massive international development in which every American male and female now serves at least one tour of duty. The capacity for limited conventional warfare has been maintained by almost every country, but the economies are so interwoven that the world acting together could blockade and isolate any belligerent nation. Likewise, the nuclear arms were decreased to the 'doomsday reserve' spread around the globe in carefully monitored situations. "Too much of the world is now developed for a few nations to start and win a nuclear war. It is like a hundred people in a big circle, each with a gun and only five bullets. Nobody can win by fighting, so everyone spends their time in the Plowshare project."

"Fantastic", said Van. "Who would have thought it would end up with cooperation."

"But there was no other way. The planet is now too small for extremes of rich/poor, capitalist/communist, black/white, North/South and East/West. There couldn't have just been disarmament. Disarmament without solving the world's problems would have been suicide. It was cooperate or fight eventually. And the price of the Plowshare Plan is far less than the price of war and possible annihilation.

"You had better rest now, Dad."

"Yes. My head is hurting a little. Come back tomorrow and tell me about specific places like the Middle East."

Junior kissed him on the check as Van slipped into a deep sleep with dreams of peace at last.

The next thing Van knew, he was stretched out on hard concrete. As his eyes opened he saw his young boy's face.

"He's awake!" shouted the boy. "Golly, Dad, you scared us. You've been out cold for almost half an hour."

Van seemed fully recovered in a couple days, but the neighbors thought he was permanently touched in the head. He soon became known as "Rip" Van Winkle as he told the same story over and over. Eventually it was printed in a leading newspaper. Everybody knew that the future wouldn't exactly follow his story, but the concepts attracted the attention of courageous people everywhere. Will you support the Plowshare Plan for peace on Earth?●

By Mr. MITCHELL:

S. 1708. A bill for the relief of Fernando Esquivel, Marcos Antonio Esquivel, and Nieves Julio Esquivel; to the Committee on the Judiciary.

RELIEF OF ESQUIVEL FAMILY

● Mr. MITCHELL. Mr. President, today I am introducing a bill for the relief of Fernando Esquivel, Marcos Antonio Esquivel, and Nieves Julio Esquivel, three children under the legal guardianship of Mrs. Emma Batchelder of Leeds, ME.

Mrs. Emma Batchelder, my constituent, is a naturalized U.S. citizen of Mexican birth, married to a U.S. citizen. She has been caring for the four children of her brother since June 1979, a responsibility she assumed at his direct request. They have lived with her and her family in Maine since that time.

Mrs. Batchelder's brother is a Mexican national who illegally entered the United States with his wife—also a Mexican national—and three minor children in February 1973, in the border area of Tijuana, Mexico and San Diego, CA. At that time, the children—Fernando, Marcos, and Nieves—were 6, 5, and 3, respectively. As minors, they neither understood the illegality of the action of their parents, nor did they play any constructive role in the illegal action.

The family settled in the San Diego area, although their exact addresses are not known, and in 1975, another son, Jose, was born to them. He is, by virtue of his U.S. birth, a U.S. citizen.

Mrs. Batchelder's brother and his wife divorced in 1979, and the four children were given into Mrs. Batchelder's care in June of that year. Subsequently, their mother and father both discontinued contact with Mrs. Batchelder and have, effectively, vanished.

Since June of 1979, Mrs. Batchelder has been unable to locate either natural parent in this country or Mexico. The boys have no close relative—other than Mrs. Batchelder—to whose care they can be consigned. Their closest living relative outside the United States is an elderly and infirm grandmother living in Mexico.

With the help of my Lewiston office, Mrs. Batchelder became their legal guardian on February 26, 1980. However, she cannot petition for naturalization for the three eldest children because she is not their natural or adoptive parent.

Repeated and extensive inquiry of officials at the Department of Justice in Washington, and the Immigration and Naturalization Service in Boston, MA and Portland, ME has found no administrative remedy for this case. Their history and ages make it obvious that they cannot qualify for legal residence under any political or humanitarian asylum provisions of the law.

Since 1979 when they moved to Leeds and became part of the Batchelder household, the boys have been actively involved in the Leeds Community Church and have progressed through the Leeds community public school system. The boys are now 18, 17, and 16. Like other teenagers throughout America, they are entering the part of their lives where they would like to get a job, a driver's license, and save for college. The oldest boy, Fernando, would like to join the Army.

I believe the unique circumstances of the case warrant private legislation to aid the boys in becoming legal U.S. residents. I therefore hope my colleagues will act favorably and promptly on this legislation so that Fernando, Marcos, and Nieves can continue to follow their goals.●

By Mr. JOHNSTON:

S. 1709. A bill to return the ad valorem and specific duties on necktie imports to the levels in effect as of January 1, 1981, for a period of 5 years; to the Committee on Finance.

DUTIES ON IMPORTS OF NECKTIES

● Mr. JOHNSTON. Mr. President, today I am pleased to introduce legislation to return the ad valorem and specific duties on necktie imports to the levels in effect as of January 1, 1981, for a period of 5 years.

Unfortunately, imports of men's and boys' neckties have accelerated sharply in the last 4 years. Since 1980, imports have grown from insignificant levels to 20 percent of the U.S. market. In 1984 alone, neckwear imports increased by a whopping 64 percent, double the very high growth in overall textile and apparel imports over the same period.

The problem with silk necktie imports is particularly grave. In the first half of 1985, imports of silk neckties rose by 34 percent over the same period in 1984. Silk is the largest category of imports, and accounted for 52 percent of total U.S. imports of neckties in the January to June 1985 period.

The situation with silk necktie imports is exacerbated by the fact that silk and products of silk are not covered by the multifiber arrangement and, thus, the industry is unable to seek relief under this mechanism, which purpose is to control international trade in textiles and apparel. Moreover, while S. 680, the textile quota bill, does include silk and silk products as textile products for purposes of quota, the bill excludes Italy from quota coverage. And Italy is the source for most U.S. imports of silk neckties—some 87 percent in the first half of 1985. This is precisely why the necktie industry needs the legislative relief called for by my bill.

Necktie imports are growing by record numbers at a time when duties on these imports are being phased down as a result of the Tokyo Round tariff cuts. These cuts range from 20 percent in some categories to over half the former duty rate in others. While the average tariff rate last year on clothing imports was in excess of 21 percent, the average duty on necktie imports was 12 percent. Virtually no category of neckties has escaped the pressures of increased imports. And the industry sees the situation worsening as the multilateral trade negotiation [MTN] phased duty rate reductions continue to be implemented through 1987.

If necktie imports continue to accelerate at the current rate—stimulated by declining duty rates—this industry's continued viability will be very much in question as will be the jobs of its workers.

This is an industry composed of many small establishments, generally employing fewer than 20 workers. The work is highly labor intensive and skill levels are not transferable to jobs outside of the cut-and-sew industries where unemployment is already staggering. This industry has provided a source of employment for many minorities; it has provided entry level employment when no other employment was to be found.

Because the import situation in this industry is so grave, and conditions have worsened so rapidly, legislation for a temporary adjustment to the ad valorem and specific duties on necktie imports is needed. A temporary adjustment is well warranted. Without it, the consequences for the industry and its workers will be severe. It is now time for the Congress to act on this matter. Consequently, I urge my colleagues to expeditiously approve this legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 6 of schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(a) by striking out—

	"Men's and boys' neckties of textile materials:	
373.05	Ornamented	16.9% ad val.
	Not ornamented:	
373.10	Of vegetable fibers (359)	10.8% ad val.
373.15	Of wool (459)	12¢ per lb. +8.8% ad val.
	Of silk:	
373.20	Knit	8.7% ad val.
373.22	Not knit	10.7% ad val.
	Of man-made fibers:	
	Knit (659)	4¢ per lb. +10.7% ad val.
373.27	Not knit (659)	12¢ per lb +13.5% ad val.
373.30	Other	8.7% ad val.".

and inserting in lieu thereof

	"Men's and boys' neckties of textile materials:	
373.05	Ornamented	21% ad val.
	Not ornamented:	
373.10	Of vegetable fibers (359)	16.5% ad val.
373.15	Of wool (459)	37.5¢ per lb. +10.5% ad val.
	Of silk:	
373.20	Knit	10% ad val.
373.22	Not knit	16% ad val.
	Of man-made fibers:	
373.25	Knit (659)	12¢ per lb. +16% ad val.
373.27	Not knit (659)	12¢ per lb. +13.5% ad val.
373.30	Other	10% ad val. ".

(b) The rates of duty in column numbered 1 for items 373.05, 373.10, 373.15, 373.20, 373.22, 373.25, and 373.30 of the Tariff Schedules of the United States (19 U.S.C. 1202), as amended by subsection (a), shall be exempt from any staged rate reductions which have been proclaimed by the President before the date of enactment of this Act.

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after fifteen days following the date of the enactment of this Act.●

By Mr. HOLLINGS (for himself, Mr. TRIBLE, Mr. FORD, Mr. RIEGLE, Mr. EXON, Mr. GORE, and Mr. HEFLIN):

S. 1710. A bill to establish a motor carrier administration in the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MOTOR CARRIER ADMINISTRATION ACT

Mr. HOLLINGS. Mr. President, I rise today to introduce legislation to establish within the Department of Transportation [DOT] a Motor Carrier Administration. This bill, which I introduce with my colleague from Virginia, Senator PAUL TRIBLE, is designed

to increase governmental efficiency and enhance the development of a coordinated national transportation system. I am also pleased to have as cosponsors to this bill Senators FORD, RIEGLE, EXON, GORE, and HEFLIN.

As most of us well know, the trucking industry is the largest and most pervasive of all modes of transportation in this country. It carries the most freight, travels the greatest number of miles, employs the most people, and offers the greatest variety of transportation services.

Unlike other methods of transporting goods—rail, air, and water—trucking is not limited to a few terminals and byways. Its operations are conducted on the streets, roads, and highways of the Nation—in every county, town, and city. It has a daily impact on the traveling public, and on people in residences, businesses, farms, and factories along those routes. In addition, trucking very significantly effects the governments responsible for maintaining and operating those roads.

Since Congress created it in 1966, the Department of Transportation has been home to a number of administrative agencies which represent specific modes of transportation. The Federal Aviation Administration, the Urban Mass Transportation Administration and the Federal Railroad Administration, among others, are examples of how the consolidation of functions has improved Government's role in enhancing transportation safety, efficiency, and productivity.

Yet, curiously, there is no single organizational entity in the Federal Government which can represent the motor carrier industry and serve as the principal outlet for information to the public. Questions on motor carrier safety are diverted to the Federal Highway Administration and the National Highway Traffic Safety Administration, while decisions on regulatory and taxation matters seem to bubble up out of nowhere.

The bill we are introducing today would address this obvious deficiency. It represents a very simple legislative step—the creation within DOT of a modal administration that would consolidate all bus and trucking functions now spread throughout the Department. This would be known as the Motor Carrier Administration. The bill would also require the Secretary of Transportation and the Chairman of the Interstate Commerce Commission [ICC] to report to Congress within 6 months of enactment, outlining which ICC functions should be transferred to the new agency.

The Motor Carrier Administration would serve several important functions. First, it would facilitate truck and bus operations to benefit the public interest now and in years to come. Second, it would fulfill the purposes of the Department of Transportation Act relative to transportation policy, technological development, transportation safety, protecting the environment, improving transportation systems, and protecting consumer interests. Finally, the Motor Carrier Administration would provide comprehensive research, planning, and programming that will enable Congress and the Federal Government to make well founded and properly directed legislative and regulatory decisions.

By consolidating activities which are now needlessly duplicated among Federal agencies, I fully expect the new Motor Carrier Administration to increase efficiency and possibly achieve cost savings. At the very worst, the complete consolidation of motor carrier functions would be cost neutral. And it will further the public interest by establishing a single organization that will improve the Federal Government's ability to serve and respond to carriers, shippers, and the traveling public.

This bill has strong support within the trucking and bus industries. Other groups also realize the potential benefits and have endorsed its passage. Supporters of a Motor Carrier Administration include:

American Retreaders Association.
American Trucking Associations.
Food Marketing Institute.
International Brotherhood of Teamsters.
Motor Vehicle Manufacturers Association.
National American Wholesale Grocers Association.
National Association of Truck Stop Operators.
National Automobile Dealers Association.
National Farmers Union.
The National Grange.
National Safety Council.
Truck Body and Equipment Association, Inc.
Trucking Industry Alliance.
Truck Trailer Manufacturers Association.
United Bus Owners of America.
United Fresh Fruit and Vegetable Association.

Mr. President, the creation of a Motor Carrier Administration will increase governmental efficiency. It can be established at a cost savings resulting from elimination of activities which are now duplicated among Federal agencies. Such an Administration would be relatively small in size, but would benefit virtually all Americans by providing better access, ensuring improved coordination, and resulting in an improved national transportation system.

I urge my colleagues to support the passage of our bill, which would accomplish these objectives.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1710

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

(1) within the Federal Government there is, for each mode of transportation (other than motor carrier), one organizational entity responsible for coordinating activities to ensure the safe and efficient operation of transportation by such mode;

(2) such coordination for motor carrier transportation has been lacking with regard to advising Congress, conducting research, planning and programming, and developing and integrating policies and programs within our total national transportation network;

(3) the establishment of a Motor Carrier Administration within the Department of Transportation will increase productivity and efficiency, and will provide cost savings resulting from the elimination of duplicative activities within the Federal Government; and

(4) the Motor Carrier Administration will facilitate improved access and interaction among the Federal, State and local governmental agencies, motor carriers, shippers, and the traveling public, thereby furthering the public interest.

SEC. 2. (a) Section 104 of title 49, United States Code, is amended—

(1) in subsection (c), by (A) inserting "and" immediately after the semicolon at the end of paragraph (1), (B) striking paragraph (2), and (C) redesignating paragraph (3) as paragraph (2); and

(2) by striking subsection (d).

(b)(1) Chapter 1 of subtitle I of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 111. Motor Carrier Administration

"(a) The Motor Carrier Administration is an administration in the Department of Transportation.

"(b)(1) The head of the Administration is an Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary of Transportation.

"(2) The Administration has a Deputy Administrator who is appointed by the Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

"(c) The Administrator shall carry out—

"(1) duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 31 of this title; and

"(2) other functions, powers, and duties of the Secretary relating to motor carriers prescribed by the Secretary.

"(d) A duty or power specified in subsection (c)(1) of this section may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers and involving notice and hearing required by law is administratively final.".

(2) The analysis for chapter 1 of subtitle I of title 49, United States Code, is amended by adding at the end thereof the following:

"111. Motor Carrier Administration.".

(c)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"Administrator, Motor Carrier Administration, Department of Transportation.".

(2) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Deputy Administrator, Motor Carrier Administration, Department of Transportation.".

(d) Section 104 of title 49, United States Code, is amended—

(1) by inserting "and" at the end of paragraph (1);

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

SEC. 3. Within six months after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Chairman of the Interstate Commerce Commission, shall—

(1) review all activities of the Interstate Commerce Commission which affect transportation by motor carriers, to determine which activities could be more efficiently performed by the Motor Carrier Administration; and

(2) transmit to the Congress the results of the review conducted under paragraph (1) of this section, together with such recommendations for legislation or other action necessary to achieve such efficiencies.

Mr. TRIBLE. Mr. President, I am pleased to join with Senator HOLLINGS in introducing legislation to create a Motor Carrier Administration within the Department of Transportation. This Administration would be responsible for the wide range of issues dealing with the truck and bus industries which are now handled by numerous offices throughout the Department. The new organizational structure we propose will streamline the existing programs and increase managerial efficiency, thus saving taxpayers' dollars.

Numerous issues arise from trucking and bus industry operations and must be dealt with by the Federal Government and the Congress. Such issues include safety, hazardous materials transportation, sizes and weights of vehicles, environmental pollution, productivity, and taxation policy. There must be a coordinated and cohesive program at DOT to deal with these issues and to seek out potential problems and prospective solutions. Despite the importance of these industries and the substantial Federal interest in a wide range of trucking and bus industry issues, there is no modal administration for either industry within DOT. The other major modes of transportation—air, rail, and ships and barges—are represented within the Department by the Federal Aviation Administration, the Federal Railroad Administration, and the Maritime Administration respectively. This structure undoubtedly increases administrative efficiency, saving taxpayers' money, and improves communication between the Federal Government and the industries involved, thereby ensuring that the public interest is advanced.

Issues involving trucks and buses are dealt with on a reactive basis by any one of several units within DOT, none of which has responsibility or expertise relating to all aspects of truck and bus operations. These units are the Office of the Secretary, the Federal Highway Administration, the National Highway Traffic Safety Administration, the National Highway Traffic Safety Administration, and the Research and Special Programs Administration. In DOT, the truck and bus industries are represented on a continuing basis only on safety matters, by the Bureau of Motor Carrier Safety within the Federal Highway Administration. This bill will advance the Federal interest by bringing each of these existing Federal efforts within a common, streamlined administrative structure.

Mr. President, this bill is a positive step to increase the efficiency and responsiveness of the Federal Government. I look forward to its early enactment.

By Mr. DANFORTH (by request):

S. 1711. A bill to amend subtitle IV of title 49, United States Code, to reduce regulation of motor carriers of property, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TRUCKING DEREGULATION ACT

● Mr. DANFORTH. Mr. President, today I am introducing by request the "Trucking Deregulation Act of 1985." This legislation provides for total economic deregulation of the motor carrier industry, both carriers of general freight and household goods.

Mr. President, I want to emphasize that I am introducing this bill at the request of the Reagan administration. It is not my bill. As I have often stated publically, I do not believe that now is the time to pursue further deregulation of the trucking industry. The trucking industry in recent years has been hit hard in three major areas. First, the Motor Carrier Act of 1980, which substantially reduced Federal regulation of the trucking industry, required carriers to adjust to a new regulatory environment. This was made especially difficult by the economic recession which hit not only the trucking industry but this Nation's entire economy. The reduced amounts of freight available for motor carriers to transport, combined with the increased number of carriers operating in the industry as a result of the 1980 Act, created substantial financial problems for many carriers. Lastly, the trucking industry faces a major Federal and State tax burden, far greater than that to which the trucking industry's major competitor—the railroads—are subject.

There are indications that the trucking industry is beginning to recover from these difficulties. I believe, however, that it would be unfair to require carriers to adjust to even further deregulation at this time. The trucking industry needs time to fully adjust to the regulatory reforms in place at this time and to become stronger financially. Only then should we even consider total deregulation of this vital transportation industry.

Mr. President, I ask unanimous consent that the text of the "Trucking Deregulation Act of 1985" and the administration's section-by-section description of their bill be included in the RECORD in their entirety.

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

S. 1711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Trucking Deregulation Act of 1985."

PURPOSE OF THE ACT

SEC. 2. This Act is a part of the continuing effort by Congress to reduce unnecessary and burdensome government regulations and to insure the competitiveness and efficiency of motor carrier transportation in the United States. It is intended to further amend the Interstate Commerce Act, as amended through the Motor Carrier Safety Act of 1984.

CONGRESSIONAL FINDINGS

SEC. 3. (a) The Congress hereby finds that a safe, sound, competitive, and fuel efficient motor carrier system is vital to the maintenance of a strong national economy and a strong national defense; that the statutes governing Federal regulation of the motor carrier industry are outdated and must be revised to reflect the transportation needs and realities of the present and future; that, historically, the existing regulatory structure has tended in certain circumstances to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and opportunities for minorities, small businesses, and others to enter the trucking industry; that protective regulation has resulted in operating inefficiencies and anticompetitive pricing, has tended to suppress technological and managerial innovation, and has tended to restrict the range of price and service options available of shippers; that available evidence suggests that significant competitive and consumer benefits have been associated with the partial deregulation of the Motor Carrier Act of 1980 and that the remaining regulations are unnecessary and impose costs on society; that commercial laws have general applicability and are more appropriate for meeting desirable goals than specific regulations; that adequate protection for shippers and consumers can be provided by shifting certain functions to other agencies or by applying the antitrust laws; that in order to reduce the uncertainty felt by the Nation's transportation industries, many of the Interstate Commerce Commission's remaining responsibilities for the regulation of motor carrier transportation should be legislatively, rather than administratively, reduced and the Commission should be given well-defined parameters within which it may exercise its remaining jurisdiction, subject to Congressional policy; that the Interstate Commerce Commission should not attempt to go beyond the powers vested in it by the Interstate Commerce Act and other

legislation enacted by Congress; and that legislative and resulting changes should be implemented with the least amount of disruption consistent with achieving the reforms enacted.

(b) The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the effects of this legislation, no less than annually for the first 3 years following the effective date of enactment of this Act, to ensure that this Act is being implemented according to Congressional intent and purpose.

GENERAL PROVISIONS

SEC. 4. Section 10101 of title 49, United States Code, is amended.

(a) in subsection (a)(2) by inserting "of passengers" after "motor carrier";

(b) in subsection (a)(2)(A) by striking "shippers, receivers,";

(c) in subsection (a)(2)(B) by striking "shipping and";

(d) in subsection (a)(2)(E) by striking "and small shippers";

(e) in subsection (a)(2)(H) by striking "and" after the semicolon;

(f) by striking subsection (a)(2)(I) and the connector "and" at the end thereof;

(g) in subsection (a)(3)—

(1) by striking "(3) in regulating transportation by motor carrier of passengers";

(2) by striking "(A) to" and inserting "(I)" in lieu thereof;

(3) by striking "(B) to" and inserting "(J)" in lieu thereof; and

(4) by striking "(C) to" and inserting "(K)" in lieu thereof.

SEC. 5. Section 10102 of title 49, United States Code, is amended—

(a) in paragraph (9)(C)—

(1) by inserting "a motor carrier of property or" after "transportation"; and

(2) by striking ", II," after "subchapter I";

(b) in paragraph (11) by striking "and such other similar property as the Commission may provide by regulation" each time it appears; and

(c) in paragraph (12) by adding the following new sentences at the end thereof:

"'Motor carrier' is further defined as meaning a motor carrier of passengers and does not include a motor carrier of property unless otherwise specifically stated. This further definition is not applicable to the definition of motor carrier as used in other subtitles or titles of the U.S. Code."

INTERSTATE COMMERCE COMMISSION ADMINISTRATION

SEC. 6. Section 10322 of title 49, United States Code, is amended—

(a) in subsection (a)—

(1) by striking ", or section 10934" at the end of the first sentence;

(2) by striking "10530," in the second sentence;

(3) by striking "10922(i)(2), 10922(i)(4)" in the second sentence and inserting "10922(h)(2)" in lieu thereof;

(4) by striking "10934(c)," in the second sentence; and

(5) by striking "10922(c)(2)(A)" in the third sentence and inserting "10922(b)(2)(A)" in lieu thereof;

(b) in subsection (b)(1) by striking "Except as provided in paragraph (2) of this subsection, a" and inserting "A" in lieu thereof;

(c) by striking subsection (b)(2); and

(d) by redesignating subsection (b)(3) as subsection (b)(2).

JURISDICTION

SEC. 7. Section 10521 of title 49, United States Code, is amended—

(a) by adding the following new sentence at the beginning of subsection (a):

"Notwithstanding any other provision of law, the Interstate Commerce Commission has no jurisdiction over motor carriers of property except as provided in subsection (c).."; and

(b) by adding "of passengers" after "over transportation" in subsection (a);

(c) in subsection (b) by striking "10922(c)(2)" each time it appears and inserting "10922(b)(2)" in lieu thereof; and

(d) by adding at the end of thereof the following new subsection:

"(c) The Commission shall retain jurisdiction over a motor common carrier providing transportation of household goods for the purposes of sections 10934, 11341, and 11342 until three years after the effective date of this act."

SEC. 8. Section 10522 of title 49, United States Code, is amended by inserting "of passengers" after "motor carrier" each time it appears.

SEC. 9. Section 10523 of title 49, United States Code, is repealed.

SEC. 10. Section 10524 of title 49, United States Code, is repealed.

SEC. 11. Section 10525 of title 49, United States Code, is amended—

(a) by striking subsection (e); and

(b) by redesignating subsection (f) as subsection (e).

SEC. 12. Section 10526 of title 49, United States Code, is amended—

(a) by striking subsections (a)(4) through (a)(7) inclusive, (a)(11) through (a)(13) inclusive and (a)(15);

(b) in subsection (a)(8) by striking the paragraph designator "(A)" and by striking subsections (a)(8)(B) and (a)(8)(C);

(c) by redesignating subsections (a)(8) through (a)(10) as (a)(4) through (a)(6) and subsection (a)(14) as (a)(7), respectively;

(d) in subsection (b)(1)—

(1) by striking the dash after "except";

(2) by striking subparagraph (A); and

(3) by striking the subparagraph designator "(B)";

(e) by striking subsection (b)(3); and

(f) by striking "; or" at the end of subsection (2) and inserting a period in lieu thereof.

SEC. 13. Section 10527 of title 49, United States Code, is repealed.

SEC. 14. Section 10528 of title 49, United States Code, is repealed.

SEC. 15. Section 10529 of title 49, United States Code, is repealed.

SEC. 16. Section 10530 of title 49, United States Code, is amended—

(a) in subsection (a)—

(1) by inserting "as of October 30, 1984" before the semicolon in subsection (a)(2)(A);

(2) by striking subsection (a)(3);

(3) by striking subsection (a)(4);

(4) by redesignating subsection (a)(5) as subsection (a)(3); and

(5) in subsection (a)(3) as redesignated, by striking "and transportation in the United States exempt from the jurisdiction of the Commission under section 10526(b)(1) of this subchapter".

(b) in subsection (b)—

(1) by, in subsection (b)(1), striking "(1)" after the designator (b), by striking "of exempt items", and by striking "Commission" and inserting "Secretary of Transportation" in lieu thereof; and

(2) by striking subsection (b)(2).

(c) in subsection (c)—

(1) by striking "to subchapter II of chapter 103 of this title and", by striking "of exempt items", and by striking "and to any foreign motor private carrier authorizing the carrier to provide interstate transportation of property (including exempt items) in any registrable year,"; and

(2) by striking "Commission" each time it appears and inserting "Secretary" in lieu thereof.

(d) in subsection (d)—

(1) by striking "and a foreign motor private carrier"; and

(2) by striking "Commission" each time it appears and inserting "Secretary" in lieu thereof.

(e) in subsection (e)—

(1) by striking "and foreign motor private carriers" in the first sentence;

(2) by striking in subsection (e)(2) the dash after "responsibility", striking the designator "(A)", and striking "or foreign motor private carrier"; and

(3) by striking subsection (e)(2)(B).

(f) in subsection (f) by striking "each" and inserting "Whenever a Presidential order under section 10922(j) of this title is in effect, each" in lieu thereof.

(g) in subsection (g)(2) by striking "Commission, the".

(h) in subsection (h) by striking "Commission" and inserting "Secretary" in lieu thereof.

(i) in subsection (i)(1) by striking at the end of the sentence "this section" and inserting "the Trucking Deregulation Act of 1985" in lieu thereof.

SEC. 17. Section 10561 of title 49, United States Code, is amended in subsection (b)(2) by striking "10526(a)(8)" and inserting "10526(a)(4)" in lieu thereof.

SEC. 18. The analysis of chapter 105 of title 49, United States Code, is amended—

(a) by striking—

"10523. Exempt motor vehicle transportation in terminal areas.

"10524. Transportation furthering a primary business." and inserting in lieu thereof

"10523. Repealed.

"10524. Repealed."; and

(b) by striking—

"10527. Written contracts pertaining to certain interstate movements by motor vehicle.

"10528. Mixed loads of regulated and unregulated property.

"10529. Limited authority over cooperative associations." and inserting in lieu thereof

"10527. Repealed.

"10528. Repealed.

"10529. Repealed."

RATES, TARIFFS, AND VALUATIONS

SEC. 19. Section 10702 of title 49, United States Code, is amended in subsection (b) by striking "shippers" in the second sentence and inserting "passengers" in lieu thereof.

SEC. 20. Section 10703 of title 49, United States Code, is amended—

(a) by striking subsection (a)(4)(A); and by redesignating subsections (a)(4)(B) through (a)(4)(E) as subsections (a)(4)(A) through (a)(4)(D);

(b) in subsections (a)(4)(A) and (a)(4)(B) as redesignated by subsection (a) of this section by striking "(D)" and inserting "(C)" in lieu thereof; and

(c) in subsection (b) by striking ", II (insofar as motor carriers of property are concerned),".

SEC. 21. Section 10704 of title 49, United States Code, is amended in subsection (c)(1) by striking in the last sentence "motor or" each time it appears and by striking ", respectively,".

SEC. 22. Section 10705 of title 49, United States Code, is amended—

(a) in subsection (a)(1) by striking "(except a motor common carrier of property)";

(b) by striking subsections (b)(1) and (b)(2);

(c) by redesignating subsections (c) through (g) as subsections (b) through (f);

(d) in subsection (b) as redesignated, by striking the comma after "rail carrier" and inserting "or" in lieu thereof and by striking ", or motor common carrier of property" in the second sentence;

(e) in subsection (e) as redesignated by subsection (c) of this section by striking "or (b)";

(f) in subsection (f) as redesignated by subsection (c) of this section by striking "(f)" after "subsection" and inserting "(e)" in lieu thereof; and

(g) by striking subsection (h).

SEC. 23. Section 10706 of title 49, United States Code, is amended—

(a) in subsection (a)(2)(A) by striking "(c)(1)(B)-(E)" and inserting "(d)(1)(B)-(E)" in lieu thereof;

(b) by striking subsection (b)(3)(D) and by redesignating subsections (b)(3)(E) through (b)(3)(H) as subsections (b)(3)(D) through (b)(3)(G); and

(c) by striking subsection (b)(4) and by redesignating subsection (b)(5) as subsection (b)(4).

SEC. 24. Section 10708 of title 49, United States Code, is amended—

(a) in subsection (d)(1) by striking "motor common carrier of property or";

(b) in subsections (d)(1)(A) and (d)(1)(B) by striking "carrier" each time it appears and inserting "freight forwarder" in lieu thereof.

(c) in subsection (d)(2) by striking "motor common carriers of property or"; and

(d) in subsection (d)(2)(B)(i) by striking "carriers or".

SEC. 25. Section 10721 of title 49, United States Code, is amended—

(a) in subsection (b)(1) by striking "; expect that any rates for the trasnsportation of household goods for the United States Government shall not be predatory;" and

(b) by striking subsection (b)(3).

SEC. 26. Section 10725 of title 49, United States Code, is amended—

(a) in subsection (a) by striking ", II,"; and

(b) by striking subsection (c).

SEC. 27. Section 10730 of title 49, United States Code, is amended—

(a) in subsection (a) by striking "including a motor common carrier of household goods but excluding any other motor common carrier of property and" and by striking ", II,";

(b) by striking subsection (b); and

(c) by redesignating subsection (c) as subsection (b).

SEC. 28. Section 10732 of title 49, United States Code, is amended—

(a) by striking the title and inserting "Backhaul allowances" in lieu thereof;

(b) in subsection (a)

(1) by striking the designator "(a)";

(2) by striking "food and grocery" each time it appears; and

(c) by striking subsection (b).

SEC. 29. Section 10733 of title 49, United States Code, is repealed.

SEC. 30. Section 10735 of title 49, United States Code, is repealed.

SEC. 31. Section 10741 of title 49, United States Code, is amended in subsection (c) by striking ", II,".

SEC. 32. Section 10743 of title 49, United States Code, is amended—

(a) in subsection (b)(1) by striking "for weekly or monthly payment for transportation provided by motor common carriers and"; and

(b) in subsection (b)(2) by striking the parenthetical phrase.

SEC. 33. Section 10744 of title 49, United States Code, is amended in subsection (a)(1) by striking ", motor,".

SEC. 34. Section 10749 of title 49, United States Code, is amended—

(a) in subsection (a) by striking ", or a motor contract carrier of property";

(b) in subsection (b)(1)

(1) by striking "motor," and ", or motor contract carrier of property";

(2) by striking the dash after "including";

(3) by striking subsection (b)(1)(A); and

(4) by striking the subsection designator "(B)" in subsection (b)(1)(B); and

(c) by redesignating subsection (b)(2) as subsection (b)(3) and inserting a new subsection (b)(2) as follows:

"(2) a motor common or contract carrier of property; or".

SEC. 35. Section 10751 of title 49, United States Code, is amended by striking subsection (c).

SEC. 36. Section 10762 of title 49, United States Code, is amended—

(a) in subsection (a)(1) by striking the last sentence; and

(b) by striking subsection (g).

SEC. 37. Section 10766 of title 49, United States Code, is amended in subsection (b) by striking ", providing transportation subject to the jurisdiction of the Commission under subchapter II of that chapter,".

SEC. 38. The analysis of chapter 107 of title 49, United States Code, is amended—

(a) by striking

"10732. Food and grocery transportation."

and inserting in lieu thereof

"10732. Backhaul allowances.";

(b) by striking

"10733. Rates for transportation of recyclable materials." and inserting in lieu thereof

"10733. Repealed."; and

(c) by striking

"10735. Household goods rates—estimates; guarantees of services.";

and inserting in lieu thereof

"10735. Repealed.".

LICENSING

SEC. 39. Section 10922 of title 49, United States Code is amended—

(a) by striking subsections (b), and (k);

(b) by redesignating subsections (c), (d), (e), (f), (g), (h), (i), (j), and (l) as subsections (b), (c), (d), (e), (f), (g), (h), (i) and (j) respectively;

(c) in subsection (h) as redesignated—

(1) by striking subsections (h)(1) and (h)(2); and

(2) by redesignating subsections (h)(3) and (h)(4) as subsections (h)(1) and (h)(2);

(d) in subsection (i) as redesignated by subsection (b) of this section—

(1) by striking subsection (i)(1); and

(2) by redesignating subsections (i)(2) and (i)(3) as subsections (i)(1) and (i)(2); and

(e) subsection (j) as redesignated by subsection (b) of this section is amended to read:

"(1) Notwithstanding any other provision of law, whenever the President of the United States determines that the government of any foreign country contiguous to the United States, or any political subdivision of such foreign country, has, over objections of the Government of the United States, engaged in unfair, discriminatory, or restrictive practices with a substantial adverse competitive impact upon United States motor carriers of property with respect to motor carrier transportation of such foreign country or political subdivision thereof, the President may suspend, modify, amend, condition, or limit operations by motor carriers of property from such foreign country or political subdivision in interstate or foreign commerce within the United States, if the President determines such action to be in the national interest. The President shall publish notice of his determination including the reasons for the determination in the Federal Register. Unless the President determines that expeditious action is required, the President shall provide an opportunity for presentation of views concerning the taking of such action.

"(2) The President of the United States may also remove or modify any such action under paragraph (1) if the President determines that such removal or modification is likewise in the national interest.

"(3) Any such suspension, modification, amendment, condition, or limitation under paragraph (1) shall be accomplished in accordance with directions of the President of the United States under regulations issued by the Secretary of Transportation in consultation with the Department of State and the Special Trade Representative. Such regulations shall be enforced by the Secretary of Transportation.

"(4) The Secretary of Transportation in consultation with the Department of State and the Special Trade Representative may, at the request of the President of the United States, or upon complaint from any interested person, or upon the Secretary's own motion, investigate and make recommendations to the President with respect to any of the matters described in paragraph (1)."

SEC. 40. Section 10923 of title 49, United States Code, is amended—

(a) by striking subsections (b)(3) through (b)(6);

(b) by redesignating subsection (b)(7) as (b)(3);

(c) in subsection (d)(1) by striking ", except that in the case of a motor contract carrier of property, the Commission may not require such carrier to limit its operations to carriage for a particular industry or within a particular geographic area"; and

(d) in subsection (d)(2)—

(1) by inserting "of passengers" after "motor contract carrier";

(2) by striking "necessary conditions, including each person or class of persons (and in the case of a motor contract carrier of passengers,"; and

(3) by striking the parenthesis after "the number of persons"; and

(e) by striking subsection (e).

SEC. 41. Section 10924 of title 49, United States Code, is amended—

(a) in subsection (a) by striking "of household goods subject to the jurisdiction of the Commission under subchapter II of Chapter 105 of this title,"; and

(b) by striking subsections (b) and (c) and by redesignating subsections (d), (e) and (f) as subsections (b), (c) and (d).

SEC. 42. Section 10927 of title 49, United States Code, is amended—

(a) in subsection (a)(1) by striking

(1) "and a certificate of registration to a motor carrier or motor private carrier under section 10530 of this title";

(2) "the provisions of section 30 of the Motor Carrier Act of 1980, in the case of a motor carrier of property.";

(3) ", in the case of a motor carrier of passengers, or the laws of the State or States in which the carrier is operating, in the case of a motor private carrier"; and

(4) the parenthetical phrase; and

(b) in subsection (a)(2) by striking "and a foreign motor private carrier (as such term is defined under section 10530(a)(3) of this title)"; and

(c) by striking subsection (a)(3).

SEC. 43. Section 10928 of title 49, United States Code, is amended in subsection (c)(1) by striking "not more than 90 days. Such authority for a period of not more than 90 days and, in addition, in the case of motor carriers of passengers, the Commission may extend such authority for a period of more than 90 days but".

SEC. 44. Section 10930 of title 49, United States Code, is amended in subsection (b)(2) by striking "Except for motor vehicle transportation subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title by section 10523(a)(2) of this title, a" and inserting "A" in lieu thereof, and by striking ", water, or motor carrier" and inserting in lieu thereof "or water" and by striking ", II,".

SEC. 45. Section 10931 of title 49, United States Code, is repealed.

SEC. 46. Section 10932 of title 49, United States Code, is amended—

(a) by striking subsection (b); and

(b) by redesignating subsections (c) and (d) as subsections (b) and (c).

SEC. 47. (a) Section 10934 of title 49, United States Code, is amended—

(1) by striking subsection (a), (b), and (c);

(2) by redesignating subsection (d) as subsection (a) and by striking "The" and inserting "Unless determined otherwise by the Commission under subsection (b), the" in lieu thereof; and

(3) by adding at the end thereof the following new subsection:

"(b) The Commission may require that an agreement within the scope of subsection (a) be submitted to the Commission for approval. Such an agreement shall be approved by the Commission upon a finding that the agreement fulfills each requirement of section 10706(b)(3) of this title, unless the Commission finds that such agreement is inconsistent with the transportation policy set forth in section 10101(a) of this title. The Commission may require compliance with reasonable conditions to assure that the agreement furthers such transportation policy. If the Commission disapproves the agreement, then no antitrust immunity shall be conferred by subsection (a).

(b) Section 10934 is repealed three years after the effective date of this act.

SEC. 48. Section 10935 of title 49, United States Code, is amended in subsection (h) by striking "10922(c)(4)" and inserting "10922(b)(4)" in lieu thereof.

SEC. 49. The analysis of chapter 109 of title 49, United States Code, is amended—

(a) by striking—

"10931. Motor common carriers providing transportation entirely in one state."

and inserting in lieu thereof

"10931. Repealed."; and

(b) three years after the effective date of this act by striking—

"10934. Household Goods Agents.";

and inserting in lieu thereof

"10934. Repealed.".

OPERATIONS OF CARRIERS

SEC. 50. Section 11101 of title 49, United States Code, is amended by striking subsection (c).

SEC. 51. Section 11107 of title 49, United States Code, is repealed.

SEC. 52. Section 11109 of title 49, United States Code, is amended by striking the parenthetical phrase in each subsection.

SEC. 53. Section 11110 of title 49, United States Code, is repealed.

SEC. 54. Section 11145 of title 49, United States Code, is amended by striking subsection (c).

SEC. 55. The analysis of chapter 111 of title 49, United states code, is amended—

(a) by striking—

"11107. Leased motor vehicles." and inserting in lieu thereof

"11107. Repealed."; and

(b) by striking—

"11110. Household Goods Carrier Operations."

and inserting in lieu thereof

"11110. Repealed."

FINANCE

SEC. 56. Section 11304 of title 49, United States Code, is amended in subsection (a)(1) by striking "a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or".

SEC. 57. Section 11342 of title 49, United States Code, is amended—

(a) in subsection (a) by striking "of property" and inserting in lieu thereof "providing transportation of household goods"; and

(b) in subsection (b)(1)—

(1) by striking "of property" wherever it appears and inserting in lieu thereof "providing transportation of household goods"; and

(2) by adding at the end thereof the following new sentence:

"The Commission shall have authority to approve or authorize an agreement or combination under this subsection only until three years after the effective date of the Trucking Deregulation Act of 1985."

SEC. 58. Section 11343 of title 49, United States Code, is amended in subsection (e)(1) by striking "providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title,".

SEC. 59. Section 11344 of title 49, United States Code, is amended in subsection (c) by inserting "of passengers or property" after "a motor carrier" in the fourth sentence.

SEC. 60. Section 11348 of title 49, United States Code, is amended in subsection (a) by striking "11901(f), (l)(1)" and inserting "11901(f), (h)(1)" in lieu thereof.

FEDERAL-STATE RELATIONS

SEC. 61. Section 11501 of title 49, United States Code, is amended by adding the following new subsection after subsection (f):

"(g)(1) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to interstate rates, interstate routes, or interstate services of any motor carrier of property or motor private carrier.

(2) The Secretary of Transportation shall conduct a full investigation of the economic regulation of trucking as conducted by the various state regulatory bodies and the extent, if any, to which such state regulation creates burdens on interstate commerce. A report on the results of such investigation and study, including any legislative recommendations, shall be submitted to the President and the Congress not later than two years after the date of enactment of this Act."

SEC. 62. Section 11504 of title 49, United States Code, is amended in subsection (b)(2) by striking "providing transportation subject to the jurisdiction of the Commission under subchapter II of this title" and inserting "of passengers and a motor carrier of property" in lieu thereof.

ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

SEC. 63. Section 11701 of title 49, United States Code, is amended—

(a) in subsection (a) by striking the sentence "If the Commission finds that a motor private carrier is violating section 10530 of this subtitle, the Commission shall take appropriate action to compel compliance with such section."; and

(b) in subsection (b) by striking "or a motor carrier or motor private carrier providing transportation under a certificate of registration issued under section 10530 of this title".

SEC. 64. Section 11702 of title 49, United States Code, is amended—

(a) in subsection (a)(2) by striking "10527 or"; and

(b) in subsection (a)(4) by striking "or by a motor carrier or motor private carrier providing transportation under a certificate of registration issued under section 10530 of this title".

SEC. 65. Section 11707 of title 49, United States Code, is amended—

(a) in subsection (a)(1) by striking ", II," each time it appears; and

(b) in subsection (a)(2) by striking "providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title".

SEC. 66. Section 11711 of title 49, United States Code, is repealed.

SEC. 67. The analysis of chapter 117 of title 49, United States Code is amended by striking

"11711. Dispute Settlement Program for Household Goods Carriers."

and inserting in lieu thereof

"11711. Repealed.".

CIVIL AND CRIMINAL PENALTIES

SEC. 68. Section 11901 of title 49, United States Code, is amended—

(a) in subsection (g)—

(1) by striking "or transportation provided under a certificate of registration issued under section 10530 of this title";

(2) by striking ", (4)" and inserting ", or (4)" in lieu thereof;

(3) by striking "or (5) does not comply with section 10530 of this title,"; and

(4) by striking the last two sentences.

(b) by striking subsection (h), (i), (j), and (k) and redesignating subsection (l) as subsection (h); and

(c) in subsection (h)(2) as redesignated, by striking ", (i), (j)(1), or (k)".

SEC. 69. Section 11910 of title 49, United States Code, is amended in subsection (a)(2) by striking "motor carrier or" and "carrier or" each time they appear.

SEC. 70. Section 11914 of title 49, United States Code, is amended in subsection (b)—

(a) by striking out "this title" and inserting "this title," in lieu thereof; and

(b) by striking after "1966," the following: "or a condition of a certificate of registration issued under section 10530 of this title,".

SEC. 71. Section 11917 of title 49, United States Code, is amended in subsection (a) by striking "a" after "weight on" and inserting "an interstate" in lieu thereof and by striking "which is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.".

FEDERAL TRADE COMMISSION

SEC. 72. (a) Motor carriers of property shall be subject to the jurisdiction of the Federal Trade Commission under the Federal Trade Commission Act, as amended, 15 U.S.C. 41-58 and §11 of the Clayton Act, 15 U.S.C. 21.

(b) The Federal Trade Commission is empowered exclusively to enforce the Interstate Commerce Commission's household goods regulations under 49 C.F.R. 1056 which shall remain in effect until revised or revoked by the Federal Trade Commisson under subsection (c) of this section.

(c) The Federal Trade Commission shall institute a proceeding within 120 days of the enactment of this Act to review the necessity and effectiveness of those regulations and, where appropriate, make revisions (1) to ensure that shippers of household goods receive adequate protection in their dealings with carriers, and (2) to eliminate unnecessary regulations. The intitial proceeding conducted to implement this section shall be governed by section 553 of title 5, and the Federal Trade Commission may dispense with the rulemaking requirements imposed under section 57a of title 15, except that any such rule promulgated shall be subject to the judicial review procedures of section 57a(e) of title 15.

DEPARTMENT OF TRANSPORTATION

DUTIES AND POWERS

SEC. 73. Section 501 of title 49, United States Code, is amended—

(a) in subsection (a)(1) by inserting "except as set forth in paragraph (2) of this subsection" immediately after the paragraph designator "(1)";

(b) in subsection (a) by adding the following new paragraph:

"(2) 'motor carrier' means (A) a motor carrier of property; (B) a motor carrier of passengers; and (C) a motor private carrier as defined in section 10102 of this title."; and

(c) in subsection (a) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4).

SEC. 74. Section 502 of title 49, United States Code, is amended—

(a) by inserting the following new subsection (b):

"(b) If the Secretary finds that a foreign motor carrier is violating section 10530 of this title, the Secretary shall take appropriate action to compel compliance with such section."; and

(b) by redesignating subsections (b)-(f) as subsections (c)-(g), respectively.

SEC. 75. Section 503 of title 49, United States Code, is amended—

(a) in the title by inserting "motor carriers of property," after "and process on";

(b) in subsection (a) by inserting "of property and each motor carrier" immediately after "Each motor carrier";

(c) in subsection (a) by inserting ", operating in the United States," after "motor private carrier"; and

(d) in subsection (a) by adding the following new sentence after the second sentence of the subsection:

"If the designation is made on behalf of a motor carrier not domiciled in the United States, the designation shall indicate the country of the motor carrier on whose behalf the designation is made."

SEC. 76. Section 504 of title 49, United States Code, is amended in subsection (a)(2) by inserting "motor carrier of property," after "means a motor carrier,".

SEC. 77. Section 507(c) of title 49, United States Code, is amended by inserting "or section 10530" after "section 3102".

SEC. 78. Section 521(b) of title 49, United States Code, is amended—

(a) in subsection (b)(1) by inserting "or section 10530" after "section 3102"; and

(b) in subsection (b)(2) by inserting "or section 10530" after "section 3102".

SEC. 79. Section 524 of title 49, United States Code, is amended by inserting "or a condition of a certificate of registration issued under section 10530 of this title," after "chapter".

SEC. 80. The analysis of chapter 5 of title 49, United States Code, is amended in Section 503 by inserting "motor carriers of property," after "and process on".

SEC. 81. Section 3101 of title 49, United States Code, is amended in paragraph (2) by inserting "except that 'motor carrier' shall include a motor carrier of property" at the end of the paragraph.

SEC. 82. Section 3104 of title 49, United States Code, is amended—

(a) in subsection (a)(1) by inserting "a motor carrier of property and" after "transportation provided by";

(b) in subsection (a)(2) by inserting "motor carriers of property and" after "each of those"; and

(c) in subsection (a) by adding the following new paragraph:

"(3) require each of those motor carriers, motor private carriers, and motor carriers of migrant workers to display on the vehicle the name of the carrier and such other information as the Secretary may require."

SEC. 83. This Act shall take effect on July 1, 1986.

SECTION BY SECTION ANALYSIS OF THE TRUCKING DEREGULATION ACT OF 1985

This bill eliminates all federal economic regulation of the trucking industry; it eliminates entry controls and rate regulation; eliminates antitrust immunity for collective ratemaking; eliminates tariff publication requirements; eliminates the "common carrier obligation"; and transfers jurisdiction for consumer protection in household goods operations to the Federal Trade Commission.

There is vigorous competition not only within the for-hire motor carrier industry, but also from other elements of the transportation sector, such as private trucking, freight forwarders, and railroads, and potential competition from independent owner-operators, as well. Hence, there is no need for continued regulation of the trucking industry.

SECTION 1

The short title of the bill is the "Trucking Deregulation Act of 1985."

SECTION 2

The purpose of the bill is to reduce unnecessary and burdensome government regulations and to insure the competitiveness and efficiency of transportation by motor carriers of property in the United States.

SECTION 3

This section states the findings of Congress. It sets out that the statutes governing Federal regulation of motor carriers of property are outdated and must be revised to reflect transportation needs and realities of the present future; and that government regulation has resulted in operating inefficiencies and anticompetitive pricing and should be reduced.

SECTION 4

This section amends the transportation policy of the Interstate Commerce Act to reflect the elimination of economic regulation of motor carriers of property.

SECTION 5

This section amends section 10102(12) of title 49 USC by further defining motor carrier as used in subtitle IV of title 49 as only meaning a motor carrier of passengers. It clarifies that the intent of this Act is to remove Interstate Commerce Commission regulation of motor carriers of property.

SECTION 6

This section deletes the procedural guidelines of section 10322 of title 49 USC for handling applications involving motor carrier transportation incidental to trailer on flatcar or container on flatcar service by rail or registration certificates for foreign motor carriers. This is a conforming change, since this legislation eliminates the necessity for applying to the Interstate Commerce Commission for any kind of motor carrier authority.

SECTION 7

This section amends section 10521 of title 49 USC to remove Interstate Commerce Commission jurisdiction over motor carriers of property, with one limited exception regarding household goods carriers. This exception allows the Interstate Commerce Commission to maintain jurisdiction over motor carrier transportation of household goods for three years after the effective date of the Act, for the limited purposes of retaining special antitrust immunity for household goods van lines (so that they can continue to engage in certain business relationships with their own local agents) and of retaining the Interstate Commerce Commission's power to approve or disapprove pooling agreements between a van line and its agents. This jurisdiction over household goods carriers is retained for three years in order to minimize possible disruption resulting from the eventual removal of all special antitrust immunity for household goods van line-agent relationships. The delayed effective date of removal of immunity will give van lines and their agents additional time to develop corporate business structures and relationships that do not require special antitrust immunity.

SECTION 8

This section amends section 10522 of title 49 USC. It removes the requirement that motor carriers of property providing transportation between Alaska and another state must comply with Interstate Commerce Commission regulations.

SECTION 9

This section repeals section 10523 of title 49 USC. It removes the exemptions for motor vehicle transportation within terminal areas provided by water carriers, rail carriers, freight forwarders, and express carriers. Such exemptions will not be necessary with the removal of regulation of motor carriers of property provided by this bill.

SECTION 10

This section repeals section 10524 of title 49 USC. It removes the exemption from Interstate Commerce Commission jurisdic-

tion for private carriage by motor vehicle. With the deregulation of motor carriers of property provided by this bill, such an exemption is no longer required.

SECTION 11

This section strikes subsection (e) of section 10525 of title 49 USC to preclude regulation of interstate transportation within Hawaii by that State. No other changes to section 10525 are necessary, because this section will apply only to motor carriers of passengers.

SECTION 12

This section amends section 10526 of title 49 USC. It repeals all exemptions of motor carriers of property from Interstate Commerce Commission jurisdiction. With complete deregulation of motor carriers of property such exemptions are not required.

SECTION 13

This section repeals section 10527 of title 49 USC pertaining to written contracts concerning interstate movements by motor vehicles. The Interstate Commerce Commission and the Secretary of Agriculture have determined that requiring written contracts between owners or operators of motor vehicles and brokers, shippers, and receivers is not necessary.

SECTION 14

This section repeals section 10528 of title 49 USC concerning mixed loads of regulated and unregulated property. With motor carriers of property completely deregulated, such distinctions are no longer necessary.

SECTION 15

This section repeals section 10529 of title 49 USC concerning the Interstate Commerce Commission's reporting requirements for cooperative associations. With motor carriers of property completely deregulated, these reporting requirements are no longer necessary.

SECTION 16

This section amends section 10530 of title 49 USC, which was added to title 49 by the Motor Carrier Safety Act of 1984 (P.L. 98-554, 98 Stat. 2829, October 30, 1984). Section 16 transfers responsibility for issuing certificates of registration for foreign motor carriers operating in the United States from the Interstate Commerce Commission to the Secretary of Transportation. References to foreign motor private carriers and exempt transportation are deleted from section 10530 because distinctions for regulatory purposes between private and other motor carriers, and exempt and other transportation, are abolished in other sections of title 49 by this bill. No change is made to the scope of the section as it applies to foreign carriers. Those foreign carriers that were exempted from the registration requirements by virtue of their holding ICC certificates at the time section 10530 was enacted would still be exempt. Likewise, section 10530 as amended by this section will not apply to a contiguous foreign country with respect to which a moratorium is not in effect under section 10922(1) at the time of enactment of this legislation. However, because the current moratorium provision under section 10922(1) is repealed and replaced by different authority and procedures for Presidential action, specific provisions describing the sanctions that may be applied to foreign motor carriers during a moratorium are deleted. Instead, the President is authorized to take any action that is appropriate to respond to unfair practices against U.S. motor carriers of property by a contiguous foreign country.

SECTION 17

This section amends section 10561 of title 49 USC to conform to the change provided in section 12 of this bill.

SECTION 18

This section makes conforming changes in the analysis of Chapter 105 of title 49 USC to reflect the changes introduced by sections 7 through 17.

SECTION 19

This section amends section 10702 of title 49 USC by codifying the ICC administrative action that removed motor contract carriers of property from the requirement to establish and file their rates with the Commission.

SECTION 20

This section amends section 10703 of title 49 USC by removing the statutory reference to the authority of motor common carriers of property to establish through routes and joint rates and classifications with other carriers; however, this does not preclude motor common carriers from entering into such arrangements.

SECTION 21

This section amends section 10704 of title 49 USC to remove Interstate Commerce Commission authority to protect motor common carriers from unreasonable competition from motor contract carriers.

SECTION 22

This section amends section 10705 of title 49 USC by removing the authority of the Interstate Commerce Commission over motor common carriers of property to prescribe through routes, joint classifications, joint rates, the division of rates, and the conditions under which those routes must be operated.

SECTION 23

This section amends section 10706 of title 49 USC by removing Interstate Commerce Commission jurisdiction for providing antitrust immunity to motor carriers of property. Under the provisions of section 83 of this legislation, elimination of antitrust immunity will occur on July 1, 1986. This section does not disturb antitrust immunity for motor carriers of passengers or other carriers.

SECTION 24

This section amends section 10708 of title 49 USC to remove Interstate Commerce Commission jurisdiction to investigate, suspend, revise, or revoke any rate of a motor common carrier of property on the grounds that such rate is unreasonably high or low. The "zone of rate freedom" provided by the Motor Carrier Act of 1980 would remain applicable only to freight forwarders.

SECTION 25

This section amends section 10721 of title 49 USC, which deals with special rate provisions for Government traffic. It removes Interstate Commerce Commission jurisdiction to suspend and investigate rates for the transportation of household goods for the U.S. Government on the basis that such rates may be predatory.

SECTION 26

This section amends section 10725 of title 49 USC by removing the conditions concerning special rates of motor carriers of property when such carriers deal with freight forwarders.

SECTION 27

This section amends section 10730 of title 49 USC to remove the Interstate Commerce Commission's jurisdiction to require or authorize motor carriers to establish rates for transportation of property under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper or by written agreement.

SECTION 28

This section amends section 10732 of title 49 USC by removing the requirement that the Interstate Commerce Commission monitor and report annually on the effects of "backhaul allowances" (discounts for customers of food and grocery products who pick up those products at the shipping point of the seller), and by extending the lawfulness of backhaul allowances to all industries. It is intended, for purposes of this section, that the "actual cost" basis for computing such allowances need not be limited to the cost avoided by sellers.

SECTION 29

This section repeals section 10733 of title 49 USC, which provides statutory permission for free or reduced transportation rates for recyclable materials carried by motor carriers of property. The ability to provide such transportation at reduced rates is not precluded by the amendment.

SECTION 30

This section repeals section 10735 concerning household goods rates and guarantees of service. With deregulation of motor carriers of property this section is no longer necessary. There is no intent to preclude or limit carrier activities described in this section.

SECTION 31

This section amends section 10741 of title 49 USC by removing the general prohibition of motor carrier discrimination against freight forwarder services. The effect of this amendment is to allow the general antidiscrimination provisions of the antitrust laws to apply to motor carriers of property.

SECTION 32

This section amends section 10743 of title 49 USC by removing the prompt payment provisions relating to motor common carriers.

SECTION 33

This section amends section 10744 of title 49 USC by removing the requirements concerning liability for payment of rates for property transportation by motor carriers.

SECTION 34

This section amends section 10749 of title 49 USC by deleting the provision that motor carriers of property regulated by the Interstate Commerce Commission may exchange services with telephone, telegraph, or cable companies. With the deregulation provided by this bill, motor carriers of property do not need express permission to exchange services with other companies.

SECTION 35

This section amends section 10751 of title 49 USC by deleting the subsection which provides that the Interstate Commerce Commission institute a proceeding for the establishment of standards and guidelines for authorized business entertainment expenses.

SECTION 36

This section amends section 10762 of title 49 USC by removing the requirement for motor carriers of property to publish, file, and keep tariffs open for public inspection.

SECTION 37

This section amends section 10766 by deleting the requirement that freight forwarders may only contract with Interstate Commerce Commission regulated motor carriers of property.

SECTION 38

This section makes changes in the analysis of Chapter 107 of title 49 to conform to the changes made in sections 19 through 37.

SECTION 39

This section amends section 10922 of title 49 USC by striking the language concerning entry requirements for motor common carriers of property. With these changes section 10922 will deal only with entry requirements for motor carriers of passengers as amended by the Bus Regulatory Reform Act of 1982.

The Bus Regulatory Reform Act of 1982 provided for a limitation on Interstate Commerce Commission approval of foreign-owned trucking operations in the United States due to discriminatory treatment by their governments. This section authorizes the President to limit such operations when he determines it is in the national interest to do so.

The Motor Carrier Safety Act of 1984 (P.L. 98-554, 98 Stat. 2829, October 30, 1984) amended section 10922(1) to provide for specific sanctions against foreign motor carriers when a moratorium is in effect under section 10922(1)(i). These sanctions are repealed by section 39 because the moratorium provision is replaced by the procedure for Presidential action under new section 10922(j).

SECTION 40

This section amends section 10923 of title 49 USC to strike the language concerning entry requirements for motor contract carriers of property. With these changes, section 10923 will deal only with entry requirements for motor contract carriers of passengers as amended by the Bus Regulatory Reform Act of 1982.

SECTION 41

This section amends section 10924 of title 49 USC by deleting the requirement that brokers use only Interstate Commerce Commission regulated carriers.

SECTION 42

This section amends section 10927 of title 49 USC by removing the language dealing with security and insurance requirements for motor carriers of property, as well as reference to registration certificates for foreign motor carriers.

SECTION 43

This section amends section 10928 of title 49 USC by removing the time limitation for the grant of temporary authority for motor carriers of property. Since this bill removes entry requirements for such carriers to operate, they will not need temporary authority.

SECTION 44

This section amends section 10930 of title 49 USC to delete the reference to section 10523, which is repealed by section 9 of this bill. The net effect of these two changes is to permit freight forwarders to conduct both long haul and terminal area operations.

SECTION 45

This section amends section 10931 of title 49 USC. Section 10931 provides for ICC grants of interstate motor carrier authority under certificates of registration for intrastate carriers who provide transportation entirely in one state.

SECTION 46

This section amends section 10932 of title 49 USC by striking the language permitting motor carriers certificated under section 10931 to continue to provide such transportation as long as the intrastate certificates so provide.

SECTION 47

Three years after the effective date of this Act, this section repeals the provision of section 10934 of title 49 USC that confers special antitrust immunity upon certain business relationships between a household goods van line and its own local agents. The three year deferral of this effective date is designed to give van lines and their agents additional time to develop corporate structures and business relationships that do not require any antitrust immunity. During the three year period before special immunity is removed, the Commission is given the explicit power to require van lines and their agents to submit agreements setting forth those aspects of their business relationship requiring such immunity. This power is currently implicit in chapter 107, but is being generally repealed for motor carriers of property. The criteria for approval of the agreements are the same as the Commission would use under its current general authority to review rate agreements among household goods carriers. During the three year period, the Commission could approve, disapprove, or modify van line-agent agreements, as a means of ensuring that the limited antitrust immunity is not abused. This section also eliminates other types of jurisdiction over household goods van line-agent relationships as of the effective date of the Act. Principal-agent relationships are satisfactorily governed under common law, and the temporary retention of special antitrust immunity is designed merely to deal with the transition to a system of principal-agent relationships that parallels such relationships in other industries.

SECTION 48

This section amends section 10935 of title 49 USC to conform to the change provided by section 39 of this bill.

SECTION 49

This section amends the analysis section of Chapter 109 of title 49 USC to conform to the changes made by sections 44 and 47.

SECTION 50

This section amends section 11101 of title 49 USC to conform to the change provided in section 7 of this bill, and by implication removes the authority of the Interstate Commerce Commission to prescribe requirements for continuous and adequate transportation service by motor carriers of property under the so-called "common carrier obligation."

SECTION 51

This section repeals section 11107 of title 49 USC. The result is to repeal all Interstate Commerce Commission requirements concerning leasing arrangements for motor carriers of property. Such arrangements can be made satisfactorily under normal commercial law.

SECTION 52

This section amends section 11109 of title 49 USC by making conforming changes to reflect the deregulation of transportation by motor carriers of property. It retains the prohibition against "lumping," a practice of forcing truckers, by threat of violence, to accept unloading assistance, when such assistance is not needed.

SECTION 53

This section repeals section 11110 of title 49 USC. ICC jurisdiction over household goods operations is transferred to the Federal Trade Commission under section 72.

SECTION 54

Section 11145 of title 49 USC authorizes the Interstate Commerce Commission to require periodic and special reports by carriers subject to its jurisdiction, and requires the Commission to streamline such reports in the case of motor carriers of property. Section 54 deletes the requirement that the Commission streamline reports by motor carriers of property, and by implication removes such carriers from all reporting requirements.

SECTION 55

This section amends the analysis section of Chapter 111 of title 49 USC to conform to the changes made by sections 51 and 53.

SECTION 56

This section amends section 11304 of title 49 USC by deleting trucks from the definition of motor vehicle. As a result of this amendment, trucks that were previously regulated by the Interstate Commerce Commission will no longer be entitled to preferential financing.

SECTION 57

This section amends section 11342 of title 49 USC by removing the power of the Interstate Commerce Commission to approve pooling agreements and agreements dealing with division of transportation or earnings among motor carriers of property, with one temporary exception dealing with household goods carriers. Removing this power has the effect of subjecting such agreements to the antitrust laws as defined in the first section of the Clayton Act. The power to approve pooling and related agreements would be removed as of the effective date of the Act for all motor carriers of property except household goods carriers. The power to approve such agreements for household goods carriers will sunset three years after the effective date of the Act. Since the Interstate Commerce Commission has traditionally used its power to approve pooling agreements to ensure that household goods carriers do not abuse their grants of special antitrust immunity, this power is retained for the same period of time as the right to grant such special immunity.

SECTION 58

This section amends section 11343 of title 49 USC by deleting reference to Interstate Commerce Commission jurisdiction to exempt merger, consolidation, and acquisition of control transactions involving a motor carrier of property from the requirements of subchapter III of chapter 113 of title 49. Because motor carriers of property would no longer be subject to ICC jurisdiction (see section 7), Commission approval of these transactions among two or more motor carriers of property is not necessary. However, this section keeps intact the exemption from subchapter III requirements in the case of transactions involving a motor carrier of property and any other carrier subject to Commission jurisdiction.

SECTION 59

This section makes a conforming amendment to section 11344 of title 49 USC in order to keep in force the criteria for Commission approval of transactions involving

consolidation, merger, and acquisition of control of motor carriers of property by rail carriers.

SECTION 60

This section amends section 11348 to conform to the changes provided in section 68 of this bill.

SECTION 61

This section amends section 11501 of title 49 USC by adding a new subsection (g) which prevents state and other political agencies from enacting or enforcing any regulations concerning interstate rates, routes, or services that were subject to the jurisdiction of the Interstate Commerce Commission prior to the enactment of this bill. This subsection is intended to prevent states and other local governments from directly or indirectly regulating the trucking industry in areas from which they are presently precluded from regulating by the Interstate Commerce Act.

For example, a state seeking to impose sanctions on an interstate truck operator for violations of that state's size and weight laws or its safety regulations could not, as a sanction for such violations, bar that truck operator from conducting interstate operations through that state. The courts have observed that such a sanction would be tantamount to denial of interstate operating authority, and have concluded that the Interstate Commerce Act reserved such sanctions to the federal government.

This section also requires the Secretary of Transportation to conduct a full investigation of the economic regulation of trucking by state regulatory bodies and the extent, if any, to which it creates burdens on interstate commerce and to make any recommendations, within two years of enactment of this bill.

SECTION 62

This section amends section 11504 of title 49 USC by making conforming amendments to the regulations concerning state withholding of income taxes for motor carriers.

SECTION 63

This section amends section 11701 of title 49 USC by making conforming amendments deleting the ICC's authority to compel compliance with section 10530 of title 49, which requires certificates of registration for foreign motor carriers of property. That authority is transferred to the Secretary of Transportation under sections 16 and 74 of this bill.

SECTION 64

This section amends section 11702 of title 49 USC to conform to the changes provided in sections 13, 16, and 74 of this bill.

SECTION 65

This section amends section 11707 of title 49 USC. Section 11707 provides the legal standards of liability of common carriers under receipts and bills of lading. This amendment means that common carriers no longer subject to ICC jurisdiction will be subject to standards of liability under state law, including applicable sections of the Uniform Commercial Code.

SECTION 66

This section repeals section 11711 of title 49 USC, which authorizes dispute settlement programs for household goods carriers. The household goods consumer protection function will shift to the Federal Trade Commission. Moreover, carriers do not need specific statutory authority to set up dispute settlement programs.

SECTION 67

This section amends the analysis section of Chapter 117 of title 49 USC to conform to the change made by section 66.

SECTION 68

This section amends section 11901 of title 49 USC. Section 11901 provides for penalties against carriers for violations of various aspects of the Interstate Commerce Act. This section has the effect of removing from section 11901 penalties against motor carriers of property. The Federal Trade Commission Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund Act) and, with respect to violations of section 10530 (certificates of registration for foreign carriers), the Secretary's enforcement authority, provide for appropriate civil penalties.

SECTION 69

This section amends section 11910 of title 49 USC by deleting motor carriers of property from the unlawful disclosure provisions of section 11910, since such carriers will no longer be subject to regulation by the Interstate Commerce Commission.

SECTION 70

This section amends section 11914(b) of title 49 USC by removing applicability of the general criminal penalty under that section to violations of the registration requirements for foreign carriers under section 10530 of title 49. Because enforcement of section 10530 is transferred from the ICC to the Secretary of Transportation (see section 16 of this bill), the applicable penalty for such violations will be under section 524 of title 49 (see section 79).

SECTION 71

This section makes a conforming amendment to section 11917 of title 49 USC by deleting a reference to Interstate Commerce Commission jurisdiction over household goods, which is transferred to the Federal Trade Commission under section 72 of this Act.

SECTION 72

This section states that the Federal Trade Commission Act shall apply to motor carriers of property. The section also directs the Federal Trade Commission to enforce the Interstate Commerce Commission's household goods regulations and to conduct a review of those regulations.

SECTION 73

This section amends section 501 of title 49 USC by including private motor carriers of property within the definition of motor carrier for purposes of enforcement of safety regulations of the Department of Transportation.

SECTION 74

This section amends section 502 of title 49 USC to authorize the Secretary of Transportation to enforce compliance with the registration requirements for foreign motor carriers under section 10530. Section 16 of this bill transfers responsibility for administering section 10530 to the Secretary.

SECTION 75

This section amends section 503 of title 49 USC by requiring motor carriers of property operating in the U.S., including foreign motor carriers, to designate agents for service of notice and process with the Department of Transportation. Prior to enactment of this bill such designations had to be filed with the Interstate Commerce Commission. Section 75 also requires that agent designations made on behalf of a carrier not domiciled in the United States indicate the nationality of the carrier on whose behalf the designation is being made.

SECTION 76

This section, which amends section 504 of title 49 USC, continues the recordkeeping requirements of the Department of Transportation for motor carriers of property.

SECTION 77

This section amends section 507(c) of title 49 USC, which was added to title 49 by the Motor Carrier Safety Act of 1984, P.L. 98-554, and which provides for equitable relief in the Secretary's enforcement powers, to include a reference to violations of the registration requirements for foreign carriers under section 10530 of this title.

SECTION 78

This section amends section 521(b) of title 49 USC to include violations of registration requirements for foreign carriers under section 10530 of this title under the Secretary's authority to assess civil penalties. The procedures for civil penalty assessment and the penalties for recordkeeping violations would be applicable to violations of section 10530.

SECTION 79

This section amends section 524 of title 49 USC to include willful violations of the registration requirements for foreign carriers under section 10530 of this title within the general criminal penalty provision of the DOT Act.

SECTION 80

This section makes changes in the analysis of chapter 5 of title 49 USC to conform to the change made by section 75.

SECTION 81

This section, which amends section 3101 of title 49 USC, continues the requirement that motor carriers of property are subject to the motor carrier safety requirements of chapter 31 of title 39 USC.

SECTION 82

This section amends section 3104 of title 49 USC by adding motor carriers of property to those carriers which may be required to display identification plates on their vehicles.

SECTION 83

This section provides that the effective date of the Act shall be July 1, 1986.●

By Mr. COCHRAN (for himself, Mr. MITCHELL, Mr. HELMS, Mr. THURMOND, Mr. MATTINGLY, Mr. NUNN, and Mr. BURDICK):

S.J. Res. 208. Joint resolution to designate the week of October 27, 1985, through November 2, 1985, as "National Alopecia Areata Awareness Week"; to the Committee on the Judiciary.

NATIONAL ALOPECIA AREATA AWARENESS WEEK

● Mr. COCHRAN. Mr. President, today I am introducing legislation to designate the week of October 27, 1985, through November 2, 1985, as "National Alopecia Areata Awareness Week."

Alopecia Areata is an immunological disease which causes severe hair loss. Its approximately 2 million victims are mostly children and young adults, who often lose all of their hair, including eyelashes, eyebrows, and body hair.

Total or partial hair loss causes a dramatic change in an alopecia victim's appearance. This is particularly hard on children, who suffer emotionally when they are teased about being different, and on young adults, who are constantly reminded that our society equates beauty with a shiny, healthy head full of hair. Without question, the disease can cause devastating psychological effects.

"Alopecia Areata," a Latin phrase meaning "bald spot," occurs when hair follicles stop production. While little is known about the cause of alopecia, researchers believe that a malfunction of the body's immune system can cause "hibernation" of the hair follicles. There is some hope that a cure is within reach.

A week set aside to increase public awareness of this disease will enhance the research and support efforts of the National Alopecia Areata Foundation. This network of support groups in 42 States has helped thousands of victims and their families cope with the physical and emotional problems caused by alopecia areata.

I believe it is crucial to set aside a week to promote awareness of alopecia areata in order to work toward finding a cure and toward easing the trauma of the thousands of alopecia areata victims across the country.

Mr. President, I urge my colleagues to join me in this effort and to cosponsor my joint resolution designating "National Alopecia Areata Awareness Week."●

By Mr. D'AMATO (for himself, Mrs. HAWKINS, Mr. DECONCINI, and Mr. MOYNIHAN):

S.J. Res. 209. Joint resolution to designate the period from October 28, 1985, through October 28, 1986, as the Centennial Year of Liberty in the United States; to the Committee on the Judiciary.

CENTENNIAL YEAR OF LIBERTY IN THE UNITED STATES

● Mr. D'AMATO. Mr. President, I rise today to introduce a joint resolution proclaiming October 28, 1985, through October 28, 1986, as the Centennial Year of Liberty in the United States.

The Statue of Liberty celebrates her 100th birthday on October 28, 1986. For more than a century her torch has been a beacon of freedom as she welcomed to the United States tens of thousands of immigrants seeking refuge from persecution and suffering.

"Liberty Enlightening the World" as this proud woman is properly called, is a symbol of the friendship and the liberty that all citizens of the world enjoy under a free form of government. At her feet lies a broken shackle representing her indignation of tyranny. Held in her left arm is a tablet inscribed with the date July 4, 1776, the date of our Nation's Declaration of Independence.

Mr. President, it is with honor that New York Harbor is the home of this great woman. It is only fitting and proper that we revere Miss Liberty in her centennial year with a grand celebration.

Mr. President, I urge my colleagues to adopt this joint resolution.●

ADDITIONAL COSPONSORS

S. 259

At the request of Mr. DANFORTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 259, a bill to protect the public interest in stable relationships among communities, professional sports teams and leagues and in the successful operation of such teams in communities throughout the Nation, and for other purposes.

S. 274

At the request of Mr. DENTON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 274, a bill to provide for the national security by allowing access to certain Federal criminal history records.

S. 554

At the request of Mr. ROTH, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 554, a bill to amend title 18, United States Code, to include the transportation of males under the Mann Act, to eliminate the lewd and commercial requirements in the prosecution of child pornography cases, and for other purposes.

S. 812

At the request of Mr. GARN, the names of the Senator from Idaho [Mr. SYMMS], the Senator from Nevada [Mr. HECHT], the Senator from New York [Mr. D'AMATO], the Senator from Georgia [Mr. MATTINGLY], and the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 812, a bill to amend the Export Administration Act of 1979 to authorize controls on the export of capital from the United States.

S. 865

At the request of Mr. MATHIAS, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 865, a bill to award special congressional gold medals to Jan Scruggs, Robert Doubek, and Jack Wheeler.

S. 887

At the request of Mr. DOLE, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 887, a bill to amend the Internal Revenue Code of 1954 to extend the deduction for expenses incurred in connection with the elimination of architectural and transportation barriers for the handicapped and elderly.

S. 925

At the request of Mr. HUMPHREY, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Nevada [Mr. HECHT], the Senator from California [Mr. CRANSTON], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 925, a bill to deny most-favored-nation trading status to Afghanistan.

S. 942

At the request of Mr. DANFORTH, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 942, a bill to promote expansion of international trade in telecommunications equipment and services, and for other purposes.

S. 985

At the request of Mr. GRASSLEY, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 985, a bill to protect the rights of victims of child abuse.

S. 1107

At the request of Mr. NUNN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1107, a bill to authorize the Society of the Third Infantry Division to erect a Memorial in the District of Columbia or its environs.

S. 1223

At the request of Mr. ARMSTRONG, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 1223, a bill to authorize the erection of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces of the United States who served in the Korean War.

S. 1250

At the request of Mr. HEINZ, the names of the Senator from Tennessee [Mr. SASSER], the Senator from Nebraska [Mr. ZORINSKY], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 1250, a bill to amend the Internal Revenue Code of 1954 to extend the targeted jobs tax credit for 5 years, and for other purposes.

S. 1259

At the request of Mr. THURMOND, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 1259, a bill to correct certain inequities by providing Federal civil service credit for retirement purposes and for the purpose of computing length of service to determine entitlement to leave, compensation, life insurance, health benefits, severance pay, tenure, and status in the case of certain individuals who performed service as National Guard technicians before January 1, 1969.

S. 1277

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1277, a bill to amend title XIX of the Social Security Act to provide that States may provide home or communi-

ty-based services under the Medicaid program without the necessity of obtaining a waiver.

S. 1305

At the request of Mr. TRIBLE, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1305, a bill to amend title 18, United States Code, to establish criminal penalties for the transmission by computer of obscene matter, or by computer or other means, of matter pertaining to the sexual exploitation of children, and for other purposes.

S. 1322

At the request of Mr. HECHT, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1322, a bill to amend the Geothermal Steam Act of 1970.

S. 1427

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1427, a bill to prohibit the suspension of an employee's benefit accrued under a retirement plan solely because of age before accruing the maximum normal retirement benefit.

S. 1509

At the request of Mr. CRANSTON, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 1509, a bill to amend chapter 30 of title 38, United States Code, to provide for educational assistance under the All-Volunteer Force Educational Assistance Program for pursuit of a program of education by correspondence.

S. 1562

At the request of Mr. GRASSLEY, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1562, a bill to amend the False Claims Act, and title 18 of the United States Code regarding penalties for false claims, and for other purposes.

S. 1624

At the request of Mr. DECONCINI, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from Florida [Mrs. HAWKINS] were added as cosponsors of S. 1624, a bill to make ineligible for certain agricultural program benefits persons who are convicted under Federal or State law of planting, cultivation, growing or harvesting of controlled substances.

S. 1639

At the request of Mr. EXON, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Nebraska [Mr. ZORINSKY], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1639, a bill to authorize the minting of gold bullion coins.

S. 1679

At the request of Mr. GRASSLEY, the name of the Senator from Wisconsin [Mr. PROXMIRE] was added as a cosponsor of S. 1679, a bill to strengthen provisions of the law that provide safeguards when imports threaten to impair the national security.

S. 1702

At the request of Mr. GRAMM, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. EAST], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1702, a bill to amend the Congressional Budget and Impoundment Control Act of 1974 to require a graduated reduction of the Federal budget deficit, to establish emergency procedures to avoid unanticipated deficits, and for other purposes.

SENATE JOINT RESOLUTION 150

At the request of Mr. BRADLEY, the names of the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Joint Resolution 150, a joint resolution to designate the month of March 1986 as "National Hemophilia Month."

SENATE JOINT RESOLUTION 158

At the request of Mr. MURKOWSKI, the names of the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 158, a joint resolution designating October 1985 as "National Community College Month."

SENATE JOINT RESOLUTION 188

At the request of Mrs. KASSEBAUM, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Senate Joint Resolution 188, a joint resolution to designate July 6, 1986, as "National Air Traffic Control Day."

SENATE JOINT RESOLUTION 195

At the request of Mr. KASTEN, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Louisiana [Mr. JOHNSTON], the Senator from South Carolina [Mr. THURMOND], the Senator from Michigan [Mr. LEVIN], the Senator from Michigan [Mr. RIEGLE], the Senator from Nevada [Mr. LAXALT], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Joint Resolution 195, a joint resolution to designate the week of October 20, 1985, through October 26, 1985, as "National Temporary Services Week."

SENATE CONCURRENT RESOLUTION 68

At the request of Mr. DURENBERGER, the names of the Senator from Kentucky [Mr. FORD], the Senator from Nebraska [Mr. EXON], the Senator from Illinois [Mr. SIMON], the Senator from Massachusetts [Mr. KERRY], the Senator from South Dakota [Mr. PRESSLER], and the Senator from North Dakota [Mr. ANDREWS] were added as cosponsors of Senate Concurrent Resolution 68, a concurrent resolution expressing support for Chile's National Accord for the Transition to Full Democracy.

SENATE RESOLUTION 199

At the request of Mr. HEINZ, the names of the Senator from Georgia [Mr. MATTINGLY], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Resolution 199, a resolution to urge the Senate of the United States to reject any tax reform proposal which would impose a tax on the annual increase in the value of permanent life insurance.

AMENDMENT NO 700

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska [Mr. ZORINSKY], the Senator from Illinois [Mr. DIXON], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of amendment No. 700 proposed to H.R. 3036, a bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1986, and for other purposes.

SENATE CONCURRENT RESOLUTION 73—SUPPORTING A PEACEFUL RETURN TO DEMOCRATIC RULE IN CHILE

Mr. KENNEDY submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 73

Whereas September 11, 1985, marked the twelfth anniversary of authoritarian rule in Chile:

Whereas General Pinochet has been unwilling to take concrete steps to prepare for a transition to democracy and has rejected civilian proposals on the grounds that the democratic opposition in Chile is not unified on a reasonable timetable for a transition;

Whereas on August 25, 1985. Cardinal Juan Francisco Fresno brought together 11 parties spanning the political spectrum to sign a National Accord for the Transition to Full Democracy in Chile;

Whereas the signatories to the Accord repudiate violence as a method of political action; and

Whereas these parties together with labor unions, professional organizations, and other groups who support the Accord, reflect the overwhelming support of the Chilean people for an early and peaceful return to civilian democratic rule: Now, therefore, be it

Resolved by the Senate (House of Representatives concurring), That the Congress supports the efforts of democratic forces in Chile to achieve a peaceful return to democratic government, and expresses its view that the National Accord for the Transition to Full Democracy in Chile is an important first step toward that goal. Furthermore, the Congress encourages the Government of Chile and the signatories of the Accord to engage in direct dialog as an important second step toward a return to democratic rule.

● Mr. KENNEDY. Mr. President, I rise to submit a concurrent resolution expressing the support of the Senate for an extraordinary document produced by almost every single political party in Chile, the national accord for the transition to full democracy.

Just this morning the House of Representatives passed an identical resolution and I believe it is imperative that the Senate act in a prompt and bipartisan fashion on this concurrent resolution. There are currently two other resolutions pending in the Foreign Relations Committee also commending this Chilean document—one introduced by Senator DODD and one introduced by Senators DURENBERGER and LUGAR. The basic intent and substance of each of the three resolutions are essentially identical. One contains slightly stronger language than the House version, one contains slightly milder language than the House version.

It appears that we all recognize the importance of this national accord. It appears that we all want to support and encourage those who drafted it and it appears that we all agree that General Pinochet has no choice but to enter into a meaningful dialog with the authors of the document. The House version is a realistic and responsible compromise between the two resolutions currently in the Senate Foreign Relations Committee and rather than haggle over the minor differences in the language, I encourage my colleagues to adopt as soon as possible the resolution I am introducing today.

The national accord was signed last August by 11 political parties in Chile. Only the Communist Party did not join in the effort. In a rare instance of compromise and unity, these 11 parties joined together to produce a realistic proposal calling for the restoration of democracy in Chile. It includes the extraordinary concession of allowing the continuation of the Pinochet regime until 1989. It calls for the restoration of those political and civil rights—including a general election—that the people of Chile desire and deserve. The Chilean people are heirs to one of the longest and strongest traditions of democracy and after 12 long years of military rule, it is high time that democracy was restored to Chile. And it is high time that the Senate send a clear and strong support to the people of Chile that we support and encourage a prompt return to a democratic Chile.

Last June, General Pinochet lifted his 7-month state of seige—but he kept his emergency powers and most of his repressive policies against the Chilean population. He allowed the resumption of the publication of six opposition newspapers but maintained his strict censorship of those publications. He gave up his power to banish people to remote areas of Chile for indefinite periods of time, yet still has the power to banish anyone for up to 3 months. In my view that is no great reform and no great step toward restoring the basic rights of Chile's citizens.

Pinochet still has the power to arrest Chilean citizens and hold them up to 3 weeks incommunicado, without charges and in secret locations. And Pinochet still has refused to negotiate with those leaders who represent the overwhelming majority of the Chilean people on a return of democracy to Chile.

We in the United States have a moral obligation to do everything in our power to pressure Pincohet to relinquish his strong hold on power and allow the people of Chile to freely chose their own system of government and their own leaders.

Just this past summer, the United States reversed its policy of abstaining on its votes in multilateral institutions on loans to Chile—a policy the administration had adopted to protest the state of siege in Chile. While in theory, the state of siege has been lifted, but, as I have just outlined, in practice the most basic civil rights continue to be denied the Chilean population. U.S. law currently requires our Government to instruct our representatives at these international institutions to oppose loans to governments guilty of gross human rights violations. The Pinochet regime is by any reasonable definitions a gross violator of human rights. Americans must show our support for the people of Chile by opposing all loans to Chile until the government enters into a meaningful dialog with the signatories of the national accord on returning Chile promptly to democracy.

I urge a speedy consideration of my concurrent resolution and ask my colleagues to join me in supporting my resolution and this national accord which provides a great hope for the people of Chile.●

SENATE CONCURRENT RESOLUTION 74—EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO A UNITED STATES—SOVIET RECIPROCAL TELEVISION AGREEMENT

Mr. SIMON (for himself, Mr. HATFIELD, and Mr. GRASSLEY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations.

S. CON. RES. 74

Whereas both the United States and the Soviet Union, as signatories of the United Nations Declaration of Human Rights and the Helsinki Accords, are pledged to allow information to flow freely across their national boundaries;

Whereas allowing information to flow freely across their national boundaries is in the best interest of the people of the United States and the Soviet Union, and is a necessary response to the times;

Whereas increased communication between the United States and the Soviet Union reduces the risk that misunderstandings will cause conflict; and

Whereas the Director of the United States Information Agency, Charles Z. Wick, has extended to the Chief of the International Information Department of the Soviet Union, Mr. Leonid M. Zamyatin, an invitation to participate in reciprocal exchanges using the medium of television; Now, therefore, be it

Resolved by the Senate (the House of Representative concurring), That the Congress, recognizing the significant potential for improving communications, enhancing mutual understanding, and aiding the free flow of information through the medium of television, supports the intiative of the Director of the United States Information Agency to—

(1) arrange for a high level official of the Soviet Union to appear on American television if the Soviet Union reciprocates by arranging for a high level official of the United States to appear for an equal time on Soviet television; and

(2) plan for participation by the United States and the Soviet Union in a worldwide discussion using the WORLDNET international satellite television transmission network, and giving journalists an opportunity to ask uncensored questions of such officials.

● Mr. SIMON. Mr. President, I am pleased to introduce Senate Concurrent Resolution 74 with Senator HATFIELD and Senator GRASSLEY today, expressing the support of the Congress for an initiative to involve the United States and the Soviet Union in a constructive dialog via television to further mutual understanding and improve the access of our political leadership to the ordinary Soviet citizen. This initiative could help build the foundations for a better United States-Soviet relationship, and improve the chances of success across the broad range of bilateral negotiations now underway.

The resolution supports the Director of the United States Information Agency [USIA], Mr. Charles Wick, in his efforts to arrange for a high American official and a high Soviet official to appear for equal time on WORLDNET, the international satellite television transmission network, to answer open-ended questions by a team of journalists. To his credit, Mr. Wick saw the great opportunity to narrow the scope of misunderstanding and mistrust and proposed such an exchange to Moscow this past January. In April, a number of us applauded this proposal and sent a letter to Mr. Wick encouraging him in his efforts.

To date, Mr. Wick has not received a reply from Mr. Leonid Zamyatin, the Chief of the International Information Department of the Central Committee. I was recently in the Soviet Union, as were a number of our colleagues since Mr. Gorbachev's accession as General Secretary, and I know that I was not alone in urging that ad-

ditional avenues of communication be opened as soon as possible between our two countries. What has become known as Mr. Wick's Zamyatin initiative is now receiving careful Soviet attention. It is my concern that we do everything we can in the Senate to foster a positive response.

We all know that the Soviet Union is largely a closed society, that information is tightly controlled, and that access to top Soviet officials is difficult. The Soviet leadership is not used to facing a barrage of independent journalistic inquiry, and a decision on their part to proceed will not come easily. Yet the stakes are so great, the prospects for our collective future so uncertain, that with enought persistence and patience on our part, the Soviet leadership, I hope, will realize that it is in their best long-term interest to talk with all of us in the West. Candor is called for, and Mr. Wick's initiative calls on both United States and Soviet officials to speak and be heard. We in the Senate need to speak forcefully on the importance of being understood within the international community. I urge that you join with Senators HATFIELD, GRASSLEY and me in supporting the Zamyatin initiative.●

SENATE RESOLUTION 234—AUTHORIZING THE PRINTING OF THE REPORT OF THE SENATE DELEGATION TO HUNGARY AND THE SOVIET UNION

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 234

Resolved, by the Senate of the United States of America, that there shall be printed for the use of the Senate an additional one thousand copies of "The Superpowers at a Crossroads: Soviet-American Relations in the Autumn of 1985—Report by a Senate Delegation to Hungary and the Soviet Union led by Senators ROBERT C. BYRD and STROM THURMOND, August 27-September 6, 1985" for distribution to the Members of the Senate as an official Senate document.

AMENDMENTS SUBMITTED

TREASURY, POST OFFICE, AND INDEPENDENT AGENCIES APPROPRIATION ACT, 1986

LAXALT AMENDMENT NO. 702

Mr. LAXALT proposed an amendment to the bill (H.R. 3036) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1986, and for other purposes; as follows:

TITLE IV, PAGE 32, BEGINNING LINE 1, INSERT:

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

For the year ending September 30, 1986, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, pursuant to 50 U.S.C. 98a and g(a)(2)(c) and 50 U.S.C. 100(a), notwithstanding the provisions of 50 U.S.C. 98h, an additional $15,000,000 is appropriated, to remain available until expended, for a grant to construct Phase II of the Mines Building at the Mackay School of Mines, University of Nevada Reno, relocate the Generic Center on the Recycling of Strategic Metals and establish the Policy Center on Strategic Materials, including such equipment as the school deems necessary to the conduct of its activities.

TRIBLE (AND OTHERS) AMENDMENT NO. 703

Mr. TRIBLE (for himself, Mr. ABDNOR, and Mr. DECONCINI) proposed an amendment to the bill H.R. 3036, supra; as follows:

On page 58, between lines 2 and 3, insert the following:

SEC. 615. (a) If any individual or entity which provides or proposes to provide child care services for Federal employees applies to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such services, such officer or agency may allot space in such a building to such individual or entity if—

(1) such space is available; and

(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 95 percent are Federal employees.

(b)(1) If an officer or agency allots space to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and other expenses associated with security systems).

WARNER AMENDMENT NO. 704

Mr. ABDNOR (for Mr. WARNER) proposed an amendment to the bill H.R. 3036, supra; as follows:

On page 58, after line 2, insert the following new section:

SEC. . (a) Section 5723 of title 5, United States Code, is amended—

(1) by redesignating the second subparagraph (B) in subsection (a)(1) as subparagraph (C); and

(2) by adding at the end thereof the following new subsection (f):

"(f) Under regulations prescribed pursuant to the authority contained in subsection (a) of this section, any appointee who is referred to in paragraph (1)(B) or (1)(C) of such subsection and receives travel and transportation expenses under this section may be allowed relocation expenses to the same extent and under the same conditions and limitations as are prescribed for a transferred employee in sections 5724a, 5724b, and 5724c of this title.".

(b) Paragraph (4) of section 5724a(a) of title 5, United States Code, is amended by adding at the end thereof the following new subparagraph (C):

"(C) Reimbursement under this paragraph may also be allowed for (i) the expenses of the sale of the residence at the old official station located within the areas listed in subparagraph (A) incident to an employee's transfer to a post of duty located outside those areas to serve an agreed upon tour of duty and the employee's travel and transportation expenses are allowed pursuant to 5724(d) of this title, and (ii) the expenses of the purchase of a residence at a new official station located within the areas listed in subparagraph (A) when the employee is transferred in the interest of the Government to such official station from a post of duty located outside those areas and residence sale expenses are allowable under clause (i) of this subparagraph. Agencies may pay expenses under clause (i) or (ii) of this subparagraph only after the employee agrees in writing to remain in Government service for 12 months after each of the transfers described in clauses (i) and (ii) unless separated for reasons beyond his control which are acceptable to the agency concerned. If the employee violates the agreement for either transfer, the money spent by the United States for the expenses incident to that transfer is recoverable from the employee as a debt due the United States. The benefits authorized under this subparagraph shall in no case duplicate benefits or allowances authorized under other statutory provisions for the same basic purposes.".

HELMS AMENDMENT NO. 705

Mr. HELMS proposed an amendment to the bill H.R. 3036, supra; as follows:

On page 14, after line 10, insert the following new section:

SEC. . No funds appropriated under this Act shall be used to grant, maintain, or allow tax exemptions to any cult, organization, or other group that has as a purpose, or that has any interest in, the promoting of satanism or witchcraft: *Provided*, That for purposes of this section, "satanism" is defined as the worship of Satan or the powers of evil and "witchcraft" is defined as the use of powers derived from evil spirits, the use of sorcery, or the use of supernatural powers with malicious intent.

DOMENICI (AND OTHERS) AMENDMENT NO. 706

Mr. DOMENICI (for himself, Mr. CHILES, Mr. BOSCHWITZ, Mr. EVANS, Mr. MATTINGLY, Mr. NICKLES, Mr. EXON, Mr. GRAMM, Mr. HATCH, Mr. SYMMS, Mr. JOHNSTON, Mr. PROXMIRE, Mr. ZORINSKY, Mr. BINGAMAN, and Mr. ARMSTRONG) proposed an amendment to the bill H.R. 3036, supra; as follows:

At the end of the bill, add the following new section:

"SEC. 618. Each dollar amount contained in this Act as reported by the Senate Committee on Appropriations which is provided for non-defense discretionary programs and activities is hereby reduced 2.0 per centum."

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND RELATED AGENCIES APPROPRIATION ACT, 1986

GORTON (AND OTHERS) AMENDMENT NO. 707

(Ordered to lie on the table.)

Mr. GORTON (for himself, Mr. EVANS, Mr. CHILES, Mrs. HAWKINS, Mr. NUNN, and Mr. MATTINGLY) submitted an amendment intended to be proposed by them to the bill (H.R. 3038) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1986, and for other purposes; as follows:

At page 17, line 9, insert a "." after "1987" and strike all following "1987." through and including page 17, line 23.

TREASURY, POST OFFICE, AND INDEPENDENT AGENCIES APPROPRIATION ACT, 1986

DODD AMENDMENT NO. 708

Mr. DODD proposed an amendment to the bill H.R. 3036, supra; as follows:

On page 5, line 17 before the period insert the following:

: *Provided further,* That none of the funds made available by this Act or any other Act shall be used to promulgate or enforce any final rulemaking or other action concerning the labeling of low or reduced alcohol distilled spirits until such time as the appropriate committees of the Congress have been provided with a thorough study of the consequence of such potential labeling changes. Such study shall be undertaken under the direction of the Bureau of Alcohol, Tobacco and Firearms.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION

STAFFORD AMENDMENT NO. 709

Mr. DOLE (for Mr. STAFFORD) proposed an amendment to the bill (S. 801) to authorize appropriations for the National Science Foundation for fiscal year 1986; as follows:

On page 41, after line 23, insert the following:

PART F—MAGNET SCHOOLS ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 261. Section 701 of the Act is amended by striking out "and 1986" and inserting in lieu thereof "1986, 1987, and 1988".

STATEMENT OF PURPOSE

SEC. 262. Section 703 of the Act is amended to read as follows:

"STATEMENT OF PURPOSE

"SEC. 703. It is the purpose of this title to support, through financial assistance to eligible local educational agencies—

"(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and

"(22) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.".

USES OF FUNDS

SEC. 263. Section 706 of the Act is amended to read as follows:

"USES OF FUNDS

"SEC. 706. Grants made under this title may be used by eligible local educational agencies for—

"(1) planning and promotional activities directly related to expansion and enhancement of academic programs and services offered at magnet schools;

"(2) the acquisition of books, materials, and equipment including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

"(3) the payment of or subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of programs in magnet schools;

where with respect to clauses (2) and (3), such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.".

MODIFICATION OF PROHIBITION

SEC. 264. Section 709 of the Act is amended to read as follows:

"PROHIBITIONS

"SEC. 709. Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement.".

TITLE III—LIBRARY SERVICES PROGRAM

LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS

SEC. 301. (a) Section 3(12) of the Library Services and Construction Act (20 U.S.C. 351a(12)) (hereafter in this title referred to as the "Act") is amended by striking out "five-year program" and inserting in lieu thereof "program of not less than three nor more than five years".

(b) Section 3(15) of the Act is amended—

(1) by inserting "by the Secretary of the Interior" after "recognized"; and

(2) by striking out ", as determined by the Secretary after consultation with the Secretary of the Interior".

APPLICABILITY OF PUBLIC LIBRARY PROVISIONS TO HAWAIIAN NATIVE PROGRAM

SEC. 302. (a)(1) The first sentence of section 5(d)(2) of the Act (20 U.S.C. 351c(d)(2)) is amended by striking out "sections 403" and inserting in lieu thereof "sections 402(b), 403,".

(2) The second sentence of section 5(d)(2) of the Act is amended by striking out "(8)" and inserting in lieu thereof "(9)".

(3) Section 5(d)(2) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary shall issue criteria for the approval of applications and plans but the criteria may not include an allotment formula and may not contain a matching of funds requirement.".

(b) Section 6(b)(4) of the Act (20 U.S.C. 351(b)(4)) is amended by inserting "(as defined in section 703(a) of the Bilingual Education Act)" after "limited English-speaking proficiency".

CORRECTION OF ADMINISTRATIVE COST MISINTERPRETATION

SEC. 303. (a) The references in section 8 of the Act (20 U.S.C. 351f) to "such titles" mean, and shall be construed as meaning, the immediately preceding reference to "titles I, II, and III".

(b) The matter preceding clause (1) of section 102(b)(1) of the Act (20 U.S.C. 353(b)(1)) is amended by striking out "this title'" and inserting in lieu thereof "this Act".

MAJOR URBAN RESOURCE LIBRARY RESERVED AMOUNTS

SEC. 304. Section 102(c)(1) of the Act 920 U.S.C. 353(c)(1)) is amended by inserting "(excluding the amount made available for Indian tribes and Hawaiian natives)" and "section 4(a)".

SERVICES TO TRIBES IN STATES WITHOUT INDIAN RESERVATIONS

SEC. 305. Title IV of the Act (20 U.S.C. 361 et seq.) is amended by adding at the end thereof the following new section:

"SERVICES IN STATES WITH INDIAN TRIBES NOT RESIDING ON OR NEAR RESERVATIONS

"SEC. 406. The provisions of this title requiring that services be provided on or near Indian reservations, or to only those Indians who live on or near Indian reservations, shall not apply in the case of Indian tribes and Indians in California, Oklahoma, and Alaska.".

TITLE IV—MINORITY INSTITUTIONS; MIGRATORY CHILDREN PROGRAM

MINORITY INSTITUTIONS SCIENCE IMPROVEMENT PROGRAM

Sec. 401. The General Education Provisions Act is amended—

(1) by redesignating section 406A (as added by the Education Amendments of 1980; 94 Stat. 1497) as section 406B; and

(2) by inserting after such section the following new section:

"AUTHORIZATION OF APPROPRIATIONS FOR SCIENCE IMPROVEMENT PROGRAM

"SEC. 406C. There are authorized to be appropriated $5,000,000 for each of the fiscal years 1985 and 1986 for the purpose of carrying out the Minority Institutions Science Improvement Program transferred to the Secretary of Education from the National Science Foundation by section 304 of the Department of Education Organization Act.".

MIGRATORY CHILDREN RECORDS SYSTEM

SEC. 402. Section 143(a) of the Elementary and Secondary Education Act of 1965 is amended—

(1) by striking out "grants to, or enter into contracts with," and inserting in lieu thereof "enter into contracts with"; and

(2) by adding at the end thereof the following: "For the purpose of ensuring continuity in the operation of such system, the Secretary shall, not later than July 1 of each year, continue to award such contract to the State educational agency receiving the award in the preceding year, unless a majority of the States notify the Secretary

in writing that such agency has substantially failed to perform its responsibilities under the contract during that preceding year. No activity under this section shall, for purposes of any Federal law, be treated as an information collection that is conducted or sponsored by a Federal agency.".

TITLE V—HARRY S TRUMAN MEMORIAL SCHOLARSHIP PROGRAM

PROGRAM AMENDMENTS

SEC. 501. (a) Section 8 of the Harry S. Truman Memorial Scholarship Act (20 U.S.C. 2007) is amended—

(1) by inserting "and" before "room", and

(2) by striking out ", or $5,000 whichever is less".

(b) Section 13(a)(3) of the Harry S. Truman Memorial Scholarship Act is amended by inserting before the semicolon at the end thereof a comma and the following: "and the amount of stipends payable under this Act".

TITLE VI—EDUCATION OF THE HANDICAPPED ACT

EDUCATION OF THE HANDICAPPED ACT AMENDMENTS

SEC. 601. (a) Section 611(c)(2)(A)(i)(II) of the Education of the Handicapped Act (20 U.S.C. 1411(c)(2)(A)(i)(II)) is amended by striking out "300,000" and inserting in lieu thereof "400,000".

(b) Section 611(c)(1)(B) of such Act is amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (4)".

EFFECTIVE DATE

SEC. 602. The amendment made by section 601(a) shall take effect on July 1, 1985.

TITLE VII—CARL D. PERKINS VOCATIONAL EDUCATION ACT TECHNICAL AMENDMENTS

TERRITORIAL HOLDHARMLESS

SEC. 701. Section 101(a)(3)(D) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2311(a)(3)(D)) (hereafter in this title referred to as the "Act") is repealed.

STATE ALLOCATION

SEC. 702. Section 102 of the Act is amended to read as follows:

"WITHIN STATE ALLOCATION

"SEC. 102. (a)(1) Each State shall reserve from its allotment of funds appropriated under section 3(a) for each fiscal year an amount that does not exceed 7 percent of the allotment for State administration of the State plan. If the cost of carrying out the provisions of section 111(b) exceeds 1 percent of a State's allotment of funds appropriated under section 3(a), the State may reserve that excess amount from that allotment in addition to the 7 percent authorized by the preceding sentence.

"(2) The amount reserved under paragraph (1) shall be considered as part of that portion of the State's allotment that is retained for State activities and is not distributed under section 113(b)(4).

"(b) From the remainder of its allotment of funds appropriated under section 3(a), each State shall reserve for each fiscal year—

"(1) 57 percent for activities described in part A of title II; and

"(2) 43 percent for activities described in part B of title II.".

STATE COUNCIL ON VOCATIONAL EDUCATION

SEC. 703. (a) Section 12(b) of the Act is amended to read as follows:

"(b) The State shall certify to the Secretary the establishment and membership of the State council by the beginning of each State plan period described in section 113(a)(1).".

(b) Section 112(d) of the Act is amended by striking out "(d)" and all that follows through clause (1) and inserting in lieu thereof the following:

"(d) During each State plan period described in section 113(a)(1), each State council shall—

"(1) meet with the State board or its representatives to advise on the development of the subsequent State plan;".

(c)(1) Section 112(f)(1)(A) of the Act is amended by striking out "From" and inserting in lieu thereof "Except as provided in subparagraph (B), from".

(2) Section 112(f)(1)(B) of the Act is amended to read as follows:

"(B) From the amounts appropriated pursuant to section 3(c), for each fiscal year, the Secretary shall make grants of $50,000 to the State councils of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

STATE PLANS

SEC. 704. Section 113(b)(9)(C) of the Act is amended by striking out "not less than" and all that follows through "year" and inserting in lieu thereof "the projects, services, and activities supported under this Act of not less than 20 percent of the participating eligible recipients within the State in each fiscal year".

WITHIN STATE ALLOCATION

SEC. 705. Section 203(a)(3) of the Act is amended to read as follows:

"(3) The State board shall ensure that each eligible recipient that receives funds under paragraph (2) uses those funds to provide vocational education services and activities for individuals with limited English proficiency at least in proportion to the number of such individuals enrolled by that eligible recipient in the fiscal year preceding the fiscal year in which the determination is made as compared to the total number of disadvantaged individuals, including individuals with limited English proficiency, so enrolled in that fiscal year.".

CONSUMER AND HOMEMAKING EDUCATION

SEC. 706. (a) The heading of part B of title III of the Act is amended to read as follows:

"PART B—CONSUMER AND HOMEMAKING EDUCATION".

(b)(1) The first sentence of section 311 of the Act is amended by striking out "homemaker" and inserting in lieu thereof "homemaking".

(2) The heading of section 311 of the Act is amended to read as follows:

"CONSUMER AND HOMEMAKING EDUCATION GRANTS".

(c)(1) Subsection (b) of section 312 of the Act is amended by striking out "homemaker" and inserting in lieu thereof "homemaking" both places it appears.

(2) The heading of section 312 of the Act is amended to read as follows:

"USE OF FUNDS FROM CONSUMER AND HOMEMAKING EDUCATION GRANTS".

(d) The table of contents of the Act is amended by striking out the items relating to part B of title III and sections 311 and 312 and by inserting in lieu thereof the following:

"PART B—CONSUMER AND HOMEMAKING EDUCATION

"Sec. 311. Consumer and homemaking education grants.

"Sec. 312. Use of funds from consumer and homemaking education grants.".

CONSUMER AND HOMEMAKING EDUCATION STATE LEADERSHIP

SEC. 707. Section 313(b) of the Act is amended by striking out "to carry out leadership activities under this section." and inserting in lieu thereof "for State administration of projects, services, and activities under this part.".

CAREER GUIDANCE AND COUNSELING STATE LEADERSHIP

SEC. 708. Section 333(b) of the Act is amended by striking out "to carry out leadership activities under this section." and inserting in lieu thereof "for State administration of projects, services, and activities under this part.".

AUTHORIZATION OF GRANTS

SEC. 709. Section 342(c) of the Act is amended by striking out "subsection (b)(2)" both places it appears and inserting in lieu thereof "subsection (b)(3)".

MODEL CENTERS FOR VOCATIONAL EDUCATION FOR OLDER INDIVIDUALS

SEC. 710. Section 417(b) of the Act is amended by inserting "shall" immediately after "subpart".

FEDERAL SHARE

SEC. 711. (a) Section 502(a) of the Act is amended in the introductory clause by striking out "shall be" and inserting in lieu thereof "shall not exceed".

(b)(1) Section 502(a)(2) of the Act is amended by striking out "not to exceed".

(2) Section 502(b) of the Act is amended by adding at the end thereof the following new sentence: "The non-Federal contributions from local resources may be in cash or in kind, fairly valued, including facilities, overhead, personnel, equipment, and services, if the eligible recipient determines that it cannot otherwise provide such contribution.".

TRANSITION

SEC. 712. The matter preceding clause (1) of section 3(a) of Public Law 98-524 (98 Stat. 2487) is amended to read as follows: "Until July 1, 1986, a State or eligible recipient may use funds received under the Vocational Education Act of 1963 or the Carl D. Perkins Vocational Education Act to—".

TECHNICAL AMENDMENTS

SEC. 713 (a)(1) Section 113(b)(10) of the Act (20 U.S.C. 2323(b)(10)) is amended by inserting "of 1981" after "Education Consolidation and Improvement Act".

(2) Section 113(b)(11) of the Act is amended by inserting "provide assurances" before "that".

(3) Section 504(d)(1) of the Act is amended by striking out "section 434(c)" and inserting in lieu thereof "section 453".

(4) Section 521(15) of the Act is amended by inserting "or language" immediately after "speech".

(b)(1) Section 4(a)(1)(A) of Public Law 98-524 is amended by striking out "section 4(15)" and inserting in lieu thereof "section 521(19)".

(2) Section 4(a)(6)(D) of Public Law 98-524 is repealed.

EFFECTIVE DATE

SEC. 714. (a) Except as provided in subsection (b), the provisions of this title shall take effect July 1, 1985.

(b) Section 702 of this Act shall take effect July 1, 1986.

TITLE VIII—HIGHER EDUCATION PROGRAMS

NATIONAL DIRECT STUDENT LOAN APPORTIONMENT

SEC. 801. (a) Section 12 of the "Student Financial Assistance Technical Amendments Act of 1982" is amended—

(1) by inserting "(a)" after the section designation; and

(2) by inserting at the end thereof the following new subsection:

"(b) Notwithstanding subsections (a) and (b) of section 462 of the Higher Education Act of 1965, if in the fiscal year 1986 the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1980, the Secretary shall apportion the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1980 bears to the total amount appropriated pursuant to section 461(b)(1) for the fiscal year 1980.".

(b) The amendments made by this section shall take effect October 1, 1985.

NATIONAL GRADUATE FELLOWS PROGRAM

SEC. 802. The last sentence of section 931(a) of the Higher Education Act of 1965 is amended to read as follows: "In the fiscal year beginning October 1, 1985, and each succeeding fiscal year, all funds appropriated in each fiscal year shall be awarded to students by March 1 of the fiscal year for which the funds were appropriated. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.".

GORTON (AND DANFORTH) AMENDMENT NO. 710

Mr. DOLE (for Mr. GORTON, for himself, and Mr. DANFORTH) proposed an amendment to the bill S. 801, supra; as follows:

On page 15, line 14, strike "$1,500,780,000" and insert in lieu thereof "$1,517,156,000".

On page 15, line 19, strike "$406,820,000" and insert in lieu thereof "$408,820,000".

On page 15, line 20, strike "$160,640,000" and insert in lieu thereof "$169,796,000".

On page 15, line 22, strike "$261,010,000" and insert in lieu thereof "$262,010,000".

On page 15, line 24, strike "$357,670,000" and insert in lieu thereof "$359,670,000".

On page 16, line 1, strike "$44,010,000" and insert in lieu thereof "$46,230,000".

On page 18, line 10, strike "record." and insert in lieu thereof "record'.".

On page 18, line 20, strike "Chairman" and insert in lieu thereof "Chairmen".

On page 18, strike line 21 and insert in lieu thereof "tees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate and the".

On page 19, insert the following immediately after line 11:

(e) Section 11 of the National Science Foundation Act of 1950 is amended—

(1) by striking out "and" at the end of paragraph (i);

(2) by striking out the period at the end of paragraph (j) and inserting in lieu thereof "; and"; and

(e) by adding at the end thereof the following:

"(k) to indemnify grantees, contractors, and subcontractors associated with the Ocean Drilling Program under the provisions of section 2354 of title 10, United States Code, with all approvals and certifications required by such indemnification made by the Director.".

On page 19, line 12, strike "(e)" and insert in lieu thereof "(f)".

On page 20, line 15, strike " 'a grant" and insert in lieu thereof " 'and a grant".

INTELLIGENCE AUTHORIZATION ACT

DURENBERGER (AND LEAHY) AMENDMENT NO. 711

Mr. DURENBERGER (for himself and Mr. LEAHY) proposed an amendment to the bill (S. 1271) to authorize appropriations for fiscal year 1986 for intelligence activities of the U.S. Government, the intelligence community staff, the Central Intelligence Agency retirement and disability system, and for other purposes; as follows:

Beginning on page 10, line 12, strike out all through page 12, line 16.

JAPANESE TRADE PRACTICES

HOLLINGS AMENDMENT NO. 712

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill (S. 1404) to require the President to respond to unfair trade practices of Japan; as follows:

At the appropriate place insert the following:

TITLE I

SECTION 101. SHORT TITLE.

This Title may be cited as the "Textile and Apparel Trade Enforcement Act of 1985".

SEC. 102. POLICY.

The policy of this Title is (1) to prevent further disruptions of the United States textiles and textile product markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

SEC. 103. FINDINGS.

The Congress finds that—

(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December, 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

(3) since 1980, the objective of orderly growth of imports of textiles and textile products provided for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 per centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts and sweaters exceeds 50 per centum of domestic consumption;

(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

(8) imports of textiles and textile products into the United States are predominantly the product of significant export countries, with five large exporting countries now accounting for more than 50 per centum of all imports of textiles and textile products;

(9) the domination of import trade by producers in the significant exporting countries has limited participation in the United States market by other exporting countries, many of which share important trade and other national interests, and encourge mutually beneficial trade and investment, with the United States;

(10) a change in United States textile trade policy to afford the smaller exporting countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over

one million job opportunities lost to United States workers;

(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United States cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum, as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established, under this Act;

(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

(A) to require the establishment of import levels for textiles and textile products supplied by major exporting countries that reflect—

(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum,

whichever is the lesser,

(B) to require the establishment of import levels for textiles and textile products supplied by exporting countries that reflect their 1984 import levels,

(C) to require the establishment of import levels for textiles and textile products supplied by small exporting countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocal extending the Multi-Fiber Arrangement;

(21) the establishment of import levels, and limitation of future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfull announced policy objectives of the United States regarding trade in textiles and apparel;

(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textile and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Multi-Fiber Arrangement and its Protocol.

SEC. 104. DEFINITIONS.

For purposes of this Title—

(1) The term "textiles and textile products" includes, but is not limited to, all manmade fibers, tops, yarns, piece goods, made-up articles, apparel, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, parts 1, 4, 5 (except subpart E), 7 or 13 of schedule 7, part 1 of schedule 8, or part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202);

(2) The term "category" means, with respect to textiles and textile products imported from each country, each of the following—

(A) Each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

(B) With respect to each country with which the United States has (i) an agreement on the date of enactment of this Title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

(C) A category consisting of the man-made fiber articles classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

(D) Each category consisting of each of the following products when, because of any fiber content, that product is not subject to the Multi-Fiber Arrangement:

(i) yarn,

(ii) fabric,

(iii) apparel, and

(iv) other textile products;

(3) The term "import sensitive category" means—

(A) a category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

(B) a category covering wool products;

(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on January 1, 1985), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the Customs territory of the United States;

(5) The term "major exporting country" means a country from which the United States imported an annual aggregate quantity of textiles and textile products under the categories referred to in subparagraph 2(A) of this section that equalled or exceeded 10 per centum of all textiles and textile products under such categories and from Canada and the Member States of the European Economic Community during calendar year 1984;

(6) The term "exporting country" means a country (other than a major exporting country and a country in the Caribbean region) from which the United States imported an annual aggregate quantity of textiles and textile products under the categories referred to in subparagraph 2(A) of this section that equalled or exceeded 1.25 per

centum of all textiles and textile products under such categories imported into the United States from all countries and from Canada and Member States of the European Economic Community during calendar year 1984;

(7) The term "small exporting country" means a country other than a major exporting country and an exporting country;

(8) The term "country in the Caribbean region" means the United Mexican States and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702);

(9) The term "wool product" means an article containing over 17 per centum by weight of wool;

(10) The term "cotton, wool and man-made fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States;

(12) The term "imported" means entered; and

(13) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

SEC. 105. LIMITS ON TEXTILE AND APPAREL IMPORTS.

(a) CALENDAR YEAR 1985.—Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under each category that is entered during calendar year 1985 shall not exceed—

(1) in the case of textiles and textile products that are a product of a major exporting country, other than textile luggage and textile flat goods subject (as of the date of enactment of this Title) to a specific limitation under an agreement with a major exporting country, the lesser of an amount equal to 101 per centum (A) of the aggregate quantity of such products from such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products from such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983 and 1984, or (B) if the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products from such country classified under such category that entered during calendar year 1984;

(2) in the case of textile luggage and textile flat goods subject (as of the date of enactment of this Title) to specific limitation under an agreement with a major exporting country, the specific limitation quantity in effect as of the date of enactment of this Title;

(3) in the case of textiles and textile products that are a product of an exporting country, an amount equal to the aggregate quantity of (A) such products from such country classified under such category that entered during calendar year 1984, or (B) in the case of textile luggage and textile flat goods subject (as of the date of enactment of this Title) to specific limitation under an agreement with an exporting country, of the specific limitation quantity in effect as of the date of enactment of this Title;

(4) in the case of textiles and textile products that are a product of a small exporting country, other than cotton, wool and man-made fiber sweaters described in paragraph (5) of this subsection, an amount equal to the aggregate quantity of such products from such country classified under such category that entered during calendar year 1984, plus an amount equal to (A) 15 percentum of such quantity, in the case of a category that is not an import sensitive category, or (B) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

(5) in the case of cotton, wool and man-made fiber sweaters that are—

(A)(i) the product of Guam, or (ii) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

(B)(i) the product of the Commonwealth of the Northern Mariana Islands, or (ii) the product of substantial assembly operations in such Commonwealth from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

If application of paragraph (1) would result in the aggregate quantity of textiles and textile products from a major exporting country classified under a category permitted entry during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products from such country classified under such category that was entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of such products from such country classified under such category that is entered during calendar year 1985 shall not exceed 70 per centum of the aggregate quantity of such products from such country classified under such category that was entered during calendar year 1984.

For purposes of this section, if during any calendar year after 1984 the United States imports from a small exporting country, other than a country in the Caribbean region, an aggregate quantity of textiles and textile products under the categories referred to in subparagraph 2(A) of section 104 of this Title that equals or exceeds 1.25 per centum of all textiles and textile products under such categories imported into the United States from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such country shall be considered to be an exporting country for all succeeding calendar years.

(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

(1) in the case of such products that are a product of a major exporting country or of an exporting country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

(2) in the case of such products that are a product of a small exporting country, be increased by an amount equal to—

(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 110(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 110(b) in previous calendar years.

(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products from a country that may be entered during a calendar year a category is—

(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products that may be entered from such country under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of imports from such country under such category equals the minimum quantity prescribed under this subsection.

(d) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this Title.

SEC. 106. IMPORT LICENSING.

In order to ensure the equitable and efficient administration of section 105 of this Title, the Secretary of Commerce shall, within six months after the date of enactment of this Title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system.

SEC. 107. ANNUAL REPORT.

Not later than March 15, 1986, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this Title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 105. All departments and agencies shall cooperate in preparation of this report as requested by the President.

SEC. 108. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this Title a formal review of the oper-

ation of the Textile Import Control Program under the provisions of this Title. The Secreatary shall consult members and committees of Congress, representatives of the labor unions and industries affected by the program, and appropriate government agencies. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

SEC. 109. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 5(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 5(b) of such Act that adjust the quotas under such section 5(b)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a).	Free

SEC. 110. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to the provisions of subsection (b), the provisions of this Title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Title.

(b) CALENDAR YEARS 1985 AND 1986.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products that may be entered under section 105(a) or (c) of this Title from each country under each category during the period beginning on the date of enactment of this Title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quant ity of imports of textiles and textile products from a country under a category entered after December 31, 1984, and before the date of enactment of this Title exceeds the quantity permitted entry for such country and such category during calendar year 1985 under section 105(a) or (c), then the limit that would otherwise apply under section 105(b) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105(b) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

TITLE II

SEC. 201. SHORT TITLE.

This Title may be cited as the "American Footwear Industry Recovery Act of 1985".

SEC. 202. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing or newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

(A) the loss of 155,000 footwear jobs since 1968,

(B) a decline in domestic production and production capacity, and

(C) the permanent closure of over 500 plants during the same period.

(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from, 51 percent in 1981 to 77 percent in 1985.

(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

(11) Since the termination of the two, four-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

(B) in the absence of an effective remedy under such process, legislative relief is essential.

(b)(1) It is the purpose of Congress in enacting this section to—

(A) promote and expand the economic health of the United States nonrubber footwear industry,

(B) preserve the jobs of American workers, and

(C) prevent the further decline of this important domestic industry.

(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, of which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

SEC. 203. DEFINITIONS.

For purposes of this Title—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "Secretary" means Secretary of Commerce.

(3) The term "nonrubber footwear" means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95.

(4) The term "apparent domestic consumption" means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

SEC. 204. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

(a)(1) During the 8-year period beginning on the date of enactment of this Title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 percent of the estimated apparent domestic consumption of nonrubber footwear for such period.

(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 percent of apparent domestic consumption of nonrubber footwear for such period,

(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 percent of apparent domestic consumption of nonrubber footwear for such period, and

(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 percent of apparent domestic consumption of nonrubber footwear for such period.

(b) Within sixty days after the effective date of this Title, and on the first day of the fourth quarter of each 1 year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1 year period and in the case of the first day of the fourth quarter of each 1 year period thereafter, the next succeeding 1 year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeding 1 year period of permissible imports of nonrubber footwear as required by this section.

(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under

this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

SEC. 205. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 204 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).

INTELLIGENCE AUTHORIZATION ACT

SIMPSON AMENDMENT NO. 713

Mr. DURENBERGER (for Mr. SIMPSON) proposed an amendment to the bill S. 1271, supra; as follows:

On page 8, beginning on line 12, strike out "fifteen" and all that follows through "Intelligence" on line 15 and insert in lieu thereof the following: "Ten. The Director of Central Intelligence shall notify the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary".

BENTSEN (AND OTHERS) AMENDMENT NO 714

Mr. BENTSEN (for himself, Mr. DURENBERGER, Mr. LEAHY, Mr. COHEN, Mr. BOREN, Mr. ROTH, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. ZORINSKY, Mr. SPECTER, Mr. BRADLEY, Mr. LONG, and Mr. GRASSLEY) proposed an amendment to the bill S. 1271, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) There are authorized to be appropriated for fiscal year 1986, $59,539,000 for the Federal Bureau of Investigation to carry out the counterterrorism activities.

(b) Notwithstanding any other provision of law, the Federal Bureau of Investigation may purchase for fiscal year 1986, and additional 40 vehicles to be used in counterterrorist activities.

(c) Notwithstanding any other provision of law, the Attorney General may make payments in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public that the nomination of Mary L. Walker, of Maryland, to be an Assistant Secretary of Energy (Environment, Safety and Health), will be considered at the hearing previously scheduled before the Committee on Energy and Natural Resources on Thursday, October 3, 1985, 10 a.m., room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The other two nominations to be considered on that day are as follows: Anthony G. Sousa, of Hawaii, to be a member of the Federal Energy Regulatory Commission and Donna R. Fitzpatrick, of the District of Columbia, to be an Assistant Secretary of Energy (Conservation and Renewable Energy).

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, room SD-358, Dirksen Senate Office Building, Washington, DC. 20510. For further information, please contact David Doane or Gerry Hardy at (202) 224-5305.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, October 2, 1985, at 2 p.m., in S-128, the Capitol, to deal with legislative and administrative business currently pending on its agenda.

The committee will be marking up the following three measures which concern Smithsonian Institution activities: S. 581, to authorize construction of facilities for the Whipple Observatory in Arizona and to authorize repair and replacement of facilities at the Tropical Research Institute in Panama; S. 582, to reauthorize the National Museum Act; and S. 583, to authorize appropriations for construction of additional facilities for the Cooper-Hewitt Museum in New York. Hearings were held by the committee on these bills on July 24, 1985.

On its administrative agenda the committee will be considering a proposed amendment to the Senate mass mail regulations which would provide for printing the pictures of missing children on certain Senate mail.

For further information regarding this business meeting, please contact Carole Blessington of the Rules Committee staff at 224-0278.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ABDNOR. 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 26, 1985, in executive session, to hold a hearing to consider the budget reconciliation.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ABDNOR. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, September 26, 1985, at 10 a.m. to conduct a business meeting to discuss pending legislation.

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

SUBCOMMITTEE ON ENERGY AND NUCLEAR PROLIFERATION AND GOVERNMENT PROCESS

Mr. ABDNOR. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Nuclear Prolification and Government Process, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, September 26, 1985, in order to conduct a hearing on the Federal Debt Recovery Act, S. 209.

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

SUBCOMMITTEE ON WATER RESOURCES

Mr. ABDNOR. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, September 26, 1985, to conduct a hearing on pending small watershed projects of the Soil Conservation Service.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. ABDNOR. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be author-

ized to meet during the session of the Senate on Thursday, September 26, 1985, in closed session, to receive a briefing on intelligence matters.

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

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. ABDNOR. 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 26, 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.

ADDITIONAL STATEMENTS

LIBRARY SERVICES AND CONSTRUCTION ACT

● Mr. NICKLES. Mr. President, the enactment of several important technical amendments (H.R. 1997) to the Library Services and Construction Act [LSCA] has been delayed too long by threats of unrelated amendments. H.R. 1997 is vital for assuring that the provisions of LSCA are upheld and that the authorized funds are spent correctly.

As the act currently reads, many Indians in Oklahoma, California, and Alaska are not eligible to receive Library Services Program funds because they do not live on reservations. The original idea behind this provision was that urban—that is, nonreservation—Indians had access to already existing public libraries and thus did not need funds for facilities of their own. This is not the case in either California, Alaska, or my own State of Oklahoma where Indians do not live on reservations but live instead on their own private lands, many of which are some distance from publicly supported library and educational facilities.

The language in H.R. 1997 clarifies this misnomer, exempting these Indians from the clause which demands that they live on reservations in order to receive funds. If H.R. 1997 is not passed promptly, the 20 eligible tribes in Oklahoma risk losing all of the $160,000 set aside for them.

Mr. President, in light of this fact I urge passage of this bill.

CHALLENGING YOUTH

● Mr. SIMON. Mr. President, some weeks ago, Matthew Cossolotto, legislative aid to Congressman JIM WRIGHT of Texas, had an article published in the Christian Science Monitor talking about the possibility of imaginatively moving on public service for young people.

My own reading of the situation is that before this decade is out, we will be seriously talking about a draft because of simple demographic factors. The group that generally enlists in the Armed Forces is going to be down appreciably in numbers.

My own feeling is that if we have a draft it ought to be universal, ought to be for 1 year with special educational benefits for those who choose the military. Those who do not choose the military would have to serve 1 year in a mental hospital, a park district, the Peace Corps, or in some form of public service of their choice.

But, by adding educational benefits and perhaps even job voucher benefits, as Mr. Cossolotto suggests, there would be incentives to go into the military.

In any event, Mr. Cossolotto is thinking about the problem when too few are.

I ask that Mr. Cossolotto's article be inserted in the RECORD.

The article follows:

CHALLENGING YOUTH

(By Matthew Cossolotto)

Sen. Edward Kennedy of Massachusetts recently called for "new ideas" for helping to meet the needs of poor people. The possible presidential contender in 1988 urged "[T]hose of us who care about domestic progress" to do "more with less. . . . We cannot and should not depend on higher tax revenues" to "redeem" costly government programs.

Some weeks before the Kennedy speech, another potential Democratic presidential candidate in 1988, Sen. Gary Hart, made a forceful plea for a "New Patriotism" that would "challenge" America's young people to perform public service. The Colorado senator suggested that a system of mandatory national service would remind our youth of their "obligation" to serve the country.

It seems to me there ought to be a way to merge these two worthwhile proposals. What better—and inexpensive—way to meet social needs than to rely upon the energy and initiative of young Americans?

The idea of harnessing the will to serve is not new, having first been articulated by American philosopher William James around the turn of the century. James called for a system of national service, dubbing the rigors of performing useful conservation and human-service work the "moral equivalent of war." In the mid-1960s, the Johnson administration gave the concept of national service more than passing attention. More recently, legislation has been introduced in the Congress proposing varying forms of voluntary—or even mandatory—national service.

There are two major stumbling blocks in the way of any large-scale program of national youth service.

The first challenge is obviously that of cost. How much of a burden will national service be for taxpayers already straining to shoulder massive federal budget deficits and a bloated national debt?

The other problem is the general opposition of United States military manpower planners. The Pentagon has been cool to the idea of national service because it is viewed as a program that competes with the military for a limited pool of potential recruits. Demographic changes in American society show a gradual reduction in the 18- to 21-year-old age group. In 1980, for example, 4.2 million Americans turned 18. In 1985 that number had shrunk to 3.6 million.

We can design a national-service program that heeds the concerns of military recruiters, faces the reality of budget austerity, and yet succeeds in providing new opportunities and incentives for Americans to serve.

Here's one "new idea" that costs nothing. We should create a call-up order for a future draft that gives deferment priorities to those who have completed at least one year of public service.

Other incentives to stimulate volunteer service might include:

GI Bill education benefits for those who complete two years of military service.

"National service" educational loans for those who complete one year of civilian service. This loan program could replace in part some of the existing student grants and loans, college aid that is currently available regardless of one's service record.

Some type of job voucher system for those who volunteer for military or civilian service. Employment vouchers would give service veterans a leg up in the job market.

Whatever mix of incentives is finally decided upon, the key principle is to reduce government assistance for those who have not served and to increase certain federal benefits for those who do serve. Military service should carry with it decidedly higher benefits, commensurate with the markedly higher risks that attend military service.

Senators Kennedy and Hart deserve credit for raising the issues of "more-for-less" government and national service. If we combine the fundamental elements of these proposals. I believe we will be able to infuse young people with a new spirit of patriotism, while at the same time meeting basic social and military needs through voluntary service. Surely making an attempt in this direction is worth a try.●

FISH—HEALTH BENEFITS

● Mr. GORTON. Mr. President, I want to share with my colleagues an article that recently appeared in the Marine Fisheries Review. It was written by Maurice E. Stansby, who is a recognized authority in fish oil research as well as a scientific consultant with the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, located in Seattle, WA.

Mr. Stansby points out in his article the medical benefits of fish or fish oil in the human diet. Specifically, the "omega-3 fatty acids," which are found only in fish can reduce the level of cholesterol and fats in the blood. This lowers the risk of coronary heart disease—the Nation's No. 1 killer with 550,000 deaths occurring each year. In fact, research shows that fish oil may be a deterrent to inflammatory ailments such as arthritis and psoriasis, and it may even play a role in preventing breast cancer. The article also discusses the findings that fatty fish, such as salmon, as well as lower fat fish were beneficial. In contrast, a diet high in polyunsaturated vegetable oils was less effective.

Scientists do not yet know how much fish needs to be eaten to provide protection against heart attacks. They do know, however, that there is a direct correlation between ingestion of fish oils and reduced heart disease. Research is underway to develop an affordable method to produce fish oil in capsular form but, until then, we should all eat more fish.

I urge my colleagues to read this interesting article regarding the positive effects eating fish has on our bodies. I ask that the full text of Mr. Stansby's article be printed in the RECORD.

The article follows:

FISH OR FISH OIL IN THE DIET AND HEART ATTACKS

(By Maurice E. Stansby)

INTRODUCTION

Research has shown that polyunsaturates in the human diet reduce serum cholesterol levels and probably thereby reduce risk of heart attacks, whereas saturated fatty acids exert the opposite effect. Fish contain certain polyunsaturates but also often equivalent amounts of saturates. Vegetable oils, on the other hand, contain principally polyunsaturates.

Nevertheless, fish oils reduce serum cholesterol levels to a greater extent than do vegetable oils (Peifer et al., 1960). While work on effect of polyunsaturates of fish oil on serum cholesterol levels was being done, a 20-year clinical study (Nelson, 1972) indicated that fish oils were much more effective in reducing incidence of fatal heart attacks in heart patients than were any other polyunsaturated oils. The reasons for these differences, which seemed quite illogical, were then unknown.

RECENT RESEARCH FINDINGS

Current research, some of which began a little over a decade ago, is revealing the reasons for the superior effectiveness of fish oils. Much of this research prior to 1981 has been summarized in the last three chapters of a recent book (Barlow and Stansby, 1982). This research has shown that the omega-3 long-chain fatty acids found in food to any considerable extent only in oils of marine origin can act to reduce blood platelet aggregation and thereby reduce the risk of heart attack. This effect is quite separate and in addition to the well known reduction of serum cholesterol levels by polyunsaturates.

Research was begun in the early 1970's to determine why Eskimos in remote areas of Greenland almost never suffered heart attacks. It was found that the protection against heart attacks was associated with the Eskimo diet which consisted almost entirely of the flesh of marine fish or marine animals. Further research related the effect to the presence of eicosapentaenoic acid and possibly other long-chain omega-3 fatty acids derived from the Eskimo's marine food (Dyerberg, 1982).

Most of the original work by Dyerberg and his co-worker (Dyerberg, 1982) focused on the omega-3 fatty acid, eicosapentaenoic acid, as the fish oil fatty acid involved in decreased platelet aggregation. For some time it was assumed by many researchers that only the eicosapentaenoic acid was effective in this role.

This idea perhaps originated from the analogy that eicosapentaenoic acid very closely resembles the chemical structure of arachidonic acid, the former having merely an additional double bond in the omega-3 position. In the normal diet, arachidonic acid is the fatty acid which acts as the precursor for prostaglandin formation. Thus the theory probably developed from assuming that the eicosapentaenoic acid, replacing the very similarly structured arachidonic acid, was required to bring about the metabolism involving omega-3 structured fish oil fatty acids to prostaglandins which could then diminish thrombotic events.

At a London symposium on nutritional evaluation of long-chin fatty acids of fish oils in October 1981, a portion of the papers and the subsequent discussion dealt with the role of fish oils in alleviating heart disease and other conditions. During the discussion following the paper presentations, the matter of whether only eicosapentaenoic acid was required or if other omega-3 fatty acids were involved was considered in some depth (Barlow and Stansby, 1982:307-311). Partly based upon his earlier work (Lands et al., 1973), W.E.M. Lands concluded that the diminishment of thrombotic events was caused by activity of any long-chain omega-3 fatty acid to inhibit prostaglandin biosynthesis, Even J. Dyerberg, although indicating that most of his research dealt with eicosapentaenoic acid, also felt that other long-chain omega-3 fatty acids could be involved.

Today, the opinion seems to be gaining favor that any long-chain omega-3 fatty acids may be involved. In fact, there is some belief that the more highly polyunsaturated fatty acids such as decosahexaenoic acid may be even more effective in this regard than eicosapentaenoic acid. Manufacturers of long-chain fish oil polyunsaturated concentrates for dietary use are now emphasizing production of mixtures of omega-3 fatty acids or of increasing the content in such concentrates of the docosahexaenoic acid.

Since the first publications in Denmark presenting ideas on the reasons for virtual immunity of Greenland Eskimos to heart attacks, well over 100 scientific papers have confirmed and extended these results. These studies have been underway in many different laboratories throughout the world. In addition to the work on the mechanism for the action of omega-3 fatty acids from fish oil influencing through prostaglandins formation formed in such a way as to decrease platelet aggregation and thereby to reduce incidence of heart attacks, many papers have been shown a similar mechanism for the action of anti-inflammatory drugs such as aspirin on heart attacks. Three European scientists won in 1982 the Nobel prize in medicine for this work. One of these three (John Vane) had authored with Dyerberg a paper (Dyerberg et al., 1978) on this effect when fish oil was involved.

In addition to this effect on heart attacks, apparently with some animals by a similar mechanism, omega-3 fish oil fatty acids can affect the severity of the after-effects of strokes. In experiments with cats, Lands (1982) showed that those animals fed omega-3 fatty acids from fish oils showed a decrease in the extent of such effects.

SERUM CHOLESTEROL VS. OMEGA-3 EFFECTS

Much of the early work on serum cholesterol depressant activity of fish oil (summarized by Stansby, 1969) showed merely that fish oil was at least as effective, usually more so, as other polyunsaturated oils in lowering serum cholesterol levels. In most cases where population groups (e.g. Japanese fishermen's families with high fish consumption rates) had diminished thrombotic events, it was assumed that the effects upon decreased heart attacks were due solely to reduction in serum cholesterol levels. Recent research on families of Japanese fishermen (Hirai et al., 1980; Kobayashi et al., 1981) confirms that at least a part of the effect stems from intake of eicosapentaenoic acid.

In the 20-year study of Nelson (1972), the use of increased fish in the diet resulted in decrease of subsequent fatal heart attacks to less than one-fourth of that of the controls. In the absence of any other causes known at that time, the results were laid to lowering of serum cholesterol levels. At this late date, there is no way to discriminate as to cause. However, since the reduction in fatal heart attack was far greater than in any other known clinical experiment, it now seems highly probable that the newer discovered omega-3 mechanism was partly involved.

Very recent research has been concerned to a large extent with determining more precisely the mode whereby the ingestion of omega-3 fatty acids bring about decreased platelet aggregation. The question as to whether the effect is due primarily to eicosapentaenoic acid or to other long-chain fish oil omega-3 fatty acids as well is a difficult one to answer. The two most commonly occurring such acids in fish oils are eicosapentaenoic acid (EPA) and docosahexaenoic acid (DHA). In oils from some species EPA occurs to the greatest extent; in others DHA predominates. There is always, however, more by far of either of these two omega-3 fatty acids than any others. It is very difficult and expensive to separate DHA from EPA. While for gas chromatography standards of pure DHA or EPA is available, the cost is so great (around $100/g) that it makes use of these pure long-chain omega-3 fatty acids prohibitively expensive for research on their respective mode of action. In such work, it is common to use either fish oils or manufactured concentrates of EPA and DHA. Such research does not permit discriminating as to the effectiveness of either since both occur often at about equal concentrations.

While many current investigators are assuming that the main effect of the omega-3 fatty acid is a matter of incorporation of the omega-3 characteristics into the prostaglandin, it must be remembered that there is an entirely different mode of action which may be important involving inhibition of production of prostaglandins. Lands et al. (1973), showed that polyunsaturated omega-3 long-chain fatty acid inhibited prostaglandin synthesis, and the greater the degree of polyunsaturation, the greater was this inhibition effect.

Most of the very recent research has employed in vitro experiments on the role of EPA or a mixture of EPA with other omega-3 fatty acids on aggregation of platelets, but Fisher and Weber (1984) have shown, using in vivo techniques applied to human subjects, that mackerel oil high in EPA forms prostaglandin I_3.

In other recent work the commercially sold concentrate of EPA and DHA, Maxepa,[1] which contains roughly equiva-

[1] Mention of trade names or commercial firms does not imply endorsement by the National Marine Fisheries Service, NOAA.

lent amounts of EPA and DHA, has been investigated for its effect on platelet function in human patients (Sanders and Roshanai, 1983; Saynor et al., 1984). In both studies, positive effects were obtained upon the platelet function. It is interesting to note, however, that in the work of one laboratory (Saynor et al., 1982) the entire effect was laid to the EPA present and it was not even mentioned that DHA was present in the Maxepa used in the experiment. On the other hand, in a paper from a different laboratory using the same Maxepa product (Sanders et al., 1983), credit for the effects was attributed to both EPA and DHA.

DIETARY CONSUMPTION OF OMEGA-3 FATTY ACIDS IN FISH OIL CONCENTRATES

Dietary omega-3 fatty acids can be increased either by consumption of concentrates of fish oil in capsules or by increasing the amount of fish in the diet. At present there is one such encapsulated fish oil product available for sale in the United States. However, it is so expensive that it would cost about $600/month for an individual to attain the same dietary level of omega-3 fatty acids as did the Greenland Eskimos who rarely suffered heart attacks.

Cheaper ways of concentrating omega-3 fatty acids in fish oils are being studied. Initially fish oil concentrate manufacturers believed that the single omega-3 fatty acid with chain length of 20 carbon atoms and five double bonds (EPA) was the only effective one for reducing heart attacks. However, it remains difficult and expensive to isolate a single fatty acid.

Now, however, with the likelihood that any long-chain omega-3 fatty acid will be at least as effective as EPA in bringing about the desired effect, efforts are underway in serveral countries, especially in Japan, to develop a better and cheaper method of concentrating the omega-3 fatty acids. Meanwhile, the most practical way to obtain omega-3 long-chain fatty acids is to eat more fish.

OMEGA-3 FATTY ACIDS FROM FISH IN THE DIET

Consumers who wish to improve their dietary levels of long-chain omega-3 fatty acids should select fish of relatively high oil content. The oil content of fish flesh may vary by more than 200 times (from 0.1 to 20 percent or more). This is not just a matter of variation from species to species. The oil content in flesh even of the same species may vary by more than ten times depending upon the area and season in which the fish is harvested. The oil content is controlled by the particular feed available to the fish.

The content of long-chain omega-3 fatty acids in fish of different species also varies to some extent but this variation is much less important in selection of fish for their omega-3 content than is the fat or oil content. While the content of any one long-chain omega-3 fatty acid may vary considerably in oils from different fish species, the sum total of all long-chain omega-3 fatty acids has a much smaller variation.

Ways to select fish to high oil content based upon such factors as choosing cuts of fish from near the head where the oil content is greatest have been discussed in an earlier paper by Stansby (1973).

Greater consumption of fish generally considered to have high or medium oil content (Stansby, 1962) would be most desirable. These are species of fish in which the oil content, while varying considerably, is nearly always at least 5 percent. Examples include herring, mackerel, rainbow trout, all species of salmon (except chum), sardines, and albacore (if caught near California).

Low oil content fish vary in oil content from 0.1 to 5 percent. Those species in the uppper range of this category (2 to 5 percent) furnish enough omega-3 long-chain fatty acids to be useful as a limited supply of such acids. Fish in this category include most tunas, carp, chum salmon, mullet, swordfish, and Great Lakes white fish. For shellfish such as oysters and clams, although the oil content usually does not exceed 1 percent, the oil is considerably higher in the omega-3 long-chain fatty acids. Such shellfish, therefore, can be included in this category despite their lower oil content.

Most of the species of fish listed here are available in the fresh state for only a part of the year. An exception are fish like rainbow trout which are grown by aquaculture and are available year-round. Rainbow trout also is one of the species with the highest total omega-3 long-chain fatty acids content. Canned albacore (which can be identified by the label "white meat" tuna) can contain considerable amounts of omega-3 long-chain fatty acids if the fish have been caught close to California. Other canned albacore and other canned tunas have a lower oil content and hence less of the omega-3 fatty acids.

LEVELS OF OMEGA-3 FATTY ACIDS NEEDED TO INSURE SOME SIGNIFICANT DIMINISHMENT IN HEART ATTACKS

It is much too early to reach any conclusion as to the minimum amount of fish or omega-3 fatty acids in the diet which is required to significantly reduce the likelihood of heart attacks. The Greenland Eskimo diet was nearly 100 percent fish. It is reasonable to assume that at a lower level of consumption of fish, some decrease in risk of heart attacks might occur even though not reaching nearly the practical immunity enjoyed by the Eskimos. Unfortunately, current research has made little attempt to address this problem. In most cases, in recent research the level of omega-3 fatty acids fed has been at very high levels sometimes approaching those in the diet of the Eskimos. This might require eating over a pound of fish per day or taking very considerable amounts of fish oil. In some instances where several levels of omega-3 fatty acids were fed, there has been some measurable decrease in platelet aggregation at the lower levels. This might or might not result in decreased risk of heart attacks.

In the case of the heart patients of Averly Nelson (Nelson, 1972) where those consuming fatty fish at least three times per week for periods of time from 16 to 19 years had only about 25 percent as many fatal heart attacks as in the control group, it seems likely that this difference could have been caused at least in part by a decreased level of platelet aggregation. Undoubtedly, if continued success is achieved in research now underway, experiments will be designed and carried out on effects of different levels of omega-3 fatty acids in the diet.●

OHIO FOSTER PARENTS HONORED

● Mr. METZENBAUM. Mr. President, I wish to call the attention of my colleagues to the recognition being given by the Cuyahoga County Department of Human Services this Sunday, September 29, 1985, to a very special group of Ohioans.

We all know full well that the kind of future our Nation can expect is dependent upon the kind of children we raise today. In Cuyahoga County we have a group of caring individuals who have, for many years, taken it upon themselves to see that our future will be in good hands. These individuals are foster parents. They bring children from unfortunate circumstances into their own families. They give them love—and a home. They give them a quality of life that they might never have known.

Mr. President, I ask my colleagues to join me today in honoring these foster parents. We all have reason to be proud of them. Though they will be recognized on Sunday for their 25, 30, or 35 years of dedication, I would like to take the time to mention each of them today. They are:

For 35 years: Mark and Sylvia McGuinea.

For 30 years: Anna Barath, Raymond and Emma Earhart, Clarence and Roxie Newell, and Edna Shinholser.

For 25 years: Clifton and Sally Brown, Erma Bryant, Mary Burnett, Charles and Lucille Farris, Clothilde Feliciano, Robert and Alice Flanigan, L.C. and Trudie Hubbard, Frank and Lee Kasmarek, Paul and Frances Lewis, Henry and Mary Nolen, Richard and Jean Peters, Lula Simon, Johnnie and Nancy Smith, Sam and Hannah Smith, and Roy and Cleola Wynne.●

OUTSTANDING JTPA PROGRAMS

● Mr. QUAYLE. Mr. President, today I would like to draw attention to some successful Job Training Partnership Act [JTPA] programs that are receiving national recognition this weekend. I am particularly proud of one of the programs because it is in my home State of Indiana. I want to commend the Northeast Indiana Private Industry Council for its innovative program, Indiana Northeast Development, which is an outstanding example of how JTPA can be a real partner in economic development leading to jobs for the unemployed.

Indiana Northeast Development is one of 14 JTPA programs and individuals nationwide that have been selected by the National Alliance of Business [NAB] as national models. The 1985 NAB awards will be presented on Sunday, September 29, during the organization's 17th annual conference.

Created in 1982, the Indiana Northeast Development is the economic development arm of the Northeast Indiana Private Industry Council, which administers JTPA for the nine most northeastern counties in Indiana, including Adams, Allen, De Kalb, Huntington, LaGrange, Noble, Steuben, Wells, and Whitley.

With the closing of International Harvester, which began phasing out

operations in 1982, and the concurrent layoffs at related firms, Fort Wayne, IN, and the 9 surrounding counties found themselves with 30,000 fewer jobs, an unemployment rate of 13 percent and climbing, and no industrial prospects in sight.

But that was 4 years ago. Today northeast Indiana is an acknowledged economic "hotspot" of the Midwest. Much of the credit for this economic revival goes to Indiana Northeast Development. I am happy to be able to report this kind of success in my home State. It is especially gratifying that this successful program is a direct result of legislation I sponsored. In 1982, I helped author and worked for passage of the Job Training Partnership Act which funds the Indiana Northeast Development.

Here are some statistics compiled by the Indiana Northeast Development that demonstrate its success: 95 new firms have been brought into the area, and another 95 expanded in the last 2 years alone. This growth has generated nearly 15,000 new jobs directly, and an additional 6,000 have been created as spinoffs. Further, $70 million in new business with the Federal Government has come into the area, helping to keep countless other local firms healthy and their workers employed.

Because it is funded by JTPA, improving the job situation among the disadvantaged is at the heart of everything the Indiana Northeast Development does. According to Steve Corona, the director for the Northeast Indiana Private Industry Council, of 1,500 on-the-job training contracts for JTPA participants, 1,000 were with companies who first heard of JTPA through the Indiana Northeast Development.

To help create opportunities for disadvantaged job seekers, the Indiana Northeast Development utilizes primarily four interrelated marketing strategies: national advertising, out-of-State industrial prospecting, in-State industrial prospecting and government and industrial marketing—emphasizing Federal job training assistance as a primary incentive for new and expanding industries. The goal of the Indiana Northeast Development is to pool limited resources in the pursuit of areawide development.

Using $200,000, annually, in JTPA funds and another $100,000 in local government and private sector contributions, Indiana Northeast Development has coordinated all the area's employment and economic development actors and incentives, both public and private, into a single cohesive entity. The Indiana Northeast Development receives in-kind donations from area businesses valued at approximately $40,000.

I congratulate the Northeast Indiana Private Industry Council and the Indiana Northeast Development for the success of this exemplary program. I especially want to commend Jack Schrey, who recently stepped down as chairman of the Northeast Indiana Private Industry Council; the current chairman, Bill Burtnett; and Steve Corona. They deserve recognition for their hard work and dedication in making this program a success. Thanks to their efforts, Indiana Northeast Development serves as a model for other localities and States to emulate.

In closing, I also commend the National Alliance of Business, an independent, business-led, nonprofit corporation whose mission is to promote the goals of JTPA, for its role in highlighting this and other program success stories. I ask to have printed in the RECORD brief descriptions of the recipients of the 1985 NAB awards. They are all to be commended and praised for their outstanding achievements.

The descriptions follow:

NATIONAL ALLIANCE OF BUSINESS 1985 DISTINGUISHED PERFORMANCE AWARDS

EMPLOYMENT/ECONOMIC DEVELOPMENT PARTNERSHIPS

Illinois Department of Commerce and Community Affairs. The state has a complex and well-developed system for linking its employment and economic development programs. This system includes:

Most of state's employment and development programs consolidated in a single department.

Aggressive marketing program packages all business assistance, including JTPA and other training resources, available through state.

Decision process on state-provided business assistance supports integration of employment and development objectives.

Numerous special focus programs link development and E&T objectives; JTPA funding for federal procurement assistance centers, Title III funding for state enterprise zones.

Links with state-funded industrial training leverage JTPA jobs.

Variety of formal and informal means for strengthening program coordination.

Service oriented towards business.

Indiana Northeast Development, Fort Wayne, Indiana, the employment generating arm of the Fort Wayne Area Job Training Program, overseen by the Northeast Indiana Private Industry Council, regarded as a national model for the effective linkage of economic development and job training efforts. Created in 1982 by local economic development officials in the nine most northeastern counties of the state (Adams, Allen, De Kalb, Huntington, LaGrange, Noble, Steuben, Wells, Whitley) to pooling limited resources in the pursuit of areawide development.

IND applies four interrelated marketed strategies: national advertising, out-of-state industrial prospecting, in-state industrial prospecting and government and industrial marketing—emphasizing federal job training assistance as a primary incentive for new and expanding industry. Strong private sector support is evidenced by financial contributions exceeding $95,000 (closely matching IND's annual budget) from government, private sector and foundations; plus another approximately $40,000 in services donated by area business.

MARKETING JOB TRAINING PARTNERSHIPS

Work Unlimited, Albuquerque, New Mexico. An outstanding example of the comprehensive marketing process, which uses market research to determine job training programs and services geared to the needs of customers. This is the only nominee that did equally well on both market research and putting the research into action in an organized manner, with professional promotional material and business and community involvement. Marketing activities are overseen by the private industry council, with continuous (monthly) planning and evaluation to ensure efforts are coordinated with program needs. Formal written plan. Marketing activities center around a two-part, customer-oriented strategy:

For Employers—Business Assistance Tool Kit, employer hotline, speaker's bureau (with slide/tape), participation in trade shows, annual celebration/recognition of business involvement.

For Participants—Paid and donated radio, TV, Bus boards, bill boards, inserts in utility bills, recruitment booth at State Fair, establishment of Youth Force—network of 14 youth organizations working together.

Work Unlimited's marketing activities also emphasize other important results/activities:

Business/community involvement—Time, products, services donated by Albuquerque businesses ($200,000 value), speaking opportunities, association newsletters, endorsements.

Understanding of key role word of mouth has in marketing (e.g.—need to perform).

Exceeds performance goals.

Once marketing system professionally established, much of marketing activities can be handled in house.

DISLOCATED WORKER PROGRAMS

Arizona Department of Economic Security, Division of Employment and Rehabilitation Services. Uses a uniquely flexible statewide network of regional assistance centers and satellite offices that can be moved where needed, along with an extensive array of services for an identified 20,000 dislocated workers widely dispersed across the state. 60 percent are laid-off copper workers.

93 percent of participants have been placed in unsubsidized jobs. In first 13 months, centers served 3,332 participants; average cost per placement was $1,141 and average entry wage was $7.98 per hour.

Only state to have established a fully operative pre-layoff intervention system (PACT) designed to prevent layoffs. Project utilizes services of state DW program, Job Service, UI and appropriate block grants and community colleges. Services delivered on job site. In past 10 months, PACT team enrolled 1,275 workers prior to layoff and 117 re-employed prior to receiving UI benefits, saving state $107,640.

Services emphasize renewing self confidence, capitalizing on old skills, training for new ones, and getting quickly back into the workforce.

Solid public/private coordination. Strong working relations and coordination built with other state agencies, including Job Service, UI, education, department of health and block grants; the SJTCC and their dislocated worker committee; union training programs with the Communication Workers of America, International Brotherhood of Electrical Workers, and the Operating Engineers; the Arizona Department of Education/Vocational Education; and local

community service organizations and representatives of private business.

Innovative, simplified OJT contractor procedure for major employers permits multiple client groups to access to a single contract. Also training vouchers for use at accredited public or private facilities.

INDUSTRY/EDUCATION COOPERATION

Contra Cost County Private Industry Council (SELPA OJT Project), Concord, California. Good example of effective use of the 8 percent set aside for a particularly hard-to-serve target group—handicapped youth. Private industry council selects service providers.

OJT project is operated by a consortium of three special education local planning agencies (SELPAs), which were brought together for the first time with the PIC. Budget was $160,000. Major goals are to:

Place handicapped youth in unsubsidized employment: Identify and place approximately 70 high school special education seniors in OJT and place approximately 74 percent (52 youth) in unsubsidized jobs.

Results: 92 youth enrolled and 72 percent entered unsubsidized jobs. Most were learning disabled; about 30 percent severely. Physically disabled included orthopedically handicapped, visually and hearing impaired.

Develop cooperative working relationships between educators (nine secondary school districts), employers, union representatives community groups, and private industry council through Project Advisory Committee.

Expose special ed teachers to business community: Enhance services provided by education agencies by assisting special education teachers to deliver pre-vocational and job-related skills training and conduct job development activities; incorporate business-related information in classroom activities. Used existing school facilities and staff used and Vocational Assessment Center.

Extensive employer involvement (80 employers, and low cost per placement ($2,950) due to in-kind contributions. Employers provide on-side skills training and identify and evaluate work maturity and job skills competency.

TRAINING FOR TARGETED POPULATIONS

Women Working Technical, Bergen County (Hackensack), New Jersey. Non-traditional training for women in electricity, electronics, mechanics; many participants are welfare recipients or displaced homemakers.

Four-year (six class) placement average: 95 percent; 1984—100 percent.

Five months of training, 600 hours; nearly 100 percent retention during training.

Budget: $55,000, cost/participant approximately $4,000; per placement, $4,000.

Good company involvement: local PIC, Pitney Bowes, Xerox, IBM, Hewlett Packard, Public Service Electric and Gas. Pitney-Bowes involved in development.

Older Kansans Employment Program, Manhattan, Kansas. Begun as state-funded pilot in 1982; now has 3 percent money also.

Cost per person $222; placement rate 82 percent; 137 placed in FY 1984.

Good marketing and PR; outreach to business community; business advisory board.

Skills training, not just placement; training in clerical, microcomputer operation.

Placements in small business.

YOUTH PROGRAMS

Skills Training and Education Program, Montgomery, Alabama. Fully utilizes the exemplary program models of Section 205 of JTPA (all four segments of youth competencies approach—basic education, pre-employment, tryout employment and school to work transition activities) in 65-county SDA. Exclusively serving high-risk youth.

Offers a comprehensive array of services, including academic remediation, functional skills training, and tryout work experiences.

Competency based assessement and program delivery integrating youth employment competencies into program design.

New program that was pilot-tested; judged successful and then expanded statewide. Piloted in November 1984 at eight rural sites for high risk out-of-school youth; by March 1985 had expanded to 36 separate projects. 572 participants served without a single negative termination.

Entered Employment Rate = 88 percent (performance standard 40 percent).

Average cost per placement $4,175; expected to drop below $3,500 contract performance standard by end of June.

Network Employment Training Program, Oakland, California, was founded in 1982 with funding from Sea-Land Service, Inc., R.J. Reynolds industries and the Gannett Foundation to prepare Oakland youth with competitive job seeking, getting and keeping skills, and to encourage and enable employers to hire from the community in which they do business.

This privately funded ($420,000 from June 1, 1984–May 31, 1985), non-profit youth program training unemployed or underemployed youth, 17–26, for entry-level jobs. An essential feature is the mentoring system which matches pairs of business people with small groups of interns for weekly, two-hour meetings.

The instructional component, which includes basic skill and clerical training, is offered in conjunction with the VISTA Downtown Business Education Center, which tailors classes to Network needs, and which offers interns community college credit. Interns are selected, in part, for their motivation to succeed in the rigorous, non-paid 16-week program.

Business and industry participate in all aspects of the program, from leadership on the board of directors to involving their personnel; representatives from over 50 local companies have been actively involved in program design, planning and implementation. They also serve as personal mentors for individual interns, providing a role model for young people who may have had little contact with effective adults from the working world.

RURAL PROGRAMS

Farmers-In-Transition, Greater Nebraska Job Training Program. Innovative program dealing with dislocated farmers and their families. Offers career counseling, help with resume writing and job applications, pre-employment training, on-the-job training, classroom training, supportive services, relocation assistance, and referrals for services provided by other organizations. Outreach provided by Greater Nebraska Job Training staff, augmented by five farmers hired on part-time basis. Serves both farmers eligible (foreclosure) and not eligible for Title III, so can be used by farmers to obtain jobs and training to supplement family income and forestall foreclosure.

One of few states that have taken initiative to include farmers in their eligibility criteria for dislocated workers.

Unique program in that it reaches out to population group not previously touched in the past. Real farmers hired to assist with recruitment and outreach, lending tremendous viability and credibility to program.

Coordination: many state and local agencies are cooperating, including the agriculture department, governor's office, PIC and several human resource agencies.

Program works with entire family, not just the farmer; services available to wives and children.

Active business involvement credited, in part, to support of Private Industry Council members.

New Hampshire Job Training Councils is a national model for rural recruitment. Despite the fact that it has one of the lowest unemployment rates in the nation and state is basically rural, an aggressive, cost-effective promotional program has enabled the Council to recruit more than 6,000 people in the first nine months of JTPA—for less than $13,000 in promotional costs. Promotional plans are developed on a quarter basis in response to fluctuations in labor market needs, program starts and private industry council plans. All graphic design and layout is done in-house, and paper companies often donate paper, so production costs are reduced. Some of New Hampshire's innovative promotional activities have included:

17,000 brochures (9,000 mailed to welfare recipients) yielded 1,000 calls to 800 telephone number.

Burger King printed one million placements at no cost to be used in the state's 22 Burger Kings.

Boston Bruin's Rick Middleton and Johnny Bucyk donated their time, Boston Garden donated ice time and lights and personnel, and film company donated their time at half-cost to film PSA. TV stations donated 2–3 free spots to every spot purchased; buying prime time spots averaged $30–$35; commercial production cost $600.

Churches and religious organizations used to provide information and recruit.

Public relations—average 8 press releases disseminated each week; marketing director regular visits editors. N.E. Telephone provides press clippings from their clipping service.

Posters placed in people spots—laundromats, grocery stores, convenience stores, movie theatres, all state liquor stores, video arcades and libraries.

Summer Youth Program—brochures, buttons, Arrowsmith concert, etc.

OUTSTANDING JOB TRAINING PROFESSIONAL

Eunice Elton, President, Private Industry Council of San Francisco, California. One of the country's outstanding experts on employment, training and labor exchange policies, she has provided exemplary professional and leadership in the job training arena since 1934. She is widely known for her ability to educate a diversity of persons about training policies and for her authority as a manager in executing these policies; seen as both "cement" and "fuel" for E&T activities in San Francisco. As a result of her leadership, San Francisco's overall performance exceeds almost all standards and demand on E&T system (from both labor supply and demand sides) exceeds all available financial resources.

In September 1983, San Francisco became one of the first SDAs in nation to establish local partnership with private sector; named as both subgrant recipient and administrative entity.

Program established to address needs of diverse eligible populations. Established Refugee Targeted Assistance Programs, becoming first such organization in the country, other than local welfare department, to take on such a role. Developed and imple-

mented performance-based training, private sector try-out employment and small business development programs, completely novel approach to what prior to that had been basically refugee welfare support programs.

In 1984, PIC obligated all JTPA incentive monies earned from its performance in 1983 for a performance-based program to attack (without regard to placement-oriented JTPA performance standards) the basic education problems of some of San Francisco's more difficult to serve populations. Program designed to increase, by four grade-level equivalents or more within 12 months, the basic English reading skills of a group of persons aged 17 or older who had between third and fifth grade reading equivalents.

PIC and its subcontractors have record in 1983-85 over 2,000 placement in almost 300 different occupational groupings with over 500 employers located within and outside city and county of San Francisco.

PIC takes lead in organizing and operating privately-financed Mayor's Summer Youth Program, now in seventh year, which is designed to supplement JTPA Title IIB; comprises almost 60 percent of those hired.

"Targeted Jobs-and-Targeted People" system used by PIC's 60-odd subcontractors ensures that those most in need are served. Program allows a mixture of different combinations of four approaches to ensure appropriate services are provided to the broadest range of unemployed people. This flexible, mixed services approach ensures that costs are kept within budget while performance goals are met and exceeded. The average hourly adult placement wage was the highest in California, and perhaps the U.S.

BUSINESS VOLUNTEER OF THE YEAR

James Van Vleck, Group Vice President and Director of Corporate Planning, The Mead Corporation, Dayton, Ohio. Has been involved with Private Industry Council since CETA Title VII. Has been chair of Dayton PIC since 1982 and a member since 1977 of Dayton City-wide Development Corporation.

Under his leadership, Private Sector Advisory Councils established for every vocational training program in Dayton Public Schools.

During transition to JTPA, his leadership and position in community critical to what became a remarkable merger between two prime sponsors, among two county governments and a city, between an urban center and suburban/rural communities. Spent countless hours meeting with local elected officials, political leaders and community representatives. He was first chair of the newly formed Greater Dayton Private Industry Council.

Dayton SDA has been designated by the State of Ohio as model program area, which will bring together community resources to develop comprehensive, coordinated economic development/employment and training system.

Appointed in 1983 to SJTCC, he was chair of Planning Committee and instrumental in formulating recommendations for statewide operation of JTPA. When Governor expanded role of State Council to include development of strategic planning initiatives, he again took leadership as Planning Chair.

Dayton City Commission has asked him to head special "blue-ribbon" task force to attempt to solve troubling problems of neighborhood youth gangs.

STATE LEADERSHIP IN JOB TRAINING PARTNERSHIPS

State of Oregon has done an outstanding job of creating job training programs geared to local employer needs that has exceeded all state performance standards despite double-digit unemployment rates in 26 of 36 Oregon counties. State council has established key goals that: promote job training as tool for economic development; effective, efficient use of resources; coordinate activities of all employment and training organizations; encourage local program initiative, flexibility and decision making; ensure employer input is driving force in program design.

Increased coordination between SDA and welfare agency professionals resulted in streamlined grant systems, statewide agreements; number of JTPA participants on welfare increased from 17 percent in April 1984 to over 23 percent in December 1984, and entered employment rate for this group topped 78 percent.

Local initiatives keystone of Oregon's success: 6%, 3% and Title III funds contracted directly to SDAs and majority of 8% funds are subcontracted to SDAs through Oregon Department of Education. Economic development and job training assistance tied together at local levels, and joint cooperative ventures among SDAs have resulted in new businesses being located in state.

Other coordination initiatives: cooperation between JTPA and employment agencies resulted in improved local labor market information geared to job training needs; state employment initiatives for youth, a three year demonstration program assisted with JTPA funds, is developing and implementing more effective employment policies and programs for at-risk youth, and Oregon Youth Coordinating Council develops recommendations for Legislature and state-level agencies; staff development encouraged through funding from Oregon Employment and Training Association; risk management—potential risks and liabilities JTPA programs identified and analyzed to prevent or minimize occurrence.

Performance (council minimum):
Adult entered employment: 82.9% (58%)
Adult entered employment cost: $2,538 ($5,704)
Adult average wage: $4.65 ($4.26)
Welfare entered employment: 78.2% (41%)
Youth entered employment: 73.7% (41%)
Youth positive termination: 88.4% (82%)
Youth positive termination cost: $2,341 ($4,900)
Title III—Dislocated Workers
Entered employment rate: 85% (58%)
Entered employment cost: $2,395 ($5,704)●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 which would permit Mr. James Jatras of the Republican Policy Committee staff to participate in a conference in Luxembourg, sponsored by the Konrad Adenauer Foundation, from September 19-20, 1985.

The committee determined that participation by Mr. Jatras in the program in Luxembourg, at the expense of the Konrad Adenauer Foundation, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Mr. Tom A. Friedman of the Democratic Policy Committee, be permitted to participate in an educational program aboard the Australian Navy ship *HMAS Hobart*, sponsored by the Australian Navy, from August 18-25, 1985.

The committee determined that participation by Mr. Friedman in the program aboard the *HMAS Hobart*, sailing from San Diego, CA, to Vancouver, British Columbia, at the expense of the Australian Navy, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Senator MITCH MCCONNELL be permitted to participate in a program in Japan, sponsored by the Japanese Institute of Social and Economic Affairs, from August 30 through September 8, 1985.

The committee determined that participation by Senator MCCONNELL in the program in Japan, at the expense of the Japanese Institute of Social and Economic Affairs, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Ms. Susan Aheron Magill of the staff of Senator JOHN WARNER, be permitted to participate in a program in Turkey, sponsored by the Turkish Industrialists and Businessman's Association, from August 17-24, 1985.

The committee determined that participation by Ms. Magill in the program in Turkey, at the expense of the Turkish Industrialists and Businessman's Association, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Mr. William Reinsch, of the staff of Senator HEINZ, be permitted to participate in a conference in Toronto, Canada, sponsored jointly by the Canadian Institute of International Affairs and the Centre for Canadian Studies at Columbia University, from September 8-9, 1985.

The committee determined that participation by Mr. Reinsch in the conference in Toronto, Canada, at the expense of the Canadian Institute of International Affairs and the Centre

for Canadian Studies at Columbia University, was in the interest of the Senate and the United States.●

EFFECTS OF TEXTILE BILL ON TRADE WITH CHINA

● Mr. GORTON. Mr. President, I submit for the RECORD an excellent and pointed article on the possible effects of the passage of the textile bill is likely to have on our trade with China.

The article follows:

CHINA THREATENS TO SHUT THE TRADE DOOR

(By Robert E. Norton)

(A pending bill would cut textile imports from China. If it becomes law, the Chinese will zap imports from the United States)

Congress' rush to protectionism threatens to trample on China's textile industry, and the Chinese are warning that they'll fight. The angry Chinese reaction provides a cautionary example of protectionism's boomerang effect.

What's getting the People's Republic mad is the Jenkins bill, aimed at preserving jobs in America's besieged clothing industry. Named after its House sponsor, Georgia Democrat Edgar L. Jenkins, the bill would cut back textile and apparel imports from a dozen countries to below their 1983 levels. China would lose around 56% of its textile sales to the U.S. at a cost of more than $500 million a year in export earnings.

The first warning shot was fired in May, two months after the Jenkins bill was introduced. Boeing, confidently awaiting an order for some 16 airplanes, was stunned when China signed up for only eight. Then U.S. wheat growers saw their summer orders from China shrivel 85% from last year's levels. In both cases it was possible to find internal reasons for the sudden reasons for the sudden retrenchment—good harvests in China, a general pullback in capital equipment outlays—but exporters saw a clear retaliatory signal.

In July, China's ambassador, Han Xu, spelled out his country's concerns in a letter to American lawmakers. Noting that China bought $3 billion of U.S. goods last year, and that textile exports are its chief source of dollars, Han warned that passage of the Jenkins bill would "severely jeopardize trade relations between our two countries."

U.S. companies that might be at risk include General Electric, which is completing deliveries of $450 million of locomotives and parts to China, and Weyerhaeuser, a major supplier of the $250 million of American timber the Chinese bought last year. Chinese anger over textiles could also work against builders of nuclear power equipment like Westinghouse and Combustion Engineering. The U.S. government may soon permit these companies to compete with French and German outfits for a share of China's multi-billion-dollar nuclear power program, but the permission may do them little good.

Why so much fuss over just one of the several hundred protectionist measures before Congress? The explanation is that the Jenkins bill has momentum. Two-thirds of the House enlisted as co-sponsors, and a majority of the Senate supports the measure. Opponents consider enactment likely and are saving their strength to fight a congressional override of the President's expected veto.

Pleaders on both sides talk in end-of-the-world terms. Proponents of the Jenkins bill predict nothing less than the extinction of the U.S. clothing industry if Asian imports are unchecked. On the free-trade side, opponents liken the potential impact of the bill to that of the Smoot-Hawley tariff act of 1930, which provoked trade-clobbering countermeasures abroad and deepened the Great Depression. China's early reaction points to nearer-term consequences. Protect the jobs of Georgia textile workers and New York garment workers if you will, the Chinese are saying, but the cost may be laid-off lumberjacks in Oregon and idle factory machines in Pennsylvania.●

ORDERS FOR MONDAY, SEPTEMBER 30, 1985

Mr. SIMPSON. Mr. President, after conferring with the Democratic leader, I ask unanimous consent that when the Senate convenes on Monday, September 30, 1985, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with and, following the recognition of the two leaders under the standing order, there be a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE], for not to exceed 15 minutes, to be followed by a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not more than 10 minutes each; and provided further, that the morning hour be deemed to have expired.

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

PROGRAM

Mr. SIMPSON. Mr. President, the Senate will convene at 12 noon on Monday, September 30, 1985. There will be time for the two leaders under the standing order of 10 minutes, a special order in favor of Senator PROXMIRE for not to exceed 15 minutes, and routine morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not more than 10 minutes each.

Following the conclusion of routine morning business, the Senate will turn to any of the following items: the Compact of Free Association, Agriculture appropriations, Interior appropriations, HUD appropriations, District of Columbia appropriations, and, also, S. 1691—on Monday sometime early because we have a time problem—a bill to extend the current Dairy Price Support Program, and suspend the noncash benefit requirement for the Puerto Rico Nutrition Assistance Program for 60 days. That is food stamps for Puerto Rico.

No rollcall votes will occur prior to the hour of 4 p.m., on Monday.

ADJOURNMENT UNTIL MONDAY, SEPTEMBER 30, 1985

Mr. SIMPSON. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in adjournment until 12 noon on Monday September 30, 1985.

The motion was agreed to; and, at 9:02 p.m., the Senate adjourned until Monday, September 30, 1985, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate September 26, 1985:

DEPARTMENT OF JUSTICE

Charles J. Cooper, of Virginia, to be an Assistant Attorney General, vice Theodore B. Olson, resigned.

Stephen J. Markman, of Virginia, to be an Assistant Attorney General, vice Harold J. Lezar, Jr., resigned.

Charles Fried, of Massachusetts, to be Solicitor General of the United States, vice Rex E. Lee, resigned.

Donald R. Brookshier, of Illinois, to be U.S. Marshal for the southern district of Illinois for the term of 4 years, vice William J. Nettles, resigned.