SENATE—*Tuesday, May 7, 1985*

(Legislative day of Monday, April 15, 1985)

The Senate met at 9:30 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.

The prayer this morning is a litany which I heard at a conference with great blessing:

Lord, You have told us that the poor in spirit are happy, but we think of ourselves as rich and have not turned to You with empty hands and hearts.

You have told us that those who mourn are happy, but we have rarely had even thoughts of repentance, while we shed tears over the loss of our own good fortune.

You have told us that the meek are happy, but we have grown proud of our achievements and bitter about anything that blocks our desires.

You have told us that those who are hungry and thirsty for justice are happy, but we have been more concerned about justifying ourselves and our activities.

You have told us that the merciful are happy, but we have not been able to forgive our fellow men in spite of the fact that You have forgiven all our trespasses.

You have said that the single-minded are happy, but our purposes are still divided, our thoughts and our desires mixed in all kinds of selfish ways.

You have told us that the peacemakers are happy, but we have not been agents of reconciliation because we have been at war with ourselves and with each other.

You have told us that those who are persecuted for the sake of justice are happy, but we have preferred comfort and security to justice and have made our compromises with injustice.

Lord, have mercy and forgive. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, to be followed by special orders, not to exceed 15 minutes each, for the distinguished Senator from Wisconsin [Mr. PROXMIRE] and the distinguished Senator from New York [Mr. MOYNIHAN].

Following that, there will be morning business, not to extend beyond 10 a.m., to be followed by the budget resolution. The pending amendment is No. 56, offered by Senator ABDNOR.

At 12 noon, the Senate will stand in recess until 2 p.m. Following the recess, the Senate will resume consideration of the budget resolution.

At approximately 4 p.m., it will be the intention of the majority leader to turn to the consideration of S. 484, the Saccharin Labeling Act—under a time agreement, it is hoped. Rollcall votes related to that matter can be expected to occur after 4 p.m. today.

Following S. 484, or the budget resolution, if unanimous consent cannot be granted for consideration of S. 484, the following Senators will be recognized for not to exceed 15 minutes each, for special orders: Mr. DURENBERGER, Mr. PRESSLER, Mr. COCHRAN, and Mr. ANDREWS.

Mr. President, I ask unanimous consent that those special orders be under the control of Senator DURENBERGER.

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

Mr. DOLE. Mr. President, I am reminded that we still have 13 hours and 37 minutes on the resolution. It is hoped that we can use up at least 4 hours of that today—perhaps a bit more. Tomorrow, we will also be faced with a shorter day, and that probably would be another 4 or 4½ hours. So that by Thursday, we should be somewhere between 5 or 6 hours remaining.

It is the hope of the leadership on each side that we might dispose of this budget resolution on Thursday. It probably would be late on Thursday, if that should happen. I hope that Members will make those arrangements, if it should happen, so that there will not be any last-minute misunderstanding. It seems to me likely that we will be here late on Thursday night.

We have checked on this side, and Friday appears to be a disaster so far as doing business is concerned, because we are in the commencement season, and many Senators are scheduled to speak at commencement exercises where their children or grandchildren are involved.

At this point, it does not seem to me that we can do much business on Friday. We are continuing to check, and I will advise the minority leader as soon as I can after the policy luncheon today, and he can advise his colleagues. I understand that of 24 or 25 Senators checked, at least 10 will be participating in official business away from Washington.

I hope that today, after disposing of the Abdnor amendment, there might be a package from the other side—the Hollings amendment or the Chiles package, or whatever it might be—so that we might sort of focus on what the differences are on the Democratic side and the Republican side, so that, if at all possible, we can work out some bipartisan package that most Senators can support.

It has long been my public view that every Senator, regardless of party, is concerned about the deficit. I indicated last night that the Gallup Poll released on Sunday showed that 58 percent of the American people polled thought it was very serious, 23 percent thought it was fairly serious, 14 percent were undecided, and only 5 percent felt that the deficit did not make any difference.

I believe that is a reflection of the general attitude of the American people when they consider what happens if we do not face up to our responsibilities—whether it is higher interest rates, higher inflation, or more unemployment. The economy is in a state of flux right now where it could go either way.

It seems to me that if we are successful—and I hope it can be done in a bipartisan way as we finally dispose of this matter—then I believe we will see some positive indications reflected.

I have discussed with the distinguished minority leader my hope that we might have something from the democratic side; if not, I assume that there will be other amendments. But before we dismantle the package further, I should like to see how much strength there is in other packages.

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

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the minority leader is recognized.

THE BUDGET RESOLUTION

Mr. BYRD. Mr. President, I have listened with interest to the outline of the program by the distinguished majority leader.

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

I anticipate that there will be amendments coming on this afternoon, and I feel that if we make every effort, we can complete action on this measure no later than the close of business on Thursday. I hope we will not have to go too late on Thursday. After the Democratic conference today, I will be glad to talk with the majority leader about things as we see them on this side of the aisle.

The distinguished majority leader has made reference to Friday and to the beginning of the commencement season. Does the distinguished majority leader anticipate rollcall votes on Friday?

Mr. DOLE. If our check continues to hold up, I doubt that we will have anything on Friday. It seems to me that nearly a third of the Senate are engaged in official duties away from Washington, and it might not be particularly fruitful to be in session. I will apprise the minority leader of that as soon as I can.

Mr. BYRD. I thank the distinguished majority leader.

May I ask this question: Should the Senate not complete action on the budget resolution by the close of business on Thursday, would it be the intention of the distinguished majority leader to proceed on the budget resolution on Friday, or would it be his plan to wait until Monday of next week?

Mr. DOLE. Based on the number of absentees on Friday, it would be my intention to wait until Monday of next week.

As the distinguished minority leader knows better than this Senator, once you start a week there always seems to be a way of using all of it.

So it is my hope, and I know it is shared by the distinguished minority leader, that we can complete action this week, because there are a number of other bills pending. We have the foreign affairs authorization, defense authorization, clean water; and those three items alone would probably take 7 or 8 legislative days.

Mr. BYRD. Which of those items could the distinguished majority leader tell me would be the most likely to follow the action on the budget resolution?

Mr. DOLE. I would guess at this moment, the foreign affairs authorization. I have spoken with the distinguished chairman. He believes that they can work out some arrangement on each side where they could restrain the number of amendments, maybe reach a time agreement; but that would be the best bet at this time.

Mr. BYRD. I thank the distinguished majority leader. Perhaps he and I could visit briefly before our respective conferences today, and I will look forward to that.

Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

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

TIME LIMITATION AGREEMENT—S. 484

Mr. DOLE. Mr. President, I understand we are now prepared to agree on a time agreement on Calendar No. 85, S. 484, the so-called Saccharin Study and Labeling Act.

Therefore, I ask unanimous consent that at 4 p.m. on Tuesday, May 7, 1985, the Senate turn to the consideration of Calendar No. 85, S. 484, Saccharin Study and Labeling Act, it be considered under the following time agreement:

Two hours total on the bill and amendments, to be equally divided between the chairman of the Labor Committee and the Senator from Ohio [Mr. METZENBAUM], or their designees;

That no amendments be in order with the exception of the committee reported amendment and an amendment to be offered by the Senator from Ohio [Mr. METZENBAUM], dealing with the quantitative labeling of aspartame on soft drink containers, and that the Senator from Ohio have the right to modify his amendment on the same subject;

That no motions, appeals, or points of order be in order;

And that the agreement be in the usual form.

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.

GOVERNOR DEUKMEJIAN SPEAKS OUT

Mr. PROXMIRE. Mr. President, at a press conference on April 24, George Deukmejian, the Governor of the State of California, made a moving, powerful plea for American involvement in the prevention of genocide and human rights abuses.

Governor Deukmejian, who is himself an Armenian-American, ordered all the flags over the State buildings in California be flown at half-mast to honor all victims of genocide and especially the 1.5 million Armenians who were massacred in 1915. The Governor is also a leading spokesman for the movement to declare April 24 as a "National Day of Remembrance of Man's Inhumanity to Man."

Pointing to the brutal 30-year pattern of the killing of the Armenians in 1915, the Jews in the 10 years or so preceding 1945, and the Cambodians up until 1975, Governor Deukmejian called for a National Remembrance Day. He said: "If the world had not been indifferent, if the world had not let it happen to the Armenians in 1915, perhaps we wouldn't have had these further genocides. We must remember. We must speak out."

The Governor likened the racial oppression of the blacks in South Africa and the atrocities committed by the Russians in Afghanistan to a contemporary form of genocide, and he spoke of America's responsibility to promote human rights. Deukmejian said: "As the freest and strongest nation, we must continue to be a shining example of justice and tolerance for the entire world. We cannot bury our heads in the sand or turn our backs on those who are enslaved. We must bring light and hope to even the darkest dungeons of the world."

Mr. President, this body has the ability to demonstrate and promote America's committment to fight for justice and tolerance. By ratifying the Genocide Convention, we can demonstrate the U.S. commitment to the fight for human rights. Governor Deukmejian has warned, "Without an involved America, the sorry history of this century will go on repeating itself."

It is up to the Senate to prevent his gloomy forecast from coming true. The time has come for us to ratify the convention. In the words of Governor Deukmejian, "We must speak out against terror and stand up for freedom."

ARMS CONTROL: THE LONG RANGE SOLUTION TO FEDERAL DEFICITS

Mr. PROXMIRE. Mr. President, one simple, practical appeal of arms control is that it saves money. At a time when we are running the biggest and most irresponsible Federal Government deficits in the history of our country, any policy that promises to reduce that deficit enjoys a big advantage to begin with. Arms control does that. Let us face it, we compete in military spending with only one adversary: The Soviet Union. Again and again throughout the years and through many administrations representing both political parties, the Defense Department has successfully justified increased military spending for one reason: We must not fall behind the Soviet Union. In the nearly 28 years this Senator has spent in this body, I cannot remember another consistent argument made by a President or Secretary of Defense for more military spending than to catch up with or match or stay ahead of the Russians. Of course, even the Defense Secretaries have not argued that the United

States must match the Soviet Union precisely missile for missile or fighter plane for fighter plane. But they argue that if the Soviet Union is allowed to build a decisive military advantage over this country in warmaking capability, the United States will be in danger.

The Defense Department has successfully sold Congress on the necessity for appropriating money to meet this Soviet threat. Over the past 25 years, the Soviets have certainly built up their military power. So have we. The arms race has rushed ahead. In the process our efforts to keep pace or move ahead of the Soviet Union have greatly aggravated our Federal deficits. Now we are on the brink of sharply speeding up the arms race spending by moving the military competition into defense against nuclear attack. The research for that defense, or star wars, will more than double this year if Congress agrees with the President. Spending will go to $3.7 billion in 1986. It will leap ahead in each year into the 1990's, and that is just for research. In the early 1990's the real spending for star wars will start and then, if we include the necessary look down, shoot down supplement of an ABM defense along with the production and deployment of star wars hardware we can expect spending in the hundreds of billions of dollars for years to come.

Keep in mind that U.S. spending for nuclear weapons in recent years has been about $45 billion per year. The star wars strategy will triple or quadruple this single segment of the Defense Department's budget. Meanwhile, as usual, the Russians will want to match our star wars spending by building their own antiballistic missile defense, and sharply stepping up their nuclear weapons offense.

Can any Senator be so naive as to believe that any American administration or any American Congress will permit the Russians to so easily nullify our massive nuclear deterrent? Of course not. So the hundreds of billions we will spend for nuclear weapons defense will have to be supplemented by spending billions more for new refinements in our nuclear missile offense so we overcome the Soviet defense.

Will all this spending bring us greater security, greater assurance that we can avoid nuclear war? Of course not. On the contrary, the dazzling new defensive and offensive nuclear weapons systems established by the two superpowers will create even greater instability and increased reliance on fallible computers and more complex and, therefore, more error prone command and control systems. Somewhere, someone, sometime is more than likely to make the mistake that sets off world war III.

Now, some can argue that this is all speculative. Technology may not take us down a more dangerous path. It may lead us to a more stable, safer world. Of course that is possible. No one knows. The one thing we do know for sure is that this arms race will greatly increase the problems of our national deficit and national debt. Unlike Federal spending that improves the health, training, and skill of our people or that improves the efficiency of our agriculture and industry, military spending is, as President Eisenhower warned so eloquently, a dead weight. It squanders the genius of our scientists, the sweat of our laborers, the hopes of our children. In Eisenhower's words:

> This is not a way of life . . . under the cloud of war, it is humanity hanging from a cross of iron.

And this, Mr. President, is why arms control offers the only sensible alternative. Of course, any arms control agreement with the Soviet Union is risky. We are not dealing with Mother Theresa or Mahatma Ghandi. We are dealing with tough, hardheaded Communists who have ravaged Hungary, East Germany, and now Afghanistan. But they are not suicidal. They have at least as much to gain from an arms control agreement that both superpowers abide by as the United States. Indeed the Soviet Union probably suffers even more than we do from the diversion of its resources into military spending.

Now, Mr. President, there is only one prime prerequisite for an effective arms control agreement. It is that both parties to the agreement gain from it. That is emphatically true of an agreement that stops the arms race cold—including ending star wars as well as sharply reducing offensive nuclear arsenals on both sides, and above all stops the testing of all nuclear weapons.

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 (Mr. NICKLES). Without objection, it is so ordered.

VITIATION OF ORDER FOR RECOGNITION OF SENATOR MOYNIHAN

Mr. ABDNOR. Mr. President, I ask unanimous consent that Senator MOYNIHAN's 15-minute special order be vitiated.

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

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 the hour of 10:25 a.m., with statements therein limited to 5 minutes each.

RECOGNITION OF HELSINKI HUMAN RIGHTS DAY

Mr. DOLE. Mr. President, the Helsinki accords, signed more than 9 years ago, were designed to enhance European security through trade, cultural exchanges and the relaxing of military tensions. But, equally important, the accords recognized our overriding concern for guaranteeing basic human rights to all the peoples of Europe.

Today, the 35 signatories of the accords—33 European nations, the United States, and Canada—will begin meeting in Ottawa, Canada to discuss what progress has been made in attaining the goals of the accords.

Those who drafted and signed the accords clearly recognized the connection between a nation's willingness to allow its civilians personal freedom and its willingness to deal openly and fairly with all the nations of the world. Unfortunately, there are still some countries that ignore that relationship. And as a result, the reality for thousands of Europeans is the denial of basic human rights.

As the former cochairman of the Commission on Security and Cooperation in Europe, I am very familiar with many Soviet infractions of the Helsinki Final Act. The Soviet Union continues to violate the accords by its ruthless actions in Afghanistan, and by its relentless abuse of those who attempt to seek human rights within its own boundaries. Members of the Moscow, Ukrainian, Lithuanian, Armenian, and Georgian Helinski Monitoring Group, for instance, are still subjected to mistreatment. And the emigration of Soviet Jews is still severely restricted.

Senator ALFONSE D'AMATO will be leaving for Ottawa later this week to participate in the meetings. It is my hope, and I'm certain the hope of everyone who cherishes the fundamental freedoms we in the United States enjoy, that this meeting will lead to a reversal of the status quo. That those who represent the 35 Helinski accord nations will be able to find means for insuring that the peoples of the world now oppressed are freed from the fear of retribution for acts we take for granted—the practice of religion, speaking or writing without constraint.

The reconvening of representatives of nations that signed the Helsinki accords is a fitting time to remember those who continue to suffer persecution. And it is a fitting time to once again, commit ourselves to the task of seeing to it that the provisions of the

Helsinki Final Act become more than just words on paper.

DRUG LINK SEEN IN DISAPPEARANCE OF TWO AMERICANS

Mrs. HAWKINS. Mr. President, I would like to know who is really in charge in Mexico. After reading a Washington Post article of April 25, entitled "Drug Link Seen in Disappearance of Two Americans," I think we can conclude that the drug dealers have complete run of the land in this troubled nation.

We are all aware of the incipient violence in the worlds of drug warloads like Rafael Caro Quintero, but the gratuitous brutality of the incident described in this article is still shocking. In January 1985, two young Americans, John Walker and Alberto Radelat, walked into a private party in a restaurant in Guadalajara, Mexico, and they have not been seen since. As the author of the Post article says, "It was the wrong party to interrupt," because a short time later, according to eyewitness accounts, the two young Americans had been mercilessly beaten by Quintero's henchmen, and then repeatedly stabbed with knives and ice picks for over half an hour by Quintero himself.

It is assumed that Quintero and his men murdered these young men because they were mistakenly thought to be informants of the U.S. Drug Enforcement Administration. Unfortunately, killing DEA agents is nothing new for Quintero. He was responsible for the kidnapping and murder of Enrique Camarena Salazar, the DEA agent whose body was found, along with that of his pilot, a part-time DEA agent, in Mexico earlier this year. Quintero has since boasted of this brutal slaying.

Obviously irritated by escalating DEA efforts to crack-down on Mexican narcotics trafficking since Camarena's abduction and murder, Quintero and his peers have most recently "acted with extreme violence against people from the United States because of investigations by the DEA."

There have been numerous disappearances of Americans living in or visiting Mexico in the recent past, and what happened to John Walker and Alberto Radelat convinces U.S. officials that narcotics traffickers are involved in more of these occurrences than previously thought. The disappearance of four Jehovah's Witnesses in Mexico last December is now considered to be a result of the work of narcotics traffickers who mistook them for DEA agents.

A near duplication of the horror of these young men's murder was the later experience of the Walker and Radelat families with Mexican law enforcement authorities. The total lack of cooperation, and effort, on the part of every official involved was a clear demonstration of the power exerted by Quintero and his fellow drug warlords.

Initial problems involved the inordinate delay involved in obtaining the statements from the eyewitnesses, who had been long willing to provide the necessary information. It had been acknowledged by a number of individuals in the area the night of the murder that the two young men had been seen entering the restaurant, but when eyewitness reports were provided, they seem to have gotten lost, permanently or temporarily, in the Mexican law enforcement system. The investigation was called, by both the victims' relatives and U.S. officials familiar with the case, "incomplete at best, and part of a cover up at worst." At one point, a Mexican state police officer virtually admitted to the widow of one of the young men that he could do little or nothing to help her. From the beginning of the investigation, which persisted only as a result of pressure from the victims' relatives, Mexican officials insinuated that the young men had been working for the DEA. Both the DEA and the victims' relatives deny such involvement.

Mr. President, Mexican drug law enforcement officials, and their Government in general, have got to recapture control of their own nation from the grip of the drug dealers, and I have said just this to numerous officials in Mexico City. The violence and fear that are a natural part of the narcotics traffickers' world are no longer limited only to them, but effect innocent citizens more each day. Enrique Camarena paid for the defense of his country's laws with his life, and John Walker and Alberto Redelat paid for their innocent mistake with theirs. The destructiveness of illicit narcotics trafficking is far-reaching, and now, because of Rafael Caro Quintero and people like him, it doesn't seem to be safe for Americans to visit the beautiful land of Mexico. Mr. President, until the Government of Mexico realizes just how much its authority has been undermined by these mass murderers, and takes the necessary corrective action, I think Americans should be warned that they, too, might be in danger from these traffickers in death and destruction.

Mr. President, I ask unanimous consent that the April 25, 1985, Washington Post article entitled "Drug Link Seen in Disappearance of Two Americans," be inserted in the RECORD.

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

TWO MISSING AMERICANS SAID TO FALL IN HANDS OF MEXICAN SUSPECT

(By Robert J. McCartney)

GUADALAJARA, MEXICO.—You can't eat at La Langosta restaurant here anymore. A seven-foot-high brick wall was erected to block the entrance last week.

But the doors were open on the night of Jan. 30, when two Americans walked in on a private dinner hosted by the restaurant's owner, according to Mexican officials who quoted recently obtained legal testimony. It was the wrong party to interrupt. The host was Rafael Caro Quintero, now imprisoned as one of Mexico's leading narcotics traffickers, and he and his gunmen apparently mistook the Americans for agents or informers of the U.S. Drug Enforcement Administration.

John Walker, 36, a would-be novelist from Minnesota, and Alberto Radelat, 32, a would-be dentist from Fort Worth, have not been seen since. Two restaurant employees have told police that the visitors were beaten, then stabbed repeatedly by Caro Quintero and his men.

Enrique Alvarez del Castillo, governor of Jalisco State, and an aide provided a description of the restaurant employees' statements, and this description was confirmed independently.

The account of what happened to Walker and Radelat has cast new light on a series of recent disappearances of U.S. citizens in this major Mexican city. Gov. Alvarez suggested that four Jehovah's Witnesses who disappeared in December also may have been abducted by narcotics traffickers who mistakenly thought they were working for the DEA.

Caro Quintero helped plan the kidnaping of a real DEA agent, Enrique Camarena Salazar, and of his Mexican pilot in Guadalajara a week after Walker and Radelat disappeared, according to Mexican police officials. Camarena and the pilot were found dead a month later, and the killings have led to a roundup of men thought to be leading narcotics dealers.

Walker, who had been living here for more than a year, was a Vietnam veteran who had been working on a novel that included information about drug smuggling. Radelat, who was visiting Walker, reportedly had boasted of his own drug use.

The restaurant manager and a waiter have told Mexican police that Caro Quintero's men first beat and kicked the two Americans in the restaurant's main dining room.

Then the Americans were dragged into a storage room, where Caro Quintero and eight of his men stabbed them with knives and ice picks for more than half an hour, the witnesses said. The restaurant's night watchman told police that he later found a large pool of blood in the storage room.

The manager and the waiter differed on how the Americans looked when they were taken from the restaurant. The manager thought that the Americans were unconscious and possibly dead when Caro Quintero and his group pulled jackets over the victims' heads, placed them in the back of a car and drove away. The waiter said instead that the Americans were led away walking, and that he heard one of them say in English, "I can't see."

In any case, relatives by now have given up hope of finding the two alive.

"At this point, we're just looking for the bodies," said Walker's wife, Eve, who returned to Mexico from Roseville, Minn., where she had been living with the couple's two daughters, because she feared the police were not seriously investigating the disappearance.

The witnesses at La Langosta said that Caro Quintero's gunmen accused Walker

and Radelat of working for the DEA after searching them and finding passports or other documents identifying them as U.S. citizens. The four Jehovah's Witnesses—one couple from Redding, Calif., and another from Ely, Nev.—were abducted Dec. 2, possibly because their house-to-house visits in search of converts were viewed as a possible cover for drug investigations, Mexican officials and some U.S. diplomats said.

The drug traffickers "have acted with extreme violence against people from the United States because of investigations by the DEA," Gov. Alvarez said in an interview.

Nevertheless, relatives of Walker and Radelat, and some U.S. officials, were cautious about accepting this explanation of the disappearances. They suggested that Mexican officials might have found it convenient to pin all the disappearances on narcotics traffickers who now are in jail, thus allowing the government to claim that the problem has been solved and that it is again safe for tourists to come to Guadalajara.

"They want to be able to say that all of the disappearances have been cleared up," Dr. Felipe Radelat, father of Alberto Radelat, said. he said he was looking for "corroboration" of the accounts given by the witnesses.

This skepticism has been fueled by the delay of more than a month in obtaining statements from the restaurant employes. It was known early in the investigation that Walker and Radelat had been in the area around La Langosta, a small establishment with a high, thatched roof, because Walker's car was found nearby. A taxi driver also said early that he saw the two Americans walking into the restaurant.

In addition, the initial investigation by the Jalisco state police was incomplete at best, and part of a cover-up at worst, according to the victims' relatives and U.S. officials familiar with the case. Agents of the state police, and of virtually every other Mexican law enforcement agency, have been implicated as paid guardians of this country's multibillion-dollar drug industry.

At one point a Jalisco state police officer virtually admitted to Eve Walker that he could do little to help her. He urged her to ask the U.S. Consulate to seek help from the Mexican federal police and from DEA, according to Walker and a Cable News Network correspondent whose crew filmed her conversation with the police officer on March 12.

From the beginning, Mexican officials insinuated to relatives of Walker and Radelat that the two victims had been working for DEA. The DEA denied that either man was working for it, but several circumstances may have led Mexican narcotics traffickers to believe that the two were informers.

Walker, a Vietnam veteran with a 50 percent disability pension, had been living in Guadalajara since November 1983 while working on a novel. The book included a subplot about smuggling cocaine from Mexico to the United States, and a folder was found among his belongings containing clippings and notes about the Mexican drug trade.

Several sources suggested that Walker, a former journalist, may have gone to La Langosta to gather information about what a reputed drug kingpin's restaurant looked like.

Radelat, who had known Walker for more than a year, was visiting Guadalajara to check out the dental school. He had attended dental school in Monterrey, Mexico, from 1980 to 1982 and was considering resuming his studies in Guadalajara. He was staying at Walker's apartment, and the two of them had made a trip to the resort of Puerto Escondido in early January.

Radelat had been working for his father, a family practitioner, as a laboratory technician since dropping out of the Monterrey dental school. He had left that school because he had run out of money to pay his tuition and would not allow his family to pay it, according to his father.

An acquaintance who asked to remain anonymous said that Radelat, who was single, had partied heavily and boasted to friends about his drug use. Radelat's father acknowledged that his son once had a drinking problem, but denied strongly that he used drugs.

If Walker had been asking questions about the drug trade around Guadalajara, and if Radelat was using narcotics, it is easy to see how the two might have been mistaken for DEA agents. They also frequented a hamburger joint called Uncle Sam's Kitchen that was a favorite of U.S. Consulate employes.

"I think that John very innocently stumbled into a set of circumstances that made him appear to be a DEA informer," Eve Walker said.

DR. BELDING SCRIBNER—FATHER OF RENAL DIALYSIS

Mr. GORTON. Mr. President, 25 years ago, Dr. Belding Scribner, head of the Division of Nephrology at the University of Washington; Dr. David Dillard, a vascular surgeon; and Mr. Wayne Quinton, a medical engineer, inserted a small length of bent Teflon tubing in the forearm of Clyde Shields of Seattle. The Teflon device, which became known as the Scribner shunt, first made possible the long-term treatment of patients with chronic kidney failure by use of the artificial kidney. Mr. Shields was the first patient in the world to be so treated, he then lived for 11 years, was able to return to work and to his family, and later was trained to do his own dialysis at home. Of the six patients who started treatment in Seattle between 1960 and 1962, three are still alive, two following transplantation after many years on dialysis, and the third is now in his 23d year on dialysis.

In 1985 artificial kidney dialysis is taken for granted throughout the Western World. In the United States the Federal Government, through the Medicare End-Stage Renal Disease Program, pays the majority of the costs of treatment for more than 90 percent of American citizens with chronic kidney failures. More than 70,000 patients are on dialysis, and more than 6,000 kidney transplants are done in the United States every year. Around the rest of the world there are another 150,000 patients alive on dialysis. It is not widely appreciated, though, how much the treatment of chronic kidney disease owes to the vision of Dr. Scribner. In addition to improving the shunt over the next few years, he and his colleagues described many of the complications of dialysis and their treatment, and developed the prototype of the single-patient automated dialysis machines which are in worldwide use today. They also developed the technique of peritoneal dialysis, and made many contributions to both the science and art of dialysis.

Treatment of chronic renal failure raised great controversy in the early 1960's. The new technology was extremely expensive, and for several years most kidney specialists remained skeptical about its usefulness. Even in Seattle there was insufficient money to treat all patients in need, and so patient selection was carried out by an anonymous committee of citizens. Because of these concerns about financing, Dr. Scribner and his coworkers established an out-of-hospital, community dialysis center in Seattle in 1962, to provide for the needs of patients with kidney failure. This center, the Northwest Kidney Center, served as a model for the development of dialysis units around the world.

Dr. Scribner and his team also promoted home dialysis as an alternative treatment, which was found to be beneficial and less costly for many patients with kidney failure. In addition, at Dr. Scribner's urging, Senators Jackson and Magnuson introduced Federal legislation to help underwrite dialysis for people with end-stage kidney disease. Their efforts led to a provision in Public Law 92-503, in 1972, which made kidney disease the only categorical disease paid for through the Medicare Program.

Few have the chance to change medical science so dramatically, and to save lives on such a wide scale as has Dr. Scribner with the development of the Scribner shunt and kidney dialysis. The Northwest Kidney Center, the Northwest Kidney Foundation, and the University of Washington are sponsoring a scientific meeting in Seattle on May 9 and 10 to celebrate 25 years of chronic dialysis, and to honor the man behind many of the developments in the field of artificial kidney treatment, Dr. Belding H. Scribner.

I join my friends back in Washington State in commending Dr. Scribner, his colleagues, and the institutions that have supported the pioneering work in long-term treatment of kidney disease. They have done a world of good, and deserve our thanks on this 25th anniversary of the development of the Scribner shunt.

TRIBUTE TO JUDITH KAPLAN—RECIPIENT OF THE STATE SMALL BUSINESSPERSON OF THE YEAR FOR FLORIDA

Mrs. HAWKINS. Mr. President, the small businesses of our Nation are a vital force in our economy. They provide jobs for our citizens and reinvest

their profits in our communities. The spirit of their operations is friendly, attentive, and efficient.

During this week, which has been proclaimed "Small Business Week", an individual from each State is being honored as the "State Small Business Person of the Year". I would like to personally congratulate and pay tribute to Florida's recipient, Judith H. Kaplan of Ocala, FL. Mrs. Kaplan is president of Action Packets, Inc. one of the country's major wholesalers of space theme-related, scientific, and education products. Mrs. Kaplan is a fine example of a successful entrepreneur. Due to her astute business sense and the savvy business course she has set for her company, Action Packets has developed from a small basement operation into a large and continually expanding business.

Mrs. Kaplan is a fine citizen of the Ocala community and has selflessly dedicated much of her time and energy to enhancing the status of women. I am extremely proud of her accomplishments and dedication and would like to express my gratitude to her for being an outstanding example to both young women and men in the State of Florida.

THE PULITZER PRIZE FOR HISTORY AWARDED TO THOMAS McCRAW

Mr. COCHRAN. Mr. President, I rise to invite the attention of my colleagues to the recent accomplishments of a very talented scholar and friend, Dr. Thomas K. McCraw. Dr. McCraw recently received the 1985 Pulitzer Prize for history for his latest book,"Prophets of Regulation."

"Prophets of Regulation" mixes political history, economic theory and biography to chronicle American regulatory policy since the middle of the 19th century. The New York Times has described the work as "sophisticated and accessible." Dr. McCraw explores in a meaningful way a number of significant issues concerning the Federal regulatory process, such as its role in serving the "public interest" and the influence that "regulated interests" have had on regulatory agencies. His emphasis on these and other issues makes his Pulitzer Prize winning book important reading for all of us.

Dr. McCraw is a graduate of the University of Mississippi. He served in the Navy for 4 years and did graduate work in history at the University of Wisconsin. In 1970, he received his doctorate, and subsequently joined the history department at the University of Texas at Austin. In 1976, he joined the faculty at Harvard, where he currently is a professor at the Graduate School of Business Administration. He is a member of the editorial board of the Harvard Business Review and the Business History Review, as well as a member of the Historical Advisory Board for NASA. Other books he has authored include "Regulation in Perspective," an essay collection, and "The Tennessee Valley Authority and the Power Fight."

Mr. President, I offer my sincerest congratulations to my friend, Tom McCraw, for this very deserved recognition of his outstanding accomplishment.

INTOLERABLE PAY CUT AT THE ICC

Mr. TRIBLE. Mr. President, today, more than 900 employees of the Interstate Commerce Commission will receive their first paychecks reflecting a 20-percent reduction in their salaries. For these workers—many of whom are Virginians, many of whom have mortgages to pay and families to care for—this pay cut is intolerable.

This drastic reduction is the result of an ongoing dispute concerning the ICC. Last year, the administration requested $5.39 million to fund the ICC. The House Appropriations Committee recommended a higher level of $54.4 million. The Senate Appropriations Committee recommended only $48 million.

The difference between these figures was not resolved until last October 12—after the fiscal year had already begun. The continuing resolution contained the Senate's recommendation of $48 million. That figure was $6 million below the administration request, and $8.5 million less than the Commission spent in fiscal 1984.

The ICC was forced to make critical budgetary decisions, and make them quickly. the Commission placed an immediate freeze on hiring, and notified a number of employees in December of last year that they were to be separated from the agency. Over the past 6 months, more than 100 workers have left the ICC.

An emergency plan went into effect at the ICC 2 weeks ago. It requires that every employee be furloughed for 1 day per week for the remainder of the fiscal year. The result is a 20-percent pay cut for every ICC worker, and the first of those reduced checks will be delivered today.

Throughout this episode, the individuals who have suffered most have been the rank-and-file employees of the ICC. They have seen coworkers released from their jobs. They have seen their own pay cut by 20 percent. They have seen all of this result from circumstances beyond their control.

Their morale cannot help but be adversely affected. Their productivity cannot help but decline, as employees work fewer days and as some seek to leave the ICC for other jobs.

Mr. President, I do not believe the employees of the ICC should be punished any further. It is my hope that the Senate Appropriations Committee will approve a supplemental request for the ICC at least equal to the $3.15 million approved by the House Appropriations Subcommittee on Transportation. If the Senate committee does not do so, it is my intention—together with the distinguished chairman of the Senate Commerce Committee, Senator DANFORTH—to amend the forthcoming supplemental appropriations bill to provide at least that amount for employees' salaries at the ICC.

This figure is less than the ICC's original supplemental request of $4.4 million, which the Office of Management and Budget has already approved. But it is the minimum necessary in order to prevent additional furloughs by the Commission.

Mr. Reese Taylor, chairman of the ICC, has made it quite clear that he cannot discontinue the furloughs without a supplemental appropriation in hand, or some clear signal on the part of Congress that enough funds will be forthcoming. In the days ahead, I will work vigorously with Senator DANFORTH to send that signal by gathering commitments from a majority of my colleagues to support payment of salaries at the ICC.

Senators DANFORTH, SARBANES, PACKWOOD, and GOLDWATER have already indicated their willingness to support this proposal, and I commend them for their efforts in behalf of the beleaguered workers at the ICC. I urge the rest of my colleagues to join me in support of this measure and to remedy this outrageous situation.

Mr. DANFORTH. Mr. President, I want to commend Senator TRIBLE for his leadership and compassion. The funding situation at the ICC is unconscionable. It is my intention to help and support Senator TRIBLE in his efforts.

We are on the floor today discussing ways to reduce the Federal deficit. I am a member of the Budget Committee and am cooperating in every way I can with the President, the majority leader and the chairman of the Budget Committee to reduce Federal spending. But, frankly, this issue—the fact that Federal employees, just like the ones who work for you and me, are being forced to make a heavy financial sacrifice that is the result of nothing over which they had any control—deeply troubles me. It is not fair to them. It is not fair to their families. These are people who have children to feed, clothe, and send to school. They have mortgages. We are playing with their lives. We have no right to expect this of them. No other agency of the Federal Government is operating this way.

It is irrelevant to me how we got where we are today. I don't want to

discuss the charges and countercharges. I have concerns with the ICC. I have criticized the Commission for its lack of responsiveness to shipper complaints. I am deeply distressed that the ICC has apparently decided to undertake a study of issues related to the Conrail sale. The Northeast Rail Services Act of 1981 [NERSA] specifically exempts the ICC from any aspect of the Conrail sale altogether, and this study will serve no other purpose than to delay and thwart the sale of Conrail. But, I do not fault the employees of the agency. To allow these furloughs to continue through congressional neglect would be reprehensible.

Moreover, not only has the furlough situation had an effect on staff morale, the ICC is also in danger of missing statutory deadlines due to staffing problems. This, too, deeply concerns me. Last year I introduced a resolution recommending that the Commission take action in a number of areas which would provide relief to shippers under the Staggers Rail Act. The Commission has set in motion proceedings to address some of my and others' concerns. However, with the Commission only 80-percent effective, there could be delays in these proceedings. This agency needs to be at full capacity, and it needs to be at full capacity now.

Senator TRIBLE wants to get this resolved. I join with him. I want the Senate to know that this is a top priority for me.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. If there is no further morning business, morning business is closed.

FIRST BUDGET RESOLUTION FOR FISCAL YEAR 1986

Mr. DOLE. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. What is the pending business?

The PRESIDING OFFICER. The clerk will state the pending business.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 32) setting forth the congressional budget for the United States Government for the fiscal years 1986, 1987, and 1988 and revising the congressional budget for the United States Government for the fiscal year 1985.

The Senate resumed consideration of the concurrent resolution.

Pending:

Abdnor Admendment No. 56 (to Amendment No. 43, as amended), to express the sense of the Senate that the amount of nonfarm income that can be offset by tax losses from farming should be limited and that revenues derived should be used to reduce individual tax rates.

AMENDMENT NO. 56

The PRESIDING OFFICER. The pending question is amendment No. 56, offered by the Senator from South Dakota.

Who yields time?

The Senator from South Dakota.

Mr. ABDNOR. Mr. President, I am offering this amendment to express the sense of the Senate that the amount of nonfarm income that can be offset by tax losses from farming should be limited and revenues derived should be used to reduce individual income tax rates.

As my colleagues will remember, I offered legislation to accomplish this goal in the last session of Congress and again in this session of Congress. My bill, S. 244, would accomplish the purpose which this resolution addresses. I have received overwhelming support for my proposal from farmers, ranchers, agribusinesses, soil conservation groups and districts, and other concerned citizens. Additionally, I have received strong support from Farm Bureau, Farmers Union, American Agriculture Movement, National Farmers Organization, Grange, Women Involved in Farm Economics [WIFE], and other groups both in my home State of South Dakota and from across the Nation. The National Governors Association also has endorsed the concepts embodied in my bill.

Very simply, Mr. President, my bill would close a glaring tax loophole which is aggravating our festering farm problems.

Under our current Tax Code, bona fide farmers and ranchers must compete with so-called gentlemen farmers who are more interested in farming the Tax Code than in producing food and fiber. These so-called farmers and ranchers compete with the bona fide farmers and ranchers of America for farm and ranch land, add to our surplus production problems, and sometimes farm fragile or marginal lands, thus aggravating our soil and water conservation problems.

In addition to helping bona fide farmers and ranchers, my bill would make a very significant contribution to the goal of closing a tax loophole so that individual income tax rates can be reduced and to assure that full-time, family-size farm operators will not be disadvantaged by unfair competition from high-income taxpayers with substantial nonfarm income.

The Joint Committee on Taxation has estimated a revenue gain to the Treasury of approximately $2.6 billion for the fiscal years 1985-87 from my bill. That amount is great by any calculation or analysis and should be considered carefully as we try to reduce individual income tax rates or cut the deficit in order to lower interest rates and decrease the value of the dollar. As my fellow farm State colleagues are aware, high interest rates are crippling most farmers and forcing many to enter into bankruptcy or to abandon the land which has been in their family for generations. Additionally, our huge budget deficit has forced the dollar to record-high levels, thus making our agricultural exports noncompetitive in world markets.

The current raid on the Federal Treasury by gentlemen farmers is not gentleman-like at all. It is out-and-out robbery and it should be stopped. It is a crime that our Federal tax laws allow wealthy individuals with large incomes to shelter thousands of dollars with farm losses. Furthermore, it is a social embarrassment that our tax laws encourage these investors to enter into direct competition with bona fide farmers and ranchers.

For years, politicians have stated that they are trying to save the family farm and Congress has made attempts to do so. But, in actuality, these same politicians have led to the demise of the family farm since they have created and ignored a tax loophole which has placed wealthy individuals with large amounts of off-farm income in direct competition with bona fide farmers and ranchers.

In a recent study of 1976 farm income tax returns, the Internal Revenue Service identified 12,000 returns which reported farm losses in excess of $50,000. These same returns showed an average off-farm income of over $122,000. After deducting an average of over $104,000 in farm losses, these 12,000 so-called farmers paid taxes on an average adjusted gross income of just $16,362.

IRS found another 24,000 tax returns which recorded farm losses in the range of $25,000 to $50,000. These so-called farmers had an average off-farm income of almost $52,000 and, after deducting average farm losses of $34,000, paid taxes on an average adjusted gross income of only $17,366.

Mr. President, tax abuse must be stopped and our Nation's bona fide farmers and ranchers must be relieved of the unfair and, in my opinion, the unethical competition of the tax-loss farmer. My resolution would call upon Congress to take action to relieve farmers of this burden and would contribute at least $2.6 billion in revenues which could be used to lower individual income tax rates and to assure that full-time, family-size farm operators will not be disadvantaged by unfair competition from high-income taxpayers with substantial nonfarm income.

Mr. President, I think this legislation is much, much needed. It is simply a sense-of-the-Senate resolution speaking to the problem. Hopefully at a later period as the Congress deliberates tax simplification, or some kind of tax reform, we will take action on this subject. As we stand here

today—all of us so concerned about the situation out in the Farm Belt, aware that many are on the verge of bankruptcy—my resolution would improve the farm sector in a manner different from any farm program which we might write in the Agriculture Committee. And it is just as necessary as the farm program itself. I urge my colleagues' support of this sense-of-the-Senate resolution.

Mr. BYRD. Mr. President, I yield 15 minutes to the distinguished Senator from Texas [Mr. BENTSEN] and 15 minutes to the distinguished Senator from Iowa [Mr. HARKIN].

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER (Mr. DURENBERGER). The Senator from Iowa.

Mr. HARKIN. Does the distinguished Senator from South Dakota still have the floor, or does he have the time?

The PRESIDING OFFICER. The Senator from Iowa has time under the designation of the minority leader.

Mr. HARKIN. Fifteen minutes, Mr. President?

The PRESIDING OFFICER. The Senator is correct; it is 15 minutes.

Mr. HARKIN. Thank you, Mr. President.

Mr. President, I agree with the distinguished Senator from South Dakota that in fact we do have to limit deductions of farm losses from nonfarm income. However, I have some real concerns with the manner in which the Senator from South Dakota has proposed this. I wonder if I might ask him to respond to some questions on his amendment.

I would like to know, if the Senator could tell me, what the revenue estimates are that he is assuming; how much revenue does he assume he would get for the next 3 years?

Mr. ABDNOR. The Joint Committee on Taxation estimated it would amount to $2.6 billion over a 3-year period.

Mr. HARKIN. If the Senator will yield further, does the Senator's amendment assume the specifics of S. 244, which is the Senator's bill?

Mr. ABDNOR. The amendment simply speaks to the subject matter. We cannot direct the tax committee to do any such thing other than a sense of the Congress. I could not make a minor change even if I wanted because I would be directing the tax committee to do certain things that this budget resolution does not have the right to do.

Mr. HARKIN. Do I understand the Senator's amendment to say that by limiting this, as I understand it, to about $24,800 a year there is no upper limit? In other words, no matter how much income a person made off the farm they would still be able to deduct the farm loss, is that correct?

Mr. ABDNOR. That is correct, yes.

Mr. HARKIN. I have two problems with the Senator's amendment. First of all, I do agree that we ought to close this loophole, and we attempted to close agricultural tax shelter loopholes in the 1984 Tax Act. Unfortunately, too many loopholes were left. We tightened up on some of the provisions, but we did not do it completely. I think the Senator's amendment is a step in the right direction. However, I hope that he will consider modifying his amendment so that rather than just reducing tax rates, we would take some of the revenue enhancement and put it back into function 350, which is agriculture, and function to restore 300, conservation funds.

Now, I might point out to my colleague from South Dakota that I have some preliminary estimates on his amendment, and he is correct that it would save about $2.6 billion over those 3 years.

But the average dollars saved per taxpayer per year would be about $6.10 under the Senator's amendment. The average Iowa taxpayer paid $1,751 in taxes in 1982 and the average South Dakota taxpayer paid $1,337, so the $6.10 isn't really that much. However, if this money raised under the Senator from South Dakota's proposal were dedicated to agriculture programs, it would equal $2,275 per working farm over a 3-year period of time. Now, that is a considerable sum of money. So I hope perhaps the Senator would agree to modify his amendment so as to take the savings which would result and put the funds back into functions 350 and 300, for agriculture and soil conservation.

I ask the Senator if he would consider modifying his amendment to do just that.

Mr. ABDNOR. Let me read my amendment:

* * * it is further assumed that revenues derived from enactment of such legislation be used to reduce individual income tax rates and to assure that full-time, family-size farm operators will not be disadvantaged by unfair competition from high-income taxpayers with substantial nonfarm income.

No. 1, we do not even have any dollars at this point to put into any program. This is a sense of the Senate, asking the Finance Committee to take some action on this problem.

I cannot disagree with the Senator. Originally, my intent in my bill was to place half of the revenue into the loan program for young farmers starting out.

Overall, our No. 1 concern of farmers and everyone else in this Nation is to get our fiscal house in order, which would do more good for the farmer than anything else.

Mr. HARKIN. I point out that there is no deficit reduction under either my proposal or the Senator's proposal. The Senator says that he will use it to reduce individual tax rates, so there will not be any deficit reduction under the Senator's amendment.

I am saying that inasmuch as there is no deficit reduction, let us put it into agriculture, where it is needed.

My second objection to the amendment is that it leaves a loophole big enough to drive a Mack truck through.

Let us say we have several individuals making $100,000 each, and they decide to form a syndicate or partnership. They can each take that farm loss of about $24,800 a year.

I propose to limit farm losses on nonfarm income to the same degree that the Senator has, the national median income of about $24,800, and then to phase out the deduction at a certain point. At roughly $75,000 per year, no one would be allowed to take those farm losses off their nonfarm income.

What I am concerned about is that our smaller family farmers who need some off-farm income, or people just beginning to farm, who are working in the cities and farming on the side, not be penalized, because they need the off-farm income with which to start and to stabilize their farm enterprise. So I think there should be some limit—say, around $24,000 or $25,000.

If we leave this loophole in there, doctors and lawyers and speculators a making $100,000 or more a year will still be able to form their partnerships and corporations and take this deduction off their nonfarm income, which is what we are trying to get away from. I have an amendment, which I had planned to offer to the budget resolution—and I still might, depending upon the outcome of this amendment—which would completely eliminate the loophole. While the amendment of the Senator from South Dakota would raise $2.6 billion, mine would raise $6.2 billion over the 3 years. And, rather than reducing every taxpayer's rate, my amendment would give back approximately $5,000 per farm over the 3 years, 1986–88.

What I am talking about does not reduce the deficit, but the amendment of the Senator from South Dakota does not reduce the deficit, either. So there is no deficit impact.

Again, I ask the Senator from South Dakota this question: If, in fact, the Senator is using the $2.6 billion saving he is talking about to reduce individual rates, how can there be any reduction of the deficit?

Mr. ABDNOR. We conform this to the rules. We had the expertise of the legislative counsels who put this together.

The original intent was to go to the deficit. They told us it would have to go this route.

I think we have gone far more in detail than has the Senator. He obviously is questioning the experts of the

Joint Committee on Taxation. We went into the full amount.

If the Senator is so concerned about all the little details, he can mess up our chances of addressing the issue. The committee will write it. I suggest that he go to the Finance Committee and talk about the aggregate of all the losses, and I think that will take care of it. We are trying to do the same.

I do not know what the distinguished Senator from Iowa is trying to do. Here is a loophole affecting agriculture, and he wants to close it and let the Finance Committee work out the details. Let us not try to mix it up with the budget dollars and facts that do not exist.

Mr. HARKIN. We have talked to the Joint Committee on Taxation with respect to this. The figures I have used come from that committee. In fact, many of the people we talked to recognize that there is a loophole, if we do not put an upper limit on how much people are allowed to deduct from their nonfarm income.

I agree that the Senator's amendment is a step in the right direction. However, No. 1, it leaves a tremendous loophole, in that very wealthy people can still use this kind of schedule F, farm loss to compete unfairly with our family farmers.

Second, I point out that the Senator's amendment does nothing to reduce the deficit, because it is used to reduce individual income tax rates.

On the other hand, I believe that with an amendment that would be basically along the lines of the Senator's amendment, but which would have an upper-income limit—in other words, saying that above a certain figure, twice the national median income, above about $50,000 a year nonfarm income—you would start to phase out that $24,800. It would be scaled down, the more income you had from your nonfarm income the less you could deduct. I believe that would close that loophole.

Also, since we are not reducing the deficit here, anyway, I suggest that we take that money and put it into function 350 and function 300—where the money is needed for farm programs—and not in reducing individual's tax rate by about $6.10 a year, as the Senator's amendment would do. I do not think $6 per person would have much effect, but it would have great effect if we were to take the money from this loophole and put it back into agriculture.

So again I ask the Senator if he would think about modifying his amendment, not just to reduce individual tax rates but also to take that saving—and I would be willing to compromise—and put it back into function 350, which is the agricultural function, and function 300, which includes soil conservation. Would the Senator modify his amendment to do that?

Mr. ABDNOR. I say to the Senator from Iowa that I appreciate very much his concern. I think our intent is the same: to help the farmers and to put the money to good use. I point out that at this point we do not have the money to put anywhere. This is just a concept. When the time comes, I shall be happy to work on that sort of situation.

We have the rule that the Finance Committee has the authority to take care of problems such as the Senator is suggesting, of trying to take advantage of the revenue saving. That can be handled in its appropriate time. We do not need to set that out now.

With respect to the other situation the Senator from Iowa is talking about—a young couple trying to work a farm—if they make over, say, $24,000, they cannot be spending much time on the farm, and it cannot be much of a farm to have that great a loss.

We are exaggerating the problem here. This is a sense-of-the-Senate concept, and it would do exactly what we both want to do. After adopting my amendment now, we next can go to the Finance Committee. I think the Senator from Iowa would make it more complicated and more difficult. The purpose is set out here in a simple manner. We both want the same thing. We can go to the Finance Committee together.

The main thing is to get this amendment through and then get legislation to correspond with it in the direction we want.

Mr. HARKIN. Mr. President, I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I have the pleasure of serving with my friend, Senator ABDNOR, on the Environment and Public Works Committee, and I have found him a very valuable member, and I am often in agreement with him there. But in this instance, I am in substantial disagreement.

I was born and reared on a farm, as I suppose he was, and I know that farmers are in real trouble.

I look at the number of foreclosures taking place on farms today. If you want to see a real acceleration in foreclosures, a further drop in land values for farmers, and more country banks in trouble, then you pass legislation that does this type of thing.

If you do not have the continuing input of buyers into farming, then you are going to see a further depreciation in the price of farms.

I am sympathetic at getting to what Senator ABDNOR is discussing. Full-time farmers should not have to be burdened by unfair competition brought about by the tax laws.

But we have gone a long way in the Finance Committee to strengthen the tax laws on hobby farming, and that is something that is really worked on by the IRS, they have a task force that works at that and examines it very carefully.

As a good example, last year Congress shut down some of the cattle-feeding tax shelters that we have all been reading about where we found where the promoters have been stretching the tax laws far beyond the congressional intent and had been offering investors large deductions with minimal risk. That should not have been taking place, and we put a stop to it.

But I am really troubled by a general rule that limits deductions of farm losses. As I understand that proposal, the deduction would be the median family income, about $24,000 currently. The fact of the matter is that under the tax laws as they now stand taxpayers do not make any distinction among different activities. An individual taxpayer essentially lumps all of his income together and pays a tax on that aggregate amount. That is the way it works, whether he is in farming or any other kind of activity.

This would strike out into a new area for taxpayers to have to separate different activities and deal differently with the different activities, and that is essentially what the Abdnor amendment calls for. That would introduce a whole new wrinkle of complexity into the Tax Code.

But more than that, you have to realize we are talking about a problem that cuts across every type of enterprise, every type of business. If I went out and started an electronics company, for example, you can bet that I am going to have losses those first few years; a hardware store, a restaurant, whatever you start you are not going to make any money the first year unless it is a very exceptional situation.

Now, under the rationale the Abdnor amendment, the losses of my electronics venture would be viewed as unfair competition for established electronics companies because as long as I structure my business properly I will be entitled to deduct those losses against other income. And I should be able to deduct those losses. Suppose I lost $100,000 from a restaurant venture but earned $100,000 in other income. My bank account would be bare at the end of the year. Should I have to pay a tax in that kind of a situation,

Now, the same thing goes for farming. If I start a farm, I would sure probably lose money the first year and probably the year after that. If I lose money in that venture and I earn money in another venture, why should I have to pay a tax reflecting only my successful venture?

That is not my income. My income is the net of all of my efforts, the losers as well as the winners.

I would guess that every established industry would like to limit on loss deductions for the other guy. That is a very effective barrier to entry.

Why do we not give that kind of treatment to the steel industry or to the footwear industry or to any other troubled industry? It would be a very effective anticompetitive tool.

As I said, I am sure deeply troubled about the plight of farmers today. I am still in that same boat, and I still farm, and I have all the problems with these low prices.

I have voted for the credit package that this administration opposed. But I would not like to see Congress deal with the problem by effectively erecting a barrier to entry into the industry.

What is more, as I mentioned before, we have rules in the Tax Code to deal with hobby farmer problems. Section 183 of the Tax Code specifically denies loss deductions to taxpayers who do not engage in business for profit reasons, and they police that section of the code. The IRS is tough on it, and they should be.

So if a weekend farmer tries to deduct his farm losses but does not have any real, objective profit motive, he just is not permitted to deduct his losses.

I emphasize I am talking about real, out-of-pocket losses. To the extent that losses are attributable to tax preferences, we have limits in the form of an alternative minimum tax, and I supported that, and I think we should have an alternative minimum tax on corporations, and I have introduced legislation for that purpose.

If we need to tighten that one up, that is certainly something I would be interested in looking into. I feel very strongly that tax preferences should not be used to an excess.

Not only would this measure be bad tax policy and bad for the country, but I think full-time farmers would end up getting the short end of the stick also.

What would happen if you further dry up new investment in farms? And that is where we are headed now.

That would only exacerbate the slide in farm land prices that is already occurring. More and more farm loans would go bad, and I am just not prepared to support legislation that will bring about that kind of effect. Limiting those deductions would further depress those prices.

That is a major problem that farmers and their lenders are having right now on the collateral for loans. It is very, very difficult for active farmers with no farm income to make major commitments such as purchasing land in the current economic environment.

I think restricting investments among industries is a very inefficient thing to do economically, and I urge opposition to this amendment.

Mr. President, thank you very much.

Mr. FORD. Mr. President, I rise in opposition to the amendment by the Senator from South Dakota. I do not believe it will accomplish the goal he seeks of protecting the family farmer. In fact, it will have the opposite effect.

This is not just a concept; it has very real effects. This amendment will be disastrous to my constituents. By limiting nonfarm out of pocket losses on Schedule F, this amendment will jeopardize the ability of many legitimate, capital intensive farmers.

This issue is not appropriate for the budget resolution. If there is a problem with abuse of farm tax shelters, let us address that specific abuse. But let us not throw the baby out with the bath water by assuming that any farmer which has nonfarm losses greater than the national median family income, is not in farming full time. Nor can we assume, as this amendment does, that these farmers are unfairly competing with the family farm.

Mr. President, I firmly support legislation which will protect the family farmer from unfair competition. I represent the families in Kentucky which operate over 101,000 farms. But I have serious concerns that what appears to be a good idea on its face will actually be disasterous to many farm families.

The place to address this issue is in the Finance Committee, with extensive debate. This amendment would change a basic concept in the Tax Code—that of aggregating losses and applying them against income. There are many family farmers who depend upon nonfarm losses to keep the family running. Spouses who must work to add income to the household so to hold on to that family farm will be penalized if they happen to have reached a level of income that exceeds $24,800. If we think we are seeing bankruptcies now in the family farm, just wait until family farmers are precluded from offsetting losses against nonfarm income, such as a spouse income as a schoolteacher, or a nurse.

I am also concerned that the new farmers, with large startup costs, will be discouraged from entering farming. Without the ability to write off these large costs, they will face a great disincentive to get into farming. With the numerous farm foreclosures, there can be no doubt that those farmers who watch their family farm being auctioned would hope that someone else would take that land and continue farming. I doubt that will happen if new farmers are not allowed to write off farm losses against nonfarm income in those early years.

Mr. GRASSLEY. Mr. President, I join my colleagues in support of the amendment offered by my distinguished colleague from South Dakota which limits the amount of nonfarm income that can be offset by tax losses from farming operations. Limiting the deduction of farm losses against nonfarm income to the national median family income is a necessary step in assuring that family sized farm operators will not be disadvantaged in their effort to compete with higher income taxpayers with substantial nonfarm income.

There is mounting evidence for the need to bring some coordination between tax policy and agricultural policy. It has become increasingly apparent that it may be against the best interests of American farmers to have policies that encourage further outside investment in agriculture. Many of the provisions under the current Tax Code that were enacted to benefit the farmers have increased the attractiveness of agriculture to outside investors. This increased investment in agriculture has not only increased farm production, it has increased development of marginal farmlands in order to obtain the tax benefits associated with farming. The overall health of our farm economy is seriously threatened by tax oriented incentives for nonfarm investors, resulting in excess production at a time or surpluses.

Congress has previously recognized that the impact of differential tax preferences has artificially stimulated production resulting in an overall lowering of commodity prices. As a result, Congress repealed rules allowing deduction of development costs for almond and citrus groves. My own amendment passed by the Senate as a part of the Deficit Reduction Act in 1984, and later dropped by the conference committee would have limited depreciation benefits for single purpose agricultural buildings such as dairy barns, hog facilities, and greenhouses. I continue to be concerned with the problems created by the unintended competitive advantages created by our tax laws to the detriment of family farm operations. I look forward to working with the good Senator from South Dakota in seeking a solution to these problems.

Mr. BOREN. Mr. President, I am sympathetic with the intent of the Senator from South Dakota on this amendment. In my mind, there is no question that the tax policy of the 1970's encouraged hobby farming, resulted in drastic increases in the price of land, and correspondingly increased the cost of production for legitimate farmers.

I agree that we must stop giving tax breaks to "gentlemen farmers." However, we have to do this in a manner which will not have adverse effects upon legitimate, full-time farmers.

I worry about the effect this could have on a farm family in which both the husband and wife have been forced to take full-time jobs off the farm because of depressed farm prices. Additionally, as the Senator from

Texas, Mr. BENTSEN, said earlier, this could dampen land prices. Granted, land prices may need to come down, but we cannot pull the rug out.

All these things need to be considered before we move to change tax policies affecting farming. I am in the process now of an extensive investigation.

TAX-LOSS FARMING

Mr. PRESSLER. Mr. President, I want to commend Senator ABDNOR for offering this amendment on tax-loss farming. I am a cosponsor of his legislation to limit the amount of farm losses that can be deducted from nonfarm income. The use of farming as a tax shelter has created a problem for genuine farmers and lost revenue for the U.S. Treasury.

As we are well aware, farmers and small towns are in serious financial difficulty. Many look to changes in the omnibus farm bill as the solution to the farm crisis. But we could probably do as much for the average farmer by changing other laws, such as the tax laws. Many tax law provisions have encouraged nonfarm interests to get involved in agriculture.

For example, accelerated depreciation on hog confinement buildings has attracted many nonfarm interests into hog production. The actual number of hog producers has declined, while hog production has increased.

There are other examples of tax loopholes which benefit nonfarmers who invest in farming. A nonfarm interest can buy a farm, level it off, and perhaps remove existing tree shelterbelts. The tax law allows that investor to deduct such expenses. If an irrigation system is installed, the system can be depreciated. In effect, the nonfarm farmer has accumulated three major tax writeoffs on this farm.

At the same time, the average family farmer, living on and working his operation, either could not afford to make these changes, or would not generate enough income to write off the expenses.

These tax-loss farmers have driven up land prices in the late 1970's, increased production of commodities which are already in surplus, and broken up land which should never have been plowed. The inflated land prices made land unaffordable for the average farmer and, in many cases, caused farmers to purchase land at a price which could never pay for itself. Now, with farmland values declining, many of these true farmers are in serious financial trouble. Increased production of surplus commodities has further depressed farm prices and resulted in the need for increased Federal expenditures on farm programs.

Also, the tax-loss farmers broke up large sections of fragile prairie land which should not have been plowed. Much of this ground was planted to wheat to benefit from Government programs. This practice has added greatly to the already critically serious erosion problem. Congress is now considering large land diversion programs to encourage these farmers to seed this land back to trees and grass. In effect, the government subsidized the plowing of this land—both through the tax laws and through government farm programs—and is now forced to consider additional programs and expenditures to remedy the problem it created.

For several years, many of us have been trying to change the farm programs. When we establish a land reserve program, we will be paying these farmers to return the land to the original grass. These problems in tax laws and farm programs have, and will, cost the Federal Government dearly.

Finally, tax-loss farming results in a tremendous loss of revenue for the U.S. Treasury. A study of 1976 tax returns found that 12,000 returns reported tax losses of over $50,000. Those filing these returns had an average off-farm income of $122,000. After deducting an average of $104,000 in farm losses, these tax-loss farmers paid an average income tax on only $16,362. Another study estimates that, as a result of these practices, approximately $2.6 billion in tax revenue will be lost between 1985 and 1987. It is time we closed this tax loophole and put true farmers back on a level and fair playing field.

I want to commend my colleague for his leadership on this issue and urge support for this amendment.

Mr. NICKLES. Mr. President, many individuals, whom we would call weekend farmers or venture capitalists, are using the Tax Code to shelter nonfarm income in agricultural investments. I feel strongly our bona fide farmers and ranchers should not have to compete with individuals whose primary purpose is to shelter off-farm income rather than make a living off of the land.

The measure before us today would limit the amount of off-farm income which can be sheltered by farm losses to the national median household income, approximately $24,000. Upon close examination of the amendment, I am concerned that it could have harmful repercussions on many farmers and ranchers we are trying to assist.

Many full-time Oklahoma cattlemen and farmers are incurring substantial losses from their agriculture operations. As you know, this is not a profitable time for agriculture. Some of these Oklahomans are fortunate enough to have royalty interests while others find it necessary to hold outside jobs in order to make ends meet. A farmer or rancher would be penalized under this amendment if his annual farm losses exceeded the threshold level.

Changes in agriculture tax policy may be necessary to tighten existing loopholes. One alternative would be to tighten existing regulations governing hobby losses, which are generally deductible only to the extent of hobby income. Although I support the concept of the amendment before us today, I am concerned that if enacted it could result in unsuspected hardships for Oklahoma's agricultural interests.

● Mr. McCONNELL. Mr. President, I oppose this amendment, not because the amendment is not well-intentioned but because it is unfair. It is unfair because it does nothing to solve the fundamental problem which faces American agriculture—a farm income crisis. We cannot solve this farm income crisis by excluding from agriculture those investors who have a sincere intention of perpetuating and improving their segment of the industry.

This resolution, a now-binding sense of the Senate resolution, would raise general revenues for the Treasury by limiting the amount of farm loss which could be deducted from nonfarm income for tax purposes. The income raised from the deduction limitation would be used to reduce individual income tax rates for all taxpayers. While this approach seems attractive at first glance, a more thorough review shows that the agriculture industry is singled out for a tax revision when no other industry in America is affected. Tax reform is too important a matter to be debated under these circumstances.

Mr. President, this resolution treats a symptom rather than a disease. The call for tax reform has been heard long and loud here in the Senate and there is no doubt that broad-based tax reform is certainly needed. However, by singling out agriculture as the only industry subjected to a tax revision, we can virtually write off any significant and much needed infusion of capital into agricuture. Mr. President, at a time of a farm income crisis where we're search for ways to make farming profitable again, I just don't think we can afford to do that. Close examination of two important segments of the Kentucky livestock industry show why this approach is an unacceptable way to raise tax revenue.

The purebred cattle industry is a perfect example of this concept. A purebred cattle investor is often in a financial position which enables him to purchase the very best cattle in the breed for use in his own herd. By doing so, he can genetically improve the breed as a whole, when he makes his cattle available to a small farm commercial cattle breeder. The entire cattle industry benefits because the small farmer receives the genetically superior seedstock without the accompanying expense of high initial invest-

ment. This is a direct benefit to small farmers with limited capital. I believe enactment of this amendment would lead to a decline in purebred investors, which wouldn't benefit any part of the cattle industry. The lost revenue from a declining cattle market will more than offset any income generated by passage of this amendment.

Mr. President, I also think it's worth noting that the Kentucky horse and thoroughbred industry is the second leading segment of the State's agricultural industry in terms of dollars. Over $750,000,000 is generated for the State's economy and literally thousands of jobs are dependent on a strong Kentucky equine industry. In the State of Kentucky, you'll find the world's best racehorses, Mr. President, and because of that, these thoroughbreds are in demand the world over. It takes a tremendous capital investment to develop these kind of horses. We simply cannot withdraw from Kentucky's horse breeders the financial incentives to produce the kind of racehorse for which Kentucky is famous.

Enactment of this resolution, Mr. President, would have a serious negative impact on the purebred livestock industry in Kentucky. Purebred cattle and horse breeders have traditionally been the backbone of their respective segments of the livestock industries. For the sake of the future vitality of the commercial cattle and horse industries, we must protect these purebred breeders from an unfair burden of taxation. Enactment of this resolution is not the way to do it.●

The PRESIDING OFFICER (Mrs. KASSEBAUM). Who yields time?

Mr. ABDNOR. Madam President, there is no one in this body whose judgment I respect more on taxation than the Senator from Texas, but I do have to take great issue with this.

Ironically, the Senator from Iowa thinks I am leaving a tremendous loophole and the Senator from Texas thinks I am making it too tight. So maybe I am just right somewhere in between asking the Finance Committee to use some discretion in closing this loophole.

I do not like to refer to it as a loophole. I guess it is a tax shelter. But I think it is one that is crippling farming far too much, one that has to be looked at very carefully and resolved.

I come from rural South Dakota. We have a lot of marginal land. I wish I had some aerial photos to show you the land that has been plowed up out in that country by outsiders, people who I truly do not think are that interested in the business of farming as farming really is. I think they are more interested in the advantages to be found in the Tax Code.

This does two things. Not only does it in some cases bring land under cultivation that should have never been touched, but it is also in a sense robbing our Treasury. You know, we have some preferential rules for agriculture. We have rules that say that in determining one's allotment, the acreage that he may plant in those specific crops for which support prices are attached, we should take the previous 2-year planting.

And that is land that had never come under the plow until a couple of years ago. And by continuing to farm it, after 2 years they can then end up with the largest wheat allotment of anyone in the territory because they have planted 100 percent. Regardless of all the past years' history and of others who may have been in farming for 50 years and longer through other generations in their family who are diversified and tried to farm like farming should be, the bona fide farmers are taking by far a lesser quota of their ground. But many new entrants are after the dollars only. So we then qualify for these great programs.

You will find when you check over the payments to farmers, that a very small number get a very large amount of the dollars we pay out. In the case that they show a loss, it becomes a means of reducing taxes on their outside income.

I would like to point out to the Senator from Texas a figure that I was given by the IRS. If the farm sector neither paid taxes nor took deductions, the U.S. Treasury would be better off. Farm net income reported to the IRS in 1981 amounted to $8.5 billion. Farm net losses totaled some $16.3 billion.

Who are we kidding? Farm profits are only half as much as farm losses. We are allowing nonfarmers too many generous deductions. I do not think that is very good business and I think we ought to ask why.

I cannot believe a genuine, good farmer is out there farming expecting to lose money every year. Those who do have other purposes.

It would seem only good business to me that we discourage these outside people from coming in and plowing up all their land, taking dollars out of the Treasury that should go back to the farmers as it was originally intended; The whole country would be better off. I think this sense-of-the-Senate amendment would express our concern to the Finance Committee. This panel then could do something about this drain on the Treasury and help our bona fide farmers out at the same time.

Madam President, I yield back the remainder of my time.

Mr. BENTSEN. Madam President, may I have 3 minutes?

Mr. BYRD. I yield 3 minutes to the Senator from Texas.

Mr BENTSEN. Madam President, I say to my distinguished friend from South Dakota that I think his argument would have had a lot more weight if it had been made about 5 years ago, when you saw farm prices going up and you saw speculation in farm values, some of it brought about by outsiders and some by farmers just buying the land that adjoined them. I understand that kind of motivation.

Now, we are on the other side of the curve and farm values are in a real slide. Rural banks are in real trouble. Then to put a tax barrier in the way of these people who might want to be in farming, enter into farming, willing to take 2 or 3 years of losses to go out and make that kind of investment, I think, is a serious mistake.

I think there is no question in my mind but what the farm prices would further deteriorate. I think it means further foreclosures. I think it means more rural banks in serious trouble and more of them closing their doors. I think this is the wrong kind of legislation at the wrong time. It sets farming apart from every other endeavor.

Where we, as taxpayers, have always taken all of our income and then charged all of our losses against that and paid the tax on it, we are saying, "You can't do that any more insofar as farming is concerned. You can do it in every other type of industry, but not insofar as farming is concerned."

I think, in spite of the very admirable objective of my friend from South Dakota, that the end result will be a disservice to farmers and will hurt the farmer and will be a very serious mistake.

I, frankly, hope that it does not pass, becasue we have addressed this, addressed this to the best of our ability, in the Finance Committee, trying to stop farming being used as a tax shelter, putting the kind of limitations we put on last year in the cattle feeding operations, and having the IRS seriously police this kind of situation where they have not entered into it for profit.

So I think we are doing a pretty good job of it at this point. To head in the other direction really puts some serious limitations on farm investment and would be a mistake.

Mr. DOLE. Madam President, one of the principal goals of a tax shelter promoter is to generate deductions which investors can use to offset otherwise taxable income. These tax shelters have been designed around various sectors of the economy which are especially tax favored. Real estate, for example, immediately comes to mind. However, Congress has also enacted several special tax rules for farmers that can, and do, form the basis of tax shelters.

For instance, the special cash accounting rules for farming may result in mismatching of deductions and income. Congress, nevertheless, has retained the cash method for farmers as

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an explicit incentive and because it may be simpler to apply.

Nevertheless, subject to certain farm syndicate rules, the cash method can be used by partnerships designed to take advantage of the cash method of accounting. The accounting rules enacted last year as part of the Deficit Reduction Act were designed, in part, to address the problem of premature deductions in agriculture-based tax shelters such as cattle feeding deals. The jury is still out, however, on how effective those changes will be.

Similarly, there is a special rule which provides an investment tax credit for certain, single purpose agricultural structures. Other buildings do not qualify for an investment tax credit—the special rule is an incentive for agriculture. However, tax shelter partnerships can invest in these buildings and pass along this special investment incentive to their nonfarmer investors.

There is a strong argument that, if these and others incentives are to be retained, they should be limited to the active farmers who we intend to encourage. Of course, there are technical issues which will have to be addressed by the Finance Committee, and alternate approaches to deal with the tax shelter problem without adversely affecting the family farmer should also be explored. But, certainly, further limitations on tax shelters should be seriously considered—even tax shelters based on tax incentives for farmers.

By limiting these shelters, we will be able to further reduce tax rates and, probably at least as important, help restore the faith of our citizens that the tax system fairly taxes everyone.

Mr. ABDNOR. Madam President, I ask unanimous consent for Senator ZORINSKY be added as a cosponsor.

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

Mr. ABDNOR. Madam President, I ask for the yeas and nays on this amendment.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. I would like to ask a question of my friend. Did we have a vote on this last year?

Mr. ABDNOR. No. I withdrew it last year.

Mr. BENTSEN. I think that was a very wise thing the Senator did. Would he consider doing it again?

Mr. ABDNOR. That was on the tax bill. This is a far different situation. I am simply asking the Finance Committee at this time to look it over. It is far different from the actual legislation itself.

Mr. SYMMS. Madam President, I apologize to the Senator. I was off the floor. I just picked up some of the debate here.

Could the Senator just outline for my edification again what it is he is trying to do?

Mr. ABDNOR. We are simply saying to the Finance Committee that it is the sense of the Senate that we should limit loss for farming that could be taken off outside income. We do not deny them up to the median family income—that is the limit—which was about $24,000 last year. That would be the amount of loss you could place against nonfarm income if you are an outside farmer.

Mr. SYMMS. Does the Senator not think that will discourage capital from going into an already undercapitalized agriculture?

Mr. ABDNOR. When you see all those plowed up acres that never come under the plow not to mention the amount of dollars that go into the hands of so-called venture capitalists—I think you'd agree with me that this group is already overcapitalized.

Mr. SYMMS. Is this limited just to agriculture?

Mr. ABDNOR. Yes.

Mr. SYMMS. What would happen if you extended that principle on to, say, a real estate investment or oil drilling?

Mr. ABDNOR. If other industries were examining the adverse effect of abusive tax sheltering to the degree we are, I think the Tax Code would become fairer. And that is a reason for tax reform. My concern is agriculture and the damage being done by these so-called tax shelters.

Mr. SYMMS. In other words, what the Senator is saying is, if a person earns his living from some other source besides agriculture, then his tax liabilities in an agriculture investment are limited?

Mr. ABDNOR. Let me point this out. I think it is kind of ridiculous. In 1981, the IRS reports collections from farm taxes came to $8.5 billion, with net losses amounting to $16.3 billion. Are we not kidding ourselves then when we have $2 of loss for every dollar of profit?

We ought to ask ourselves what is happening. Farming is a very noble industry. It used to belong to the farmers.

Mr. BENTSEN. Will the Senator yield?

Mr. ABDNOR. Yes.

Mr. BENTSEN. I do not question for a moment but what we have more losses than we have had profits in farming. That is the problem. Any time you try to sell your products at what we can get at the marketplace today, with the cost of everything we buy in farming going up and the interest rates we have to pay on the loans these days, there is no question that we are losing and we are losing it in big bucks. That is one of the reasons that the farm prices are going down.

Then we take away some of the buyers for that farmland and those farm prices are going to be down even more precipitously. I think that is a deep concern.

I think you are really adding to the problems of the small banks in the rural communities, and I think you add to the farmer's problems. He has a marginal loan in the bank now and he sees a further decline in the land price and the bank is going to have to call that loan.

In spite of the good intentions of my great friend from South Dakota, I think the net result is an economic downslide in prices, and I think that hurts us.

Mr. ABDNOR. Let me answer that with one other statistic I received from the IRS.

In 1982, all tax returns with farm losses exceeding $200,000 averaged $410,000. But off-farm income averaged $567,000 for these returns.

Let us quit kidding ourselves. People are not going in there to lose $400,000 in order to help agriculture. Their motives are clear; namely, to take advantage of tax shelters, to hold down their income tax liability, and also to become proud farmers in competition with the bona fide farmers.

I am certainly in support of my amendment.

Thank you.

The PRESIDING OFFICER. Who yields time? Is all time yielded back?

Mr. ABDNOR. I yield back my time.

Mr. BYRD. I yield back all time.

The PRESIDING OFFICER. All time is yielded back. The yeas and nays have been ordered.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, if all time is yielded back, I move to table the amendment, and 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 of the Senator from Iowa to lay on the table the amendment (No. 56) of the Senator from South Dakota [Mr. ABDNOR]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the motion to lay on the table the amendment of the Senator from South

Dakota. 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 Colorado [Mr. ARMSTRONG] is necessarily absent.

I also announce that the Senator from North Carolina [Mr. EAST] is absent due to illness.

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

I also announce that the Senator from Nebraska [Mr. EXON] is absent because of illness.

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

The result was announced—yeas 38, nays 57, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—38

Baucus	Hart	Melcher
Bentsen	Hatfield	Mitchell
Boren	Hawkins	Moynihan
Bumpers	Heflin	Nickles
Burdick	Hollings	Nunn
Byrd	Inouye	Pryor
Chiles	Johnston	Rockefeller
Dodd	Kennedy	Sarbanes
Eagleton	Kerry	Sasser
Ford	Levin	Symms
Glenn	Long	Wallop
Gore	Mathias	Warner
Harkin	McConnell	

NAYS—57

Abdnor	Garn	Murkowski
Andrews	Goldwater	Packwood
Biden	Gorton	Pell
Bingaman	Gramm	Pressler
Boschwitz	Grassley	Proxmire
Bradley	Hatch	Quayle
Chafee	Hecht	Riegle
Cochran	Heinz	Roth
Cohen	Helms	Rudman
Cranston	Humphrey	Simon
D'Amato	Kassebaum	Simpson
Danforth	Kasten	Specter
DeConcini	Lautenberg	Stafford
Denton	Laxalt	Stevens
Dixon	Leahy	Thurmond
Dole	Lugar	Trible
Domenici	Mattingly	Weicker
Durenberger	McClure	Wilson
Evans	Metzenbaum	Zorinsky

NOT VOTING—5

Armstrong	Exon	Stennis
East	Matsunaga	

So the motion to lay on the table amendment No. 56 was rejected.

Mr. DOLE. Madam President, before we take final action on the amendment, the distinguished Senator from Virginia wants to pose a question to the distinguished author of the amendment, Senator ABDNOR.

The PRESIDING OFFICER. Who yield time?

Mr. DOLE. I yield 5 minutes to the Senator.

Mr. BYRD. Madam President, will the distinguished majority leader and the distinguished Senator from Virginia [Mr. WARNER] withhold for a moment?

I wonder if the majority leader could lay out the plan for the afternoon and the evening.

Mr. DOLE. Madam President, we will have a 2-hour recess for policy luncheons, from 12 to 2. We will be back on the resolution at 2 p.m.

At 4 p.m., we will move to the Saccharin Labeling Act. There could be another rollcall vote between 2 and 4, and not more than one on the Saccharin Labeling Act, and then we will finish for the day. I assume that we will go out around 5:30 or 6.

Tomorrow morning, we may come in a bit earlier, and it is hoped that by that time there will be an amendment pending on the budget resolution.

I think I am prepared to say now that there will be no session on Friday. Too many Senators are involved in commencement exercises around the country—either they are speaking or their children or grandchildren are graduating. I know that we would have a number of absentees.

Mr. BYRD. I say to the distinguished majority leader that we are prepared to offer some amendments. We might lay down an amendment before the conferences, or does he wish to wait until after the conferences?

Mr. DOLE. It will be helpful if we are prepared to lay one down. Otherwise, we would probably lose 20 or 30 minutes after the luncheon.

Mr. BYRD. The majority leader can be assured that an amendment will be laid down immediately after the conferences, on this side, or we can do that now.

Mr. DOLE. It does not make any difference to me. It is whatever the minority leader wishes to do.

Mr. BYRD. I understand.

Mr. WARNER. Madam President, I was unable to vote with the distinguished author of this amendment on the tabling motion because I could not receive assurances from the author of the breadth of courage of the proposed amendment. At first I voted for the amendment thinking it was the intent to limit it to assisting small farmers, a goal I share with the author. In private discussion during the course of the vote he forthrightly said the amendment could well be interpreted as covering a broad range of agricultural businesses including horses, cattle, viticulture, orchards, poultry, and more.

I would like to receive further clarification from him before we vote up or down on the amendment.

I wish to inquire of the distinguished Senator whether the horse and purebred cattle industries in this Nation, both very important not only to our domestic economy but also to our balance of payments are impacted by his amendment?

Mr. ABDNOR. It does include breeding of horses. The Internal Revenue Service considers that an agricultural trade.

Let me say this: I thought we were quite generous in limiting the deductible farm loss to the median income of about $24,000. It would seem to me if I were in a business where I was losing more than $24,000 year in and year out, I would probably get out of it.

I think horse breeding is in part a kind of a status symbol and a lot of people go into it for other reasons than to operate a business and earn a profit. If it indeed is a bona fide business and it is a yearly affair of losing $24,000 or more, it may be they better get out of the business because it is not profitable.

Mr. WARNER. Madam President, so we are now clearly informed by the author, this vote covers not only the horse industry but the purebred cattle industry, and many other major segments of agriculture which require heavy capital investment.

The beef and dairy cattle export sales in 1984 from the United States totaled over $40 million, and the swine export sales in 1984 totaled nearly $8 million, according to the USDA Foreign Agricultural Service.

Of U.S. live animal exports, three-fourths are race or breeding horses. It appears to this Senator that before we precipitously begin tampering with tax laws affecting industries which export, that we consider the international economic impact and the loss of American jobs.

While I am neither involved in the horse breeding nor purebred cattle breeding business, it seems to me to be only prudent to examine carefully the contributions these industries make to our national economy as well as to our balance of trade.

I am told by the Virginia Cattleman's Association that they would expect this amendment would have a severe impact to the cattle breeding industry. I am sure there are other industries in the agricultural sector which would be affected, should legislation be enacted to implement such a sense of the Senate resolution.

The horse industry in Virginia alone contributes $25 to $30 million annually to foreign export sales. The total value of U.S. horse exports comes to over $168 million.

Horses are ranked No. 6 of 26 commodities in Virginia with respect to cash farm receipts—over $89 million in 1983.

The horse industry's total economic activity in Virginia per year is over $320 million, and the Virginia horse industry purchases or produces from other agricultural goods and services another $55 million.

Nationally, can we afford to put this entire industry aside when it is adding to our balance of trade column, in these days of raging trade deficits?

Other business owners in the nonagricultural field similarly have the

opportunity to deduct business losses—is a cap proposed to treat all businesses the same with respect to limiting the loss' deductibility? What impact would that have on our economy?

Mr. President, I also vote against this amendment for the following reasons:

This amendment is clearly and plainly intended to require the Congress to raise revenues to reduce the deficit. Our objective in this budget debate is to reduce the deficit by reducing spending. Not by raising taxes.

Further, this amendment is intended to direct the Finance Committee to make certain considerations with regard to tax reform, even before the Congress has received or had an opportunity to review the tax reform proposal expected from the administration.

We need to give the affected agricultural industries a chance for hearings before voting this amendment as the sense of the Senate. I urge my colleagues to approve this amendment.

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

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

Mr. DOLE. Madam President, it was my hope we might be able to voice this amendment. But I am told if I ask unanimous consent to vitiate the yeas and nays there will be an objection.

Mr. WARNER. I object.

Mr. DOLE. I have not done it. So, therefore, I decided not to ask unanimous consent.

Mr. FORD. Madam President, as a point of information, is there any time remaining on this amendment?

The PRESIDING OFFICER. There is no time remaining on the amendment. There are 12 hours remaining on the resolution.

The question is on agreeing to the amendment of the Senator from South Dakota. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

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

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

I also announce that the Senator from Nebraska [Mr. EXON] is absent because of illness.

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

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—64

Abdnor	Goldwater	Metzenbaum
Andrews	Gorton	Murkowski
Armstrong	Gramm	Packwood
Biden	Grassley	Pell
Bingaman	Harkin	Pressler
Boschwitz	Hatch	Proxmire
Bradley	Hecht	Quayle
Burdick	Heinz	Riegle
Chafee	Helms	Roth
Cochran	Hollings	Rudman
Cohen	Humphrey	Simon
Cranston	Kassebaum	Simpson
D'Amato	Kasten	Specter
Danforth	Kennedy	Stafford
DeConcini	Kerry	Stevens
Denton	Lautenberg	Thurmond
Dixon	Laxalt	Trible
Dole	Leahy	Weicker
Domenici	Lugar	Wilson
Durenberger	Mattingly	Zorinsky
Evans	McClure	
Garn	Melcher	

NAYS—32

Baucus	Hart	Moynihan
Bentsen	Hatfield	Nickles
Boren	Hawkins	Nunn
Bumpers	Heflin	Pryor
Byrd	Inouye	Rockefeller
Chiles	Johnston	Sarbanes
Dodd	Levin	Sasser
Eagleton	Long	Symms
Ford	Mathias	Wallop
Glenn	McConnell	Warner
Gore	Mitchell	

NOT VOTING—4

East	Matsunaga
Exon	Stennis

So the amendment (No. 56) was agreed to.

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

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

The motion to lay on the table was agreed to.

RECESS UNTIL 2 P.M.

Mr. DOLE. Madam President, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 2 p.m.

Thereupon, at 12:19 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KASTEN].

Mr. DOLE. Mr. President, parliamentary inquiry. If there is no quorum call posed, then I understand the time is charged equally.

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. Mr. President, in a moment I will be sending to the desk an amendment that is proposed by myself and my distinguished friend and neighbor from the State of New Jersey, the junior Senator, Mr. LAUTENBERG.

This, Mr. President, is a deficit reduction proposal of the clearest and most straightforward kind. It is a simple proposal as a pilot program. We will sell 8 billion dollars worth of Government loans for each of 3 successive years. This is not a new idea. It has been under discussion in the Office of Management and Budget for many years. It is for that reason that Senator CRANSTON, Senator EXON, Senator DODD, and Senator LEAHY have lent their distinguished presences to this proposal, and I will offer it in all their names.

For some time now in the Office of Management and Budget, the question has been discussed as to whether it is efficient for the U.S. Government to own an ever-increasing portfolio of loans. I would ask the Chamber to give a moment's thought to this—it is $245 billion. In the budget we are going to put together, if only as a continuing resolution this fiscal year, we will add another $15 billion. We will have begun to accumulate this debt at the rate of at least $15 billion a year.

Now, some of these loans are of questionable value. We acknowledge that these questionable loans are made primarily in foreign affairs. At some level of fiction it is easier to lend money to a country, a Third World country, in a sudden food crisis. Public Law 480 loans are available as such. In all truth, the prospect of imminent repayment is not great nor should we expect so.

I can say I was once our Ambassador to India. When I arrived in that country, I found that the United States was owed an equivalent of one-third of the Indian currency for the shipments of grain we made in 2 years, 1965 and 1966, when the monsoon failed in two successive events. The Canadians had given the same amount of grain, had simply given it. They owed 13 billion rupees at the time. We made settlement in the end, which India faithfully adhered to, which gave the United States $1.1 billion.

But in the main, these loans made to foreign countries are not of the highest quality. Not every country has the tradition of public integrity that India has or the experience, size, and banking system.

Now, Mr. President, my friend from New Jersey will be much more capable of explaining this matter than I, having been in corporate experience for so long. Both of us, however, find it rather unusual that the notion of selling loans seems to be rather new to the Senate. It makes persons uneasy. As my good friend from New Mexico, the chairman of the Budget Committee, said when we proposed this to the Budget Committee, "Well, is this like the proposal to sell the Grand Canyon that we had heard from the administration earlier?" I said, "No, this is not the Grand Canyon. These loans relate to things which we don't now own; don't want to own. This is simply money we have lent to other persons to buy something they want to own."

The Export-Import Bank, I might note, has a portfolio of some $18 bil-

lion in outstanding loans. Almost half of this amount are loans to support export sales by the Boeing Corp., General Electric, Westinghouse, McDonnell Douglas, and Lockheed, five companies of the Fortune 500.

The sale of such loans, discounted, is one of the oldest of all the commercial practices in our financial system. It is a practice which we, the Federal Government, became very much involved with when we established the Federal National Mortgage Association which got the nickname Fannie Mae from a chain of candy stores—confectionery stores, I suppose, is the way they would say it—here in Washington. It began as a Federal agency to provide a secondary market for housing mortgage loans made by local banks and savings and loan associations. It is a routine practice.

And now of course Fannie Mae has been made an independent private institution. It operates on its own. All over the country banks make loans for mortgage loans and those banks in turn sell their loan to the Federal National Mortgage Association. The practice is routine.

I see the distinguished Senator from Minnesota is on the floor. Any person who has been active in business is familiar with the practice of the sale of what is known as commercial paper. It is generally sold at a discount. Many of our loans will be rather heavily discounted for the simple reason they are old. They were given at times when interest rates were lower. And in just that manner, if one had bought, say, 20 years ago a 30-year bond from the State of New York Throughway Authority at 4 or 5 percent interest, today that $10,000 bond would bring you about $6,000 in the marketplace because of the change in interest rates. That is the ups and downs of finance. Most of our loans are subsidized. They are lent at a lower rate, lower than the prevailing rate of interest. So discounting loans would be made as a normal commercial practice.

Some years ago the Bureau of the Budget, then later OMB, began thinking about this began printing and publishing each year in the special analysis section of the budget an analysis of our loan portfolio. They made that quite explicit. They list where the loans are now held. And you can see the different types of organizations that hold them. The Rural Electrification Administration has been around for many years. It now, of course, lends money for telephone companies as well as electric companies. In the heart of a nostalgic Democrat, such as I, who can remember seeing Franklin D. Roosevelt driving through the streets of New York City in his last campaign, the 1936 campaign I think of rural electrification as getting farmers out of the mud.

And it is a brave and wonderful thing to bring the refrigerators to the housewives, vacuum cleaners, electric lights, and all of those things that transformed the lives of the people in rural America in the thirties.

Well, 50 years later rural electrification is rather more complex and more enterprising. Large, 400-megawatt plants are financed for the purpose of bringing industry into rural regions. Indeed, it does, and it should. And those loans are loans that are backed by a good telephone system, by a good powerplant, and by a good power grid. They can be sold in the marketplace as a normal commercial practice.

I see my friend and cosponsor, Senator CRANSTON, has risen. Would the Senator like me to yield?

Mr. CRANSTON. I would appreciate it if the Senator would yield for a question.

I think it is noteworthy that this is the first amendment to be offered on the Democratic side of the aisle. We have had a number of Republican-sponsored amendments that have been offered up to now and the net result is that we have been adding to the deficit by increasing expenditures on the amendments that have been offered from the Republican side. So many of them passed with support from the Democrats of course, but they are initiated by the Republicans.

This is the first significant amendment and the first amendment offered for this side of the aisle that is designed to reduce the deficit by a significant margin.

Would the Senator please state exactly what the effect would be in the first, second, and third year in terms of the effect on deficit from the adoption of this amendment which I am proud to be associated with?

Mr. MOYNIHAN. I can state at a minimum that each year the deficit will be reduced by $8 billion for a cumulative $24 billion for 3 years, but then you have to always calculate that every dollar you do not borrow translates into a savings in additional interest you do not incur. So I think it would not be exaggeration to say that the 3-year effect would be up in the neighborhood of $1 billion in 1986, $2 billion in 1987, then $3 billion in 1988. So that is $6 billion in interest savings just in the next 3 years. $8 billion of loan sales for each of the next 3 years, will save you an additional $24 billion. So in fact, sir, we are proposing to save $30 billion, or reduce the deficit by $30 billion over the 3 years.

May I say to my colleague and cosponsor, if this is unfamiliar to the Senate, it is only because the executive branch has not been doing its job. If we had a $200 billion surplus, sir, we ought to be selling off these loans. It is simply not efficient to manage these enormous sums of moneys through a government bureaucracy.

With the greatest respect to our career officers, I was speaking to an executive of one of the large New York brokerage houses. I said, "You know, one of the problems is we have to ask people to handle these huge sums of money on salaries of $55,000, $60,000 a year." And there was a sort of pause at the other end of the telephone. He said, "I pay all my fund managers $600,000 a year." Well, they are worth it, with the kinds of decisions when you have billions of dollars at stake. Small differences have large consequences.

I ask unanimous consent at this point to put in the RECORD letters which we have received from the First Boston Corp., Lazard Freres, and American Express Co., all saying they have examined this proposal, they think it makes great sense, and they think there would be an interest in participation.

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

FIRST BOSTON,
New York, NY, April 22, 1985.

Hon. DANIEL PATRICK MOYNIHAN,
Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATORS: First Boston has had the chance to review and to discuss your proposal to establish a pilot program to sell $10 billion of the federal government's loan assets, as part of a broader plan to sell a substantial portion of the federal loan portfolio. The First Boston Corporation is one of the leading investment banks in the field of packaging and selling mortgage assets; we feel highly qualified to comment on your proposed plan.

The growth of federal credit programs has contributed significantly to the federal debt. Inefficient management of various federal loan portfolios has imposed additional costs, through unscheduled subsidies and poor collection. In addition, the failure to clearly recognize the true cost of the federal government's credit programs impedes informed economic policy making.

Your proposal would begin to address these problems. The sale of a portion of the federal government's loan portfolio would reduce outstanding federal debt and lessen pressure on interest rates from federally sponsored borrowings. The sale of the loans would provide a clearer picture of the costs of federal credit programs by allowing the market to set prices for the loans. The sale of the loans could also streamline the management of federal credit programs.

We urge the Senate to give serious consideration to your proposal to implement a pilot program to secure these policy goals.

If we can be of further assistance in your development or evaluation of this program, we will be delighted to respond.

Sincerely,

H. JAMES TOFFEY,
Managing Director.

LAZARD FRERES & CO.,
New York, NY, April 23, 1985.

Hon. DANIEL PATRICK MOYNIHAN,
Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATORS: We at Lazard Freres have reviewed your loan asset sale proposal at

several stages in its development. Indeed, Lazard worked with your staff in designing it. As a result, we are pleased both to comment and to recommend serious consideration by the Senate.

As major participants in the packaging and selling of fixed income securities, we are of course concerned with the effect of burgeoning Federal deficits on interest rates and upon credit markets generally. A major component in the increasing Federal involvement in credit markets has been the dramatic expansion in recent years of Federal loan and loan guarantee programs. This largely unsupervised exercise of the Government's borrowing authority has provided a series of hidden subsidies and covert program decisions. Because these programs have been inadequately accounted for, lending judgments are often weak and collection efforts are sometimes nonexistent.

Your proposal could help solve these problems. A sale of $10 billion from the current portfolio would help focus attention on all current Federal credit programs, both in their design and in their implementation. It would clarify the extend of Federal subsidies and, we hope, improve administrative efforts throughout the Federal Government. Last, but assuredly not least, it would signal the Government's seriousness in reducing the deficit.

We should note that many program design issues remain unresolved. The Government's loan portfolio should be reviewed carefully before deciding which assets to include in the pilot program. The characteristics of loans vary widely, and thus the ease with which they can be packaged and sold varies as well. With careful attention to the design of the portfolio, however, we are confident that a pilot sale can be achieved.

For all these reasons, we hope the Senate gives most serious consideration to your proposal and we would be pleased to continue our assistance as it develops.

Sincerely,

PETER A. ROBERTS,
General Partner.

AMERICAN EXPRESS, CO.,
April 23, 1985.

Hon. DANIEL PATRICK MOYNIHAN,
Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATORS: A number of my associates at Shearson Lehman Brothers have reviewed and discussed your proposal to establish a pilot program to sell a portion of the Federal government's loan assets. Their preliminary conclusions, summarized in the attached memo, are that this loan sale program—appropriately implemented—could further a number of important policy goals.

The largest potential benefit would be improvement of management and efficiency in Federal credit programs. The program would allow policymakers and the public to clearly identify the hidden costs of Federal credit programs, enabling them to make more informed decisions about them. It could also cut federal borrowing costs by reducing Federal debt. Over the long term, these improvements in credit and debt management could raise the efficiency of capital markets and release more financial resources for productive investment.

Thus, while such a program should not be viewed as a substitute for deficit cutting measures currently being developed by the Administration and Congress, your proposal is worthy of consideration by the Senate. We applaud you for your initiative to improve credit program management and increase efficiency in capital markets.

Best regards.

Sincerely,

JAMES D. ROBINSON III.

Mr. CRANSTON. The Senator's amendment obviously deals with the deficit without any increase in taxes of any sort.

Mr. MOYNIHAN. With no increase of taxes of any sort, none whatever, and a decrease in borrowing by the Government; therefore, a decrease in interest payments.

Mr. CRANSTON. Just to recapitulate where we are up to now on the amendments that emanated from the Republican side of the aisle, the first amendment was to restore the Social Security COLA which would in effect increase the deficit by $3 billion. The second amendment was to freeze defense so that we reduced the deficit by $3 billion. That was offsetting. We were back to scratch. The next amendment was to restore other retirees' COLA's which added $1 billion; then there was the amendment to restore the Medicare-Medicaid package which added $0.4 billion; then there was the amendment to conform the Walsh-Healey fair labor standards to practice beyond the Pentagon which reduced the deficit by $300 million. So we are presently in a situation where the Republican sponsored amendments—I will state that I voted for each of them and many Democrats did, but they all started on that side. The net effect has been to add $1.1 billion to the deficit. That is where we are at this moment.

Now we have the first Democratic amendment coming up which will not increase taxes, and will not increase spending but will cut the deficit very significantly. I applaud the leadership of the Senator from New York and the Senator from New Jersey [Mr. LAUTENBERG], for coming up with this amendment.

AMENDMENT NO. 43

(Purpose: To provide for a three year program to sell loan assets)

Mr. MOYNIHAN. Mr. President, at this point the preliminary remarks having been made, I send an amendment to the desk for myself, Mr. LAUTENBERG, in the distinguished company of Senators LEAHY, DODD, EXON, and, of course, Senator CRANSTON, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for himself and Senators LAUTENBERG, LEAHY, DODD, EXON, and CRANSTON, proposes an amendment numbered 43.

On page 38, line 14, add the following: "The Committee on Banking, Housing, and Urban Affairs shall also report changes in laws within its jurisdiction to provide for a pilot program in FY 1986 for the sale without recourse of up to $10,000,000,000 of direct loans under title V of the Housing Act of 1949 to one or more federally chartered entities on an overcollateralized basis. In fiscal years 1987 and 1988, sales of loans shall be designated by the Director of the Office of Management and Budget and the Secretary of the Treasury to yield $8.0 billion in fiscal years 1987 and 1988."

Mr. MOYNIHAN. 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:

"Overcollateralization means that the Secretary of Agriculture, in consultation with whatever investment counsel he deems necessary, shall designate a pool of Government-owned loans to serve as collateral for the loans sold under this pilot program. The amount of loans to be designated for collateralization shall be determined by the Secretary of Agriculture with whatever investment counsel he deems necessary. Loans designated to serve as collateral will be eligible for acquisition by the private sector buyer (the federally chartered entity) in the event that any loans purchased are delinquent for 30 days or more. If this occurs, the delinquent loans shall be reacquired by the appropriate Department when the Government substitutes a new loan in place of the delinquent loan. At this time all cash proceeds from the delinquent loan, including interest income and principal repayment revert to the Federal Government.

"This procedure is to be construed as a straightforward contract specifying the use of predesignated collateral. The arrangement is to be viewed by a prospective purchaser as an adequately collateralized purchase as would occur between any two private sector entities, and it is not to be construed by a prospective purchaser or other interested party as a Federal guarantee of any form.

"In consultation with whatever investment counsel deemed necessary by the Secretary of Agriculture, the Director of the Office of Management and Budget, and the Secretary of the Treasury, the value of the loans sold shall be determined by their face value discounted by an amount necessary to equate the contracted interest payments on the loan with current yields on Treasury securities of the same duration. This current rate value may be greater than the face value of the loans sold if Treasury rates prevailing at the time of the sale are lower than the loan's original rate.

"Net proceeds from the loan sale in FY 1986 will be deposited in the rural housing insurance revolving fund and may be used for funding new loans under title V of the Housing Act of 1949 pending congressional authorization.

"In all instances, the terms and conditions of the Housing Act of 1949 shall apply to the servicing of loans sold or subsequently acquired under this pilot program.".

The subsequent instructions apply to loan sales in FY 1986. In subsequent years, the Administration shall develop regulations for loan sales.

On page 45, line 12, add the following: "The Committee on Banking, Finance, and Urban Affairs shall also report changes in laws within its jurisdiction to provide for a pilot program for the sale without recourse of up to $10,000,000,000 of direct loans under title V of the Housing Act of 1949 (in FY 1986) to one or more federally chartered entities on an overcollateralized basis. Overcollateralization means that the Secretary

of Agriculture, in consultation with whatever investment counsel he deems necessary, shall designate a pool of Government-owned loans to serve as collateral for the loans sold under this pilot program. The amount of loans to be designated for collateralization shall be determined by the Secretary of Agriculture with whatever investment counsel he deems necessary. Loans designated to serve as collateral will be eligible for acquisition by the private sector buyer (the federally chartered entity) in the event that any loans purchased are delinquent for 30 days or more. If this occurs, the delinquent loans shall be reacquired by the Department of Agriculture when the Government substitutes a new loan in place of the delinquent loan. At this time all cash proceeds from the delinquent loan, including interest income and principal repayment revert to the Federal Government.

"This procedure is to be construed as a straightforward contract specifying the use of predesignated collateral. The arrangement is to be viewed by a prospective purchaser as an adequately collateralized purchase as would occur between any two private sector entities, and it is not to be construed by a prospective purchaser or other interested party as a Federal guarantee of any form.

"In consultation with whatever investment counsel deemed necessary by the Secretary of Agriculture, the value of the loans sold shall be determined by their face value discounted by an amount necessary to equate the contracted interest payments on the loan with current yields on Treasury securities of the same duration. This current rate value may be greater than the face value of the loans sold if Treasury rates prevailing at the time of the sale are lower than the loan's original rate.

"Net proceeds for the loan sale will be deposited in the rural housing insurance revolving fund and may be used for funding new loans under title V of the Housing Act of 1949 pending congressional authorization.

"In all instances, the terms and conditions of the Housing Act of 1949 shall apply to the servicing of loans sold or subsequently acquired under this pilot program.".

Mr. MOYNIHAN. Mr. President, I would like to make two points now and then perhaps my friend from New Jersey would like to join me.

The actual amendment proposes that the Committee on Banking authorize the sale of $10 billion per year for 3 years. That is a device in finance known as over-collateralization. When loans of a new kind come into the market, which the market is not familiar with and which it has not had enough experience with, it is very common to over-collateralize in such a way that if a particular loan does not seem to be performing well, it can be turned in for another loan in such a way that, in the end, the underwriters in that case can make sure that they have the full amount of sales that they contemplate.

A more attentive administration might have come forward on its own.

We are proposing a sale of $8 billion a year for 3 years. We could just as readily, Mr. President, propose $25 billion. We are only doing this to show it can be done, and it can be done. We have put into the RECORD statements of the reputable firms in America saying, "Yes, this is a perfectly normal practice. We have never done it with the Federal Government, but why not?"

If, indeed, on the $8 billion in year 1—and we are only talking about one budget, which is what we will pass this year, though we are planning for the next 2—if that works, then the next year we can make it $16 billion, and the following year $32 billion. This is a way to get some action and to avoid some interest.

I know there are some places that are anxious about this. I can imagine if I were a Senator from the great State of Washington, I would be worried that the loan associated with the Boeing Co. and the Export-Import Bank might somehow be affected in this process. I would like to make a case to the contrary, to the degree that loans made by the Export-Import Bank are rolled over and recovered by the Federal Government. Then we have a stronger case for an Export-Import Bank as against the present proposal of the administration which, I believe, is to abolish Eximbank direct loan programs altogether.

I give you the example of the Export-Import Bank, the rural electrification, including the telephone system, direct student loans—and I recall a very large sum of money in student loans which should be paid by those doctors and others who the money was loaned to. I would imagine people would make sure those loans were paid if they owned them. And then rural housing, as good as anybody else's mortgage. They can be sold in the secondary market. I would not be surprised if quite a bit would not be bought by Fannie Mae. They buy Federal mortgages and they buy private mortgages.

My friend from New Jersey is on the floor. I have spoken about matters in which he is far more versed and skilled than I.

Mr. BUMPERS. Before yielding, would the Senator entertain two or three short questions?

Mr. MOYNIHAN. I certainly will.

Mr. BUMPERS. Would the Senator from New Jersey object to that?

Mr. LAUTENBERG. Not at all.

Mr. MOYNIHAN. As long as I can make the condition that the Senator from New Jersey would be free to correct my answer, if I am in error in any way.

Mr. BUMPERS. No. 1, these loans which the Senator is proposing to sell, will they continue to be guaranteed by the Federal Government or will they be taken without recourse by the public which buys them?

Mr. MOYNIHAN. The loans carry a Federal guarantee, but I think the Senator from Arkansas is missing a point. These are not loan guarantees. These are loans. The Federal Government did not guarantee these loans. The Federal Government made these loans.

Mr. BUMPERS. I understand. These are not any loans that are going to be picked up from the banks that we normally guarantee loans for. These are loans that the United States has made directly?

Mr. MOYNIHAN. That is right.

Mr. BUMPERS. So when we sell them, will we sell them with recourse against us rather than the borrower?

Mr. MOYNIHAN. That is the technique of overcollateralization where we are providing $10 billion in the pilot program with the expectation of realizing $8 billion so that those which do not perform and have recourse provisions in them will be given back to us in return for another loan. These loans are good.

Mr. BUMPERS. It is assumed, of course, that these loans are carrying an interest rate right now, and presumably some might be disaster loans.

Mr. MOYNIHAN. I do not think we would be fooling around with disaster loans. We are talking about telephone loans, 400 megawatt generating plants, commercial paper in the Boeing Co.

Mr. BUMPERS. The Senator mentioned telephone, so let us go to the REA Telephone Loan Program. For years, the REA loaned money at 2 percent. In the past 3 or 4 years, I think we have raised the rate to about 6 percent. So let us take the latter case.

Let us take an REA loan. Let us assume you are proposing to sell an REA loan that carries a 6 percent interest rate. Obviously, if you had a 10-year loan you were going to sell at 6 percent and it was a $1 million loan, I think the Senator would agree with me he would be lucky to get $500,000 for it.

Mr. MOYNIHAN. I know the Senator used the word "lucky" in general terms, but there is an exact price, which I mentioned before the Senator arrived in the Chamber. Suppose 20 years ago you had purchsed a $10,000, 30-year bond from the New York State Thruway Authority at a face interest rate of 4¾ percent. Well, you can sell that bond in New York City, in Manhattan, on Wall Street, as they say, and it would take about 13 seconds to sell that bond and I will tell you exactly what it is worth. It is not worth $10,000. It is worth $6,159 or whatever. It is a direct function of the existing rate and the face value of the instrument.

Mr. BUMPERS. I agree with the Senator totally and I understand the science of what he has said.

So here we have, we will say, this $1 million REA loan that we are going to collect 6 percent on for the next 20 years, since it is a 30-year loan. If somebody is going to buy that loan, he

is only going to buy it at a discount so that the discount will mean that he derives a yield comparable to today's interest rates.

I would say that most of these, since they are Federal loans with recourse, would probably sell at a discount which would bring a yield to the purchaser of 12 to 13 percent interest.

My next question is this: What is the cost of the money to the U.S. Government today?

Mr. MOYNIHAN. The T-bill cost? I suppose it is about 8.5 percent.

Mr. BUMPERS. I think it is about 10 percent.

Mr. MOYNIHAN. Long-term T-bills are 11⅞.

That sounds high. If the Senator will permit me, I believe 90-day T-bills are about 8 percent and longer term bills are about 12.

Mr. BUMPERS. I think the average cost of money from all sources to the Federal Government today is between 9.5 and 10 percent.

Mr. MOYNIHAN. That is about right.

Mr. BUMPERS. That brings me to my next question, which causes me some pause about the Senator's amendment. It is simply this: No. 1, most of these are revolving funds and I shall come back to that in just a moment.

No. 2, the Federal Government is going to take a net loss between the cost of money to the Government today and the kinds of discount they are going to have to take to sell these loans. My question is: Is it a good business practice to sell these loans for a quick fix on the deficit—and God knows, I favor any kind of fix on the deficit, but I do not want to be penny wise and pound foolish. My question is, are we not probably going to lose, at today's market, between 2 and 3 percent of the value of these loans by selling them over what we would collect if we kept them?

Mr. MOYNIHAN. There are two answers to that, Mr. President. One is the technique of over-collateralization would not in any way involve that much of a drop. It would be dropped, but nothing like that. If we do not like how it is working, we do not have to do it.

Second, you do not go $4 billion deeper in debt over the 4 years paying forever 10 percent or whatever in interest. Before the Senator came on the floor, we made a simple calculation. The Senator from California asked about this: What would be the deficit reduction in 3 years with this pilot program?

We said the nominal is 3 times 8; 24. If you take the proposition of $8 million in a long-term debt, which calculates out to about $1 billion a year, you pick up $6 billion in interest with just this small program to learn if we can do it.

In normal circumstances, I would say to my friend from Arkansas that within the planning circles of the executive branch, for years they have been saying: Why have we allowed ourselves to accumulate 245 billion dollars' worth of loans? It just makes no sense.

Mr. BUMPERS. Is that the present Government portfolios?

Mr. MOYNIHAN. Yes, sir, $245 billion. It is now going up at about $15 billion a year. Some of this is commercial paper that finances sales—McDonnell Douglas and General Electric. If it were a bank loan, it would trade on Wall Street in 12 minutes. Any analyst can tell you exactly what it is worth and what it will get.

Mr. BUMPERS. Are not most of those loans revolving funds?

Mr. MOYNIHAN. No, Mr. President.

Mr. BUMPERS. They are not?

Mr. MOYNIHAN. Some are and if that meant the demise of the program, you need not use that. Let me just give you some of the points of a specific program here, the Tennessee Valley Authority. The U.S. Government has lent it $1.5 billion. $1.556 billion. Next year, by 1986, the number will be $1.7 billion.

The loans of the Tennessee Valley Authority, that commercial paper is entirely an open transaction. There is just no reason we need, short as we are of money, desperate for money, why we should hold on to $1.7 billion of TVA loans when there is a bank that can buy them from us.

Mr. BUMPERS. Mr. President, I am not sure I am going to vote for the Senator's amendment. I am trying to make up my mind about it. It simply seems to me that we should hold our existing loan portfolio if, by doing so, we collect more revenue than from making a quick fix sale at a substantial discount.

Mr. MOYNIHAN. I can say no more than this to my dear friend: Yes, over the 20-year life of the loan, you will get it, but in the meantime, if you offset that against the interest we will pay from the money we have to borrow now, I would say to the Senator, the answer is arguably and honestly—we have not tried to exaggerate. It is our conviction that even in the long term, you will save money because the interest you are not paying on the alternative of borrowing will more than offset the discount problem.

Mr. BUMPERS. If one were to assume that we were going to get out of the loan business and we were not going to have to replenish any of these loan funds, I think this would be a perfectly valid approach to deficit reduction. But some of these funds are revolving funds and will have to be replenished if we are going to continue the program. Some of them that are not revolving funds, if we continue the program, we absolutely must replenish.

So it seems to me that we are just sort of robbing Peter to pay Paul here for a quick fix. I have a little difficulty with that.

Let me just make this statement and then I shall yield and let the Senator from New Jersey speak in favor of the amendment: David Stockman has proposed to abolish the Small Business Administration. In the process, he is proposing to sell off the entire loan portfolio of SBA, which is over $12 billion.

It is now estimated that SBA will collect 96 percent of the $12 billion if the loan portfolio is left with SBA. But if David Stockman gets his way and the entire portfolio is sold, it is estimated that it will bring $7 billion. So the abolition of SBA, according to David Stockman, will cost the taxpayers of this country $5 billion. I see an analogy between that and what the Senator is proposing here.

Mr. MOYNIHAN. Obviously, I cannot persuade the Senator from Arkansas. There are two entirely different issues here. If we want to get rid of SBA, we could think of many reasons for doing so. If we want SBA to be less of a burden on the Government, make sure we are not carrying all these loans—do we have $200 billion deficits as far as the eye can see or do we not? I thought we did. I thought that is what we are here about. We have a simple proposal. We are going to lower the deficit by $30 billion for the next 3 years without cutting anybody's program or jeopardizing anybody's activities. It may be that it is too simple to be persuasive.

If anybody can be persuasive in the matter, it is my friend from New Jersey [Mr. LAUTENBERG]. I see he has risen. Before I yield to him, one thing, Mr. President: I ask unanimous consent that the amendment I sent to the desk be replaced by an amendment I now send to the desk. There was a technical error in the first amendment.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment (No. 57), as modified, is as follows:

On page 38, line 14, add the following: "The Committee on Banking, Housing, and Urban Affairs shall also report changes in laws within its jurisdiction to provide for a pilot program for the sale without recourse of up to $10 billion annually in each fiscal year 1986, 1987, the first year of which direct loans under title V of the Housing Act of 1949 to one or more federally chartered entities on an overcollateralized basis. Overcollateralization means that the Secretary of Agriculture, in consultation with whatever investment counsel he deems necessary, shall designate a pool of Government-owned loans to serve as collateral for the loans sold under this pilot program. The amount of loans to be designated for colla-

teralization shall be determined by the Secretary of Agriculture with whatever investment counsel he deems necessary. Loans designated to serve as collateral will be eligible for acquisition by the private sector buyer (the federally chartered entity) in the event that any loans purchased are delinquent for 30 days or more. If this occurs, the delinquent loans shall be reacquired by the Department of Agriculture when the Government substitutes a new loan in place of the delinquent loan. At this time all cash proceeds from the delinquent loan, including interest income and principal repayment revert to the Federal Government.

"This procedure is to be construed as a straightforward contract specifying the use of predesignated collateral. The arrangement is to be viewed by a prospective purchaser as an adequately collateralized purchase as would occur between any two private sector entities, and it is not to be construed by a prospective purchaser or other interested party as a Federal guarantee of any form.

"Net proceeds for the loan in fiscal year 1986 will be deposited in the rural housing insurance revolving fund and may be used for funding new loans under title V of the Housing Act of 1949 pending congressional authorization.

"In all instances, the terms and conditions of the Housing Act of 1949 shall apply to the servicing of loans sold or subsequently acquired under this pilot program.".

On page 45, line 12, add the following: "The Committee on Banking, Finance, and Urban Affairs shall also report changes in laws within its jurisdiction to provide for a pilot program for the sale without recourse of up to $10,000,000,000 of direct loans under title V of the Housing Act of 1949 to one or more federally chartered entities on an overcollateralized basis. Overcollateralization means that the Secretary of Agriculture, in consultation with whatever investment counsel he deems necessary, shall designate a pool of Government-owned loans to serve as collateral for the loans sold under this pilot program. The amount of loans to be designated for collateralization shall be determined by the Secretary of Agriculture with whatever investment counsel he deems necessary. Loans designated to serve as collateral will be eligible for acquisition by the private sector buyer (the federally chartered entity) in the event that any loans purchased are delinquent for 30 days or more. If this occurs, the delinquent loans shall be reacquired by the Department of Agriculture when the Government substitutes a new loan in place of the delinquent loan. At this time all cash proceeds from the delinquent loan, including interest income and principal repayment revert to the Federal Government.

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"In consultation with whatever investment counsel deemed necessary by the Secretary of Agriculture, the value of the loans sold shall be determined by their face value discounted by an amount necessary to equate the contracted interest payments on the loan with current yields on Treasury securities of the same duration. This current rate value may be greater than the face value of the loans sold if Treasury rates prevailing at the time of the sale are lower than the loan's original rate.

"Net proceeds for the loan sale will be deposited in the rural housing insurance revolving fund and may be used for funding new loans under title V of the Housing Act of 1949 pending congressional authorization.

"In all instances, the terms and conditions of the Housing Act of 1949 shall apply to the servicing of loans sold or subsequently acquired under this pilot program.".

In subsequent years, fiscal year 1987 and fiscal year 1988, the Office of Management and Budget and the Secretary of the Treasury shall design and implement the loan sale to yield at least $8 billion annually.

Mr. MOYNIHAN. I thank the Chair, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise to support the amendment sponsored by my colleague from New York [Mr. MOYNIHAN], myself, and others, because it is time to take a look at some innovative ways to reduce the budget deficit. What has been proposed, I remind my colleagues, is a pilot program and it is a very small pilot program. Perhaps we shall find out at the end of 3 years that things have not worked quite as they should have and we will not have realized the full benefit that we think can be achieved.

On the other hand, we do have the significant endorsement of many qualified in the financial community who think that this is a pretty good idea. It offers us a chance to reduce the deficit substantially.

While Senator MOYNIHAN should be commended for his ingenuity in developing this piece of legislation, it is not a wholly new idea. The CBO considered it in the context of exploring the appropriate budgetary treatment of Government lending in March 1984. CBO estimated that the Treasury then could secure almost $100 billion in the sale of then existing loans.

We are talking about a number that has enlarged considerably, as my distinguished colleague from New York has indicated. We see that portfolio continue to grow at over $50 billion a year.

The Banking Committee, on which I formerly served, has considered the option of selling new loans as they are made. The practice of selling Government loans has been well established in the housing market. The loan sale could reduce, at least some of the need for revenue increases, and it could yield as much as some of the draconian cuts in essential domestic spending.

It would also save the Government the expense of administering the portfolio. The private sector can do it much better, and for less. All we have to do is look at the Student Loan Program that has developed over the years and see how poorly it has been administered and how poor the collection rate has been. We see example after example of wealthy individuals, who were supported by low-cost loans through Government programs, who chose to ignore their responsibility to repay, and so did those who were responsible for collecting from them. So we know that if we turn over loans to the private sector, it will be more efficient about collections, and we will have a better chance of seeing those funds come in. Moreover, we will begin to recognize the real cost of Government credit programs. That should lead to more informed decisions about such programs.

In answer to the distinguished Senator from Arkansas [Mr. BUMPERS], who raised some interesting questions, we do not know what the discount rate will be. This has to be negotiated. There is provision in the proposal for over collateralization, which will keep the discount down. But we will never be able to tell with absolute certainty what the discount would be until we negotiate it in the marketplace.

If these loans are sold presently and the interest rates go up, which is a concern of many, then we will be far better off. If interest rates go the other way, we could be licking some wounds. But the risk is de minimis when we consider the opportunity we have to preserve some programs, and to reduce the budget deficit, which is the mission, purportedly, of everybody in this Chamber.

So I think we should get on with it and give it a try. We have endorsements. I think the Senator from New York mentioned some of the comments we had received from bankers.

I ask the Senator from New York: Did he mention the letters he had received?

Mr. MOYNIHAN. Yes, I did. I have those letters from the First Boston Corp, from American Express, and Lazard Freres.

The Senator from New Jersey cited the March 1984 CBO study entitled "New Approaches To Budgetary Treatment Of Federal Credit Assistance." The Senator from Mississippi, who has always been thoughtful and courteous, might be interested in this. The CBO, in March 1984, said that going straight out, doing not just a pilot program but doing what they estimated we could do, these transactions would produce a one-time net cash inflow to Treasury estimated at $95 billion. If Everett Dirksen were around, he would say, "You're talking real money." To that $95 billion you might add $10 billion a year forever, in interest, if you do not have to borrow it. I believe the Senator did mention that.

Mr. LAUTENBERG. Yes.

Mr. MOYNIHAN. It is on page 66.

Mr. LAUTENBERG. I did not mention the page, but I did mention that it was approximately $100 billion.

In 1984, CBO estimated that there was an opportunity to gain almost $100 billion from the sale of the portfolio. A sale today would yield over $135 billion.

What we are proposing here, relatively speaking, is small given the size of the whole portfolio. We do not intend to approach the whole portfolio at one time. That is not our intention. Our intention is to present this pilot program and give it a chance to work.

Certainly, the importance of having revenues come in and reduce the deficit without developing a new tax program is something that I think all Members of this body could agree upon.

So, I urge my colleagues to give us their support on this amendment. I think it has been demonstrated sufficiently in the discussion that has taken place that this is worth trying. I urge that we get on with it and take this important step toward reducing the deficit, one step that does not require the American taxpayer to pay.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. WEICKER). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, I do not mean to detain the Senate in this matter. I make two points, following the remarks of the distinguished Senator from New Jersey, who is a cosponsor.

First, the Congressional Budget Office has estimated that you could realize a one-time cash-flow of $95 billion. We are merely proposing a pilot program of $8 billion a year for 3 years. If it works out well, we can increase it next year and the year after. If it does not work out well, we have made a reasonable experiment, and it is a controlled experiment. The technique of over-collateralization is well understood and easily met.

Two other points: I do not think we have a sense of how interest is eating us alive. The deficit is compounding.

We made a simple calculation when we were asked by the Senator from California how much this would reduce the deficit in 3 years, and we said $24 billion. However, calculating the cost of borrowing, you add $6 billion—just $6 billion in 3 years.

Last, Mr. President, if anyone supposes that we are going to take this $200 billion deficit, which is now compounded—$150 billion will be borrowed next year to pay interest. That means $165 billion the year after. That means $185 billion the year after that. If we think we are going to get there by reducing the size of the Department of Education or cutting travel allowances in the Internal Revenue Service, or such, that gives a sense of the magnitude.

The interest savings of 3 years in this modest program we are proposing will pay for the Marine Corps for 1 year.

Mr. LAUTENBERG. Mr. President, will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to yield.

Mr. LAUTENBERG. I think it is fair to say, is it not, that the administration of various Government programs is sometimes inefficient. Does the Senator from New York think it is possible that we might be able to reduce some of the administrative costs of managing credit programs which could be fairly significant? Also, is it not possible that if we sell loan assets and reduce Government borrowing, if we reduce some Government pressure on credit markets, we might even be able to start to see interest rates reduced as a result? Here is a proposal for Government to step out of the credit market a little and perhaps reduce the cost of borrowing money.

The PRESIDING OFFICER. The time on the proposed amendment has expired.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent to have printed in the RECORD the list of loan agencies and their outstanding loans as provided by the Office of Management and Budget.

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

DIRECT LOAN TRANSACTIONS OF THE FEDERAL GOVERNMENT

[In millions of dollars]

Agency or program		Actual 1984	Estimate					
			1985	1986	1987	1988	1989	1990
Funds Appropriated to the President:								
Economic Support Fund	Obligations	288	240	396	463	503	545	592
	Loan disbursements	382	240	396	463	503	545	592
	Change in outstandings	335	192	337	303	493	545	506
	Outstandings	6,011	6,203	6,540	6,844	7,336	7,882	8,387
Foreign Military Sales Credit	Obligations	1,315	4,940	5,655	5,779	5,901	6,019	6,130
	Loan disbursements	1,060	2,802	4,863	5,646	6,059	6,248	6,514
	Change in outstandings	−86	421	1,874	2,314	2,494	2,406	2,277
	Outstandings	140	962	2,435	4,750	7,244	9,650	11,927
Foreign Military Sales Credit (loans made by FFB) [1]	Obligations	4,401						
	Loan disbursements	3,503	3,147	1,311	524	262		
	Change in outstandings	2,818	2,340	282	−693	−1,001	−1,218	−1,029
	Outstandings	17,111	19,451	19,733	19,040	18,040	16,821	15,792
Guarantee Reserve Fund (Foreign military sales defaults)	Obligations	613	683	793	824	793	793	785
	Loan disbursements	613	683	793	824	793	793	785
	Change in outstandings	248	239	278	288	278	277	275
	Outstandings	775	1,014	1,292	1,580	1,857	2,135	−2,410
Overseas Private Investment Corporation	Obligations	10	15	15	15	15	15	15
	Loan disbursements	4	10	10	10	12	13	13
	Change in outstandings	−*	4	4	4	6	7	6
	Outstandings	33	37	41	45	51	58	64
Overseas Private Investment Corporation (loans held by FFB) [2]	Change in outstandings	−5	−5	−5	−1	−*		
	Outstandings	11	6	1	*			
AID functional development assistance	Obligations	406	342	315	358	358	358	358
	Loan disbursements	330	345	342	342	344	346	347
	Change in outstandings	332	337	334	333	334	335	335
	Outstandings	2,840	3,178	3,511	3,844	4,178	4,513	4,848
AID development loans revolving fund	Obligations							
	Loans disbursements	*						
	Change in outstandings	−304	−259	−261				
	Outstandings	9,026	8,767	8,506	8,506	8,506	8,506	8,506
AID private sector revolving fund	Obligations	12	18	20				
	Loans disbursements		8	16	14	7	2	
	Change in outstandings		8	16	14	7	2	
	Outstandings		8	24	39	46	48	48
AID housing and other credit guarantees	Obligations	27	29	29	22	22	19	19
	Loans disbursements	27	29	29	22	22	19	19
	Change in outstandings	12	24	24	14	14	9	9
	Outstandings	32	56	81	94	108	117	127
AID miscellaneous appropriations	Obligations							
	Loans disbursements	48						
	Change in outstandings	42	−8	−8	−9	−10	−11	−12

DIRECT LOAN TRANSACTIONS OF THE FEDERAL GOVERNMENT—Continued

[In millions of dollars]

Agency or program		Actual 1984	Estimate					
			1985	1986	1987	1988	1989	1990
	Outstandings	181	173	165	156	146	135	123
Agriculture:								
Farmers Home Administration:								
Agricultural credit insurance fund	Obligations	4,005	3,770	435	318	294	365	19
	Loans disbursements	3,976	3,786	643	318	209	108	8
	Change in outstandings	131	1,392	−1,065	800			
	Outstandings	410	1,802	737	1,537	1,537	1,537	1,537
Agricultural credit insurance fund (loans held by FFB) [2]	Change in outstandings	1,410	1,175	−1,084	−3,177	−3,088	−2,876	−3,305
	Outstandings	25,517	26,692	25,608	22,431	19,343	16,467	13,162
Rural housing insurance fund	Obligations	2,776	3,445	168	42	170	192	34
	Loans disbursements	2,562	3,451	1,621	450	94	30	30
	Change in outstandings	90	−292	312				
	Outstandings	435	143	455	455	455	455	455
Rural housing insurance fund (loans held by FFB) [2]	Change in outstandings	1,090	2,335	−180	−1,192	−1,236	−1,446	−1,675
	Outstandings	26,766	29,101	28,921	27,729	26,493	25,047	23,372
Rural housing insurance fund	Obligations	412	511	62	5	243	90	301
	Loans disbursements	457	739	507	438	239	77	27
	Change in outstandings	−*	−5	−25	15	−10	−10	−10
	Outstandings	105	100	75	90	80	70	60
Rural housing insurance fund (loans held by FFB) [2]	Change in outstandings	320	589	360	121	183	−45	−276
	Outstandings	7,228	7,817	8,177	8,299	8,482	8,437	8,160
Commodity Credit Corporation:								
Short and medium term export loans	Obligations	147	325					
	Loans disbursements	142	325					
	Change in outstandings	83	−95	−267	−211	−172	−63	−6
	Outstandings	823	728	460	250	78	15	9
Commodity loans	Obligations	5,130	8,891	8,507	7,928	5,345	3,367	3,123
	Loans disbursements	5,130	8,891	8,507	7,928	5,345	3,367	3,123
	Change in outstandings	−6,200	1,984	−591	−2,579	−2,257	−1,523	−329
	Outstandings	7,856	9,839	9,249	6,670	4,413	2,890	21,561
Storage facility loans	Obligations	1	*					
	Loans disbursements	1	*					
	Change in outstandings	−293	−294	−264	−130	−29		
	Outstandings	716	422	159	29	*		
Rescheduled guaranteed loans	Obligations	183						
	Loans disbursements	183						
	Change in outstandings	181	−13	−45	−52	−70	−78	−39
	Outstandings	364	350	306	254	184	106	67
Public Law 480 long-term export credits	Obligations	806	1,012	922	940	958	975	964
	Loan disbursements	748	1,012	922	940	958	975	964
	Change in outstandings	468	761	647	640	638	635	604
	Outstandings	9,269	10,030	10,677	11,317	11,955	12,590	13,194
Rural electrification and telephone revolving fund	Obligations	1,079	1,122	575	435	290	145	
	Loan disbursements	780	1,200	800	700	600	500	400
	Change in outstandings	285	314	98	119	104	88	71
	Outstandings	10,163	10,477	10,575	10,694	10,798	10,886	10,957
Rural electrification and telephone revolving fund (loans made by FFB) [1]	Obligations	1,002	1,325	300	225	150	75	
	Loan disbursements	2,395	2,885	2,432	1,950	1,750	1,500	1,000
	Change in outstandings	1,648	2,685	2,222	1,700	1,490	1,230	700
	Outstandings	20,587	23,272	25,494	27,194	28,684	29,914	30,614
Rural electrification and telephone revolving fund (loans held by FFB) [2]	Change in outstandings	69	447	253	53			
	Outstandings	3,537	3,984	4,237	4,290	4,290	4,290	4,290
Rural Telephone Bank	Obligations	143	185	185	139	92	46	
	Loan disbursements	90	150	150	150	125	115	105
	Change in outstandings	74	134	133	149	104	89	75
	Outstandings	1,327	1,461	1,594	1,743	1,847	1,936	2,011
Commerce:								
Economic Development revolving fund	Obligations	13	12	10	15	15	15	15
	Loan disbursements	22	26	10	15	15	15	15
	Change in outstandings	−87	−41	−72	−15	−15	−15	−15
	Outstandings	624	582	511	496	481	466	451
EDA Miscellaneous appropriations	Obligations							
	Loan disbursements			7				
	Change in outstandings	−2	−2	12	−25	−13	−14	−14
	Outstandings	101	99	111	86	72	59	44
ITA operations and administration	Obligations	8	*					
	Loan disbursements	3	8					
	Change in outstandings	2	3	−8				
	Outstandings	5	8					
NOAA coastal energy impact fund	Obligations							
	Loan disbursements	3	1	2	2	2	2	2
	Change in outstandings	2	−1	−*	−*	−*	−*	−*
	Outstandings	96	95	95	94	94	93	93
NOAA Federal Ship Financing (fishing)	Obligations	14	10	2				
	Loan disbursements	14	10	2				
	Change in outstandings	3	1	−2				
	Outstandings	18	19	17				
Education:								
Guarantees of SLMA obligations (loans made by FFB) [1]	Obligations							
	Loan disbursements							
	Change in outstandings				−30	−30	−30	−30
	Outstandings	5,000	5,000	5,000	4,970	4,940	4,910	4,880
Guaranteed student loans	Obligations	769	937	877	885	815	781	744
	Loan disbursements	749	937	877	885	815	781	744
	Change in outstandings	552	552	344	425	292	75	41
	Outstandings	2,465	3,017	3,361	3,786	4,078	4,153	4,194
National Direct Student Loans	Obligations	169	192					
	Loan disbursements	157	169	192				
	Change in outstandings	70	102	118	−45	−40	−35	−30
	Outstandings	4,974	5,076	5,194	5,149	5,109	5,074	5,044
College housing loans	Obligations	40						
	Loan disbursements	43	70	63	36	12		
	Change in outstandings	−350	−361	−18	−14	−89	−89	−90
	Outstandings	2,676	2,314	2,296	2,222	2,134	2,044	1,954
Higher education	Obligations							
	Loan disbursements							
	Change in outstandings	−25	−22	−21	−16	−7	−6	−4
	Outstandings	86	64	43	27	20	14	10
Higher education facilities loans and insurance	Obligations							
	Loan disbursements							
	Change in outstandings	−25	−15	−15	−15	−15	−15	−15
	Outstandings	375	360	345	330	315	301	286

DIRECT LOAN TRANSACTIONS OF THE FEDERAL GOVERNMENT—Continued

[In millions of dollars]

Agency or program		Actual 1984	Estimate					
			1985	1986	1987	1988	1989	1990
Energy:								
Geothermal Resources	Obligations		16					
	Loan disbursements		16					
	Change in outstandings		14	−*				
	Outstandings		14	14	14	14	14	14
Alternative fuels (loans made by FFB) [1]	Obligations							
	Loan disbursements	404	274					
	Change in outstandings	404	274			−105	−105	−105
	Outstandings	1,290	1,564	1,564	1,564	1,459	1,354	1,250
Bonneville Power Administration	Obligations	1	20	20	20	20	20	20
	Loan disbursements	1	20	20	20	20	20	20
	Change in outstandings	*	18	15	16	16	15	14
	Outstandings	10	28	44	60	76	91	105
Health and Human Services:								
HMO's and medical facilities	Obligations	4	5	3	2	2	2	2
	Loan disbursements	3	5	3	2	2	2	2
	Change in outstandings	2	1	1	1	1	1	*
	Outstandings	31	32	32	33	34	34	35
HMO's and medical facilities (loans held by FFB) [2]	Change in outstandings	−14	−4	−10	−11	−12	−13	−14
	Outstandings	248	244	234	223	211	198	184
Health resources and services	Obligations	1	1	1	1	1	1	1
	Loan disbursements	2	2	1	1	1	1	1
	Change in outstandings	−71	−4	−4	−3	−3	−3	−3
	Outstandings	538	535	531	528	525	522	519
Rural development loan fund	Obligations	10						
	Loan disbursements	7	1					
	Change in outstandings	14	*	−2	−2	−3	−4	−5
	Outstandings	38	39	37	35	32	28	23
Housing and Urban Development:								
Low-rent public housing	Obligations	1,413	14,303	1,822	1,395	634	400	251
	Loan disbursements	1,413	14,303	1,822	1,395	634	400	251
	Change in outstandings	1,013	−1,216					
	Outstandings	1,216						
Low-rent public housing (loans made by FFB) [1]	Obligations							
	Loan disbursements	153						
	Change in outstandings	112	−32	−35	−37	−39	−42	−44
	Outstandings	2,178	2,146	2,112	2,075	2,035	1,993	1,949
Housing for the elderly or handicapped	Obligations	666	600	50	20	567	588	608
	Loan disbursements	709	592	606	667	700	735	770
	Change in outstandings	685	567	578	1,060	670	703	770
	Outstandings	5,155	5,722	6,300	7,361	8,031	8,734	9,505
GNMA special assistance functions	Obligations							
	Loan disbursements	1,268						
	Change in outstandings	−837	−2,165					
	Outstandings	2,165						
GNMA emergency mortgage purchases	Obligations							
	Loan disbursements		792	342				
	Change in outstandings	−246	1,298	−667	−360	−150	−150	−100
	Outstandings	218	1,515	849	489	339	189	89
Community development grants (loans made by FFB) [1]	Obligations	87	225					
	Loan disbursements	71	113	116	137	69		
	Change in outstandings	31	42	25	23	−59	−104	−95
	Outstandings	208	250	275	298	239	135	40
Federal Housing Administration Fund	Obligations	456	373	311	368	476	507	643
	Loan disbursements	455	351	288	334	459	491	643
	Change in outstandings	−878	21	−112	−57	−28	−22	−11
	Outstandings	4,166	4,187	4,075	4,018	3,990	3,968	3,957
Rehabilitation loan fund	Obligations	86	132					
	Loan disbursements	49	136	84				
	Change in outstandings	−8	73	22	−62	−62	−62	−62
	Outstandings	714	787	809	747	684	622	559
Interior:								
Bureau of Reclamation loan program	Obligations	44	68	40	51	12	6	1
	Loan disbursements	44	59	47	51	12	6	1
	Change in outstandings	37	52	38	42	2	−5	−10
	Outstandings	390	442	480	522	524	519	509
BIA revovling fund	Obligations	12	19	16	13	13	13	13
	Loan disbursements	12	19	17	13	13	13	13
	Change in outstandings	7	11	8	4	4	4	4
	Outstandings	93	104	112	116	120	124	129
Transportation:								
Railroad rehabilitation and improvement financing	Obligations	42	16					
	Loan disbursements	45	40	11				
	Change in outstandings	45	40	10	−14	−1	−9	−16
	Outstandings	558	598	608	595	593	585	569
Railroad rehabilitation and improvement financing (loans made by FFB) [1]	Obligations	6	2					
	Loan disbursements	1	5	2	2	1		
	Change in outstandings	−24	−5	−9	−10	−12	−14	−12
	Outstandings	160	154	145	135	124	110	97
Grants to Amtrak	Obligations	880						
	Loan disbursements	880						
	Change in outstandings							
	Outstandings							
Grants to Amtrak (loans made by FFB) [1]	Obligations							
	Loan disbursements							
	Change in outstandings	−880						
	Outstandings							
Rail service assistance	Obligations	60						
	Loan disbursements	60						
	Change in outstandings	−65						
	Outstandings							
Federal-aid highways trust fund	Obligations	27	*					
	Loan disbursements	6	10	11				
	Change in outstandings	6	10	11	−45	−27	−18	
	Outstandings	69	79	90	45	18		
Right-of-way revolving fund	Obligations	26	50	50	50	50	50	50
	Loan disbursements	20	50	50	50	50	50	50
	Change in outstandings	−18						
	Outstandings	131	131	131	131	131	131	131
Micellaneous expired accounts	Obligations							
	Loan disbursements							

DIRECT LOAN TRANSACTIONS OF THE FEDERAL GOVERNMENT—Continued

[In millions of dollars]

Agency or program		Actual 1984	Estimate					
			1985	1986	1987	1988	1989	1990
	Change in outstandings	−30	−11	−1				
	Outstandings	12	1					
Aircraft purchase loan guarantees	Obligations	22						
	Loan disbursements	22						
	Change in outstandings	−41	−41					
	Outstandings	89	48	48	48	48	48	48
MarAd Federal ship financing fund	Obligations	127	228	115	85	60	60	60
	Loan disbursements	127	228	115	85	60	60	60
	Change in outstandings	48	173	60	30	5	5	5
	Outstandings	270	443	503	533	538	543	548
Environmental Protection Agency:								
Abatement, control, and compliance	Obligations		6	11				
	Loan disbursements		6	11	6			
	Change in outstandings		6	10	6	−1	−1	−1
	Outstandings		6	16	21	20	19	18
NASA:								
Space flight, control and data communications (loans made by FFB) [1]	Obligations	142						
	Loan disbursements	142						
	Change in outstandings	7	−67	−107	−112	−98	−113	−129
	Outstandings	955	888	780	668	570	457	328
Veterans Administration:								
Vendee loans and loans repurchased from the public	Obligations	944	857	642	572	518	462	433
	Loan disbursements	944	857	642	489	444	399	380
	Change in outstandings	−430	−42	−80	−28	−35	−45	−48
	Outstandings	1,066	1,024	945	917	882	836	789
Direct loan revolving fund	Obligations	1	1	1	1	1	1	*
	Loan disbursements	1	1	1	1	1	1	*
	Change in outstandings	−33	−33	−32	−19	−20	−20	−20
	Outstandings	168	135	103	84	64	44	24
National service life insurance fund	Obligations	103	117	121	126	130	135	140
	Loan disbursements	103	117	121	126	130	135	140
	Change in outstandings	−39	−26	−28	−14	−10	−5	−*
	Outstandings	1,113	1,087	1,059	1,045	1,035	1,031	1,030
Other veterans insurance fund	Obligations	29	35	36	38	39	40	42
	Loan disbursements	29	35	36	38	39	40	42
	Change in outstandings	−9	−6	−5	−5	−5	−6	−6
	Outstandings	250	244	239	234	229	23	217
District of Columbia:								
Loans to the District of Columbia	Obligations	115						
	Loan disbursements	115						
	Change in outstandings	84	−107	−36	−39	−42	−45	−48
	Outstandings	1,883	1,776	1,7400	1,700	1,658	1,614	1,566
Export-Import Bank	Obligations	1,467	3,865					
	Loan disbursements	2,341	2,863	2,412	1,131	599	227	104
	Change in outstandings	621	993	195	−1,032	−1,787	−2,325	−2,374
	Outstandings	17,504	18,497	18,692	17,659	15,872	13,548	11,174
Federal Deposit Insurance Corporation [3]	Obligations	5,658	180	150	300	300	300	300
	Loan disbursements	5,658	180	150	300	300	300	300
	Change in outstandings	3,321	152	111	300	300	300	300
	Outstandings	3,923	4,074	4,185	4,485	4,785	5,085	5,385
Federal Savings and Loan Insurance Corporation [3]	Obligations	656	90	148	140	140	140	140
	Loan disbursements	856	90	148	140	140	140	140
	Change in outstandings	587	14	117				
	Outstandings	1,156	1,170	1,287	1,287	1,287	1,287	1,287
National Credit Union Administration:								
Share insurance fund	Obligations	14	3	13	13	13	13	13
	Loan disbursements	14	3	13	13	13	13	13
	Change in outstandings	10	3	7	1			−27
	Outstandings	20	23	29	30	30	3	
Central liquidity facility	Obligations	449	500	550	550	550	550	550
	Loan disbursements	449	500	550	550	550	550	550
	Change in outstandings	225	30	20				
	Outstandings	270	300	320	320	320	320	320
General Services Administration Federal buildings fund (loans made by FFB)	Obligations							
	Loan disbursements							
	Change in outstandings	−4	−4	−5	−5	−6	−6	−7
	Outstandings	413	409	404	399	393	387	380
Small Business Assistance [4]								
Business and investment loans	Obligations	751	726	517	424	236	115	51
	Loan disbursements	728	710	531	424	236	215	51
	Change in outstandings	20	88	−999	−924	−941	−564	
	Outstandings	3,340	3,428	2,429	1,505	564		
Business and investment loans (loans held by FFB) [2]	Change in outstandings	−8	−10	−10	−10	−10	−*	
	Outstandings	40	30	20	10	*		
Business and investment loans (loans made by FFB) [1]	Obligations	478	680					
	Loan disbursements	373	625	375				
	Change in outstandings	263	510	−1,725				
	Outstandings	1,215	1,725					
Disaster loans	Obligations	314	600	168				
	Loan disbursements	160	487	261				
	Change in outstandings	−536	−157	−1,452	−1,518	−1,329	−504	
	Outstanding	4,960	4,803	3,351	1,833	504		
Tennessee Valley Authority	Obligations	60	58	66	74	83	92	100
	Loan disbursements	60	58	66	74	83	92	100
	Change in outstandings	3	2	3	2	8	16	22
	Outstandings	264	266	269	271	279	295	317
Tennessee Valley Authority (loans made by FFB) [1]	Obligations	137	90	87	73			
	Loan disbursements	137	90	87	73			
	Change in outstandings	137	90	87	73	−40	−40	−70
	Outstandings	1,556	1,646	1,733	1,806	1,766	1,726	1,655
Payments for Conrail securities	Obligations							
	Loan disbursements							
	Change in outstandings	−4						
	Outstandings	851	851	851	851	851	851	851
United States Railway Association	Obligations							
	Loan disbursements							
	Change in outstandings	−37						
	Outstandings	1	1	1	1	1	1	1
Other agencies and programs	Obligations	37	35	36	38	45	50	51
	Loan disbursements	71	61	42	43	49	54	55
	Change in outstandings	18	−26	−11	−11	−5	−8	3

DIRECT LOAN TRANSACTIONS OF THE FEDERAL GOVERNMENT—Continued

[In millions of dollars]

Agency or program		Actual 1984	Estimate					
			1985	1986	1987	1988	1989	1990
Other agencies and programs (loans made by FFB) [1]	Outstandings	618	592	580	570	565	557	561
	Obligations							
	Loan disbursements	8	84	19	4	3		
	Change in outstandings	−37	84	17	1	−*	−3	−3
	Outstandings	108	191	208	209	209	207	203
Grand total, net direct loans	Obligations	39,093	51,904	24,240	22,745	19,856	17,345	16,568
	Loan disbursements	41,367	54,703	33,496	28,024	22,773	19,280	18,375
	Change in outstandings	6,323	15,234	−276	−3,730	−5,470	−4,964	−4,073
	Outstandings	229,301	244,535	244,259	240,512	235,042	230,079	226,006

[1] Loans made by the FFB are agency-guaranteed loans that are disbursed by the FFB as direct loans.
[2] Loans held by the FFB represent the change in outstandings and outstandings of loan assets sold by Federal agencies to the FFB. Since these are sales of prior year loans, they are not attributed as new obligations or disbursements.
[3] Direct loan obligations and disbursements for these programs represent increases in their holdings of loan assets rather than cash disbursements.
[4] Credit programs of the Small Business Administration are proposed to be terminated in 1986, and the loan portfolio transferred to the Treasury Department for administration. These data reflect the combined SBA/Treasury activity.
Source: "Special Analysis," Budget of the United States Government Fiscal Year 1986, Executive Office of the President, Office of Management and Budget.

Mr. MOYNIHAN. I thank the distinguished chairman.

Mr. COCHRAN. Mr. President, I yield so much time as he may consume to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, at the outset of the discussion of this proposal, the most distinguished assistant minority leader, the Senator from California, congratulated the proponents of this amendment as having come up with the first proposal from that side of the aisle to deal with huge Federal budget deficits.

I was about to begin my remarks by saying that I surely had more confidence in the opposite party than to think that the most serious proposal which it could put forward on this subject was what I would denominate, Mr. President, the flim-flam amendment of 1985.

The Senator from Arkansas, also a Democrat, has already restored my faith in the good sense of a number of Members of the other side in dealing with this amendment in that fashion.

But to put it in the most simple yet true terms, this amendment, at least as it deals with a budget deficit, is like a householder, a good citizen of this country who has been consistently spending much more than his income year after year after year, and who looks at how unpleasant it would be to cut down on vacations to Hawaii and expensive automobiles and the like and says, "Aha, I don't have to cutback on my spending habits at all. All I have to do is to sell my inheritance, and I can use that inheritance, my capital assets, in order to continue in the lifestyle to which I have become accustomed even though my income will not match it."

Taking this proposal at its broadest sense, rather than in the technical nature of this amendment, it has the following defects.

The first is that it changes no program, reduces no baselines, affects no spending programs whatsoever.

The principal newspaper in the home city of the proponent, the New York Times, on March 25 of this year observed, as I quote it:

> Indeed, by offering purely cosmetic relief to the deficit problem, it would relieve the pressure on Congress to cut actual spending or raise taxes—something that would actually free savings for private investment.

Second, Mr. President, as the Senator from Arkansas so ably pointed out, these loans would be sold at huge discounts. A $1 million loan would not sell for $1 million, but for far less than that amount of money.

Third, the sale of these loans, even to the extent of a pilot program of $8 billion or $10 billion, would reduce the pressure on interest rates in this country not even by a microscopic degree, because the loans would be sold into exactly the same market and to exactly the same kind of purchasers from whom and from which the Federal Government now borrows money; thus, the pressure on money markets would be identical after the adoption of this proposal to what it was before.

Fourth, to the extent that Federal loans are recycled into the programs from which they have been originated in the first place, this would create an immediate need for increased appropriations into those fields because now the proceeds of those loans go back into that kind of program, and we would have added spending pressures.

As a consequence, this is not a budget deficit reduction at all. It is simply a shift of money from one pocket of the Federal Government into another pocket. It is very bluntly and very simply the use of capital assets of the Federal Government to pay day-to-day expenses.

Both of the proponents so far have taken this as something which is an affirmative in the debate over the amendment. They have emphasized that this lowers the deficit without having to cut spending, without having to reduce any present expense of the Federal Government at all, and that, Mr. President, is exactly its problem.

After all the loans have been sold, after all the assets have been disposed of, we still have a Federal Government which is spending as much more as it takes in as it is today and is, in addition to that, a Federal Government without assets which it has at the present time.

I am not saying in this argument that it may not be a good idea for the Federal Government to review its loan portfolio to determine whether or not it belongs in the direct loan business at all, to determine whether or not it is better business policy for us only to guarantee loans and for that matter to sell current loans into the private market. It may very well be that that is a good policy change. But if it is a good policy change, Mr. President, it is not because it reduces the budget deficit. It is because the Federal Government does not belong in the loan business.

For the purposes of this budget resolution and this debate, this is a very bad idea, because it deliberately attempts to create in the views of the people of the United States and in the minds of other Senators the proposition that we are doing something about budget deficits when, in fact, we are on not doing so.

It is an attempt to change figures on a chart for free when changing those figures has no impact on the true balance of the Federal budget, no impact on interest rates, no impact on capital markets, and in fact will simply be taken by those capital markets as one more illustration of the proposition that Congress is not really serious about fiscal discipline or about lowering budget deficits at all, but will simply move from one attempt to do the job with mirrors to another attempt to do the job with mirrors, in order to avoid the hard choices between cutting spending or increasing

taxes, which is the true subject of this debate.

● Mr. LEVIN. Mr. President, I will vote against this amendment to sell off the Federal Government's debt portfolio because it masks the deficit rather than reducing it, and because it may jeopardize programs—such as educational loan programs—which rely on revolving funds for their financing.

All of us want to reduce the deficit, and this proposal for selling off the Federal debt at a discounted price has initial appeal. But selling this country's future income, which would result from debt repayment in the future, in an effort to reduce the deficit over the next 3 years doesn't solve the deficit problem. Instead, this amendment would lower the deficit this year at the cost of increasing deficits in the coming years since the Federal Government would no longer be the recipient of debt repayments.

Furthermore, it is unclear at this point how revolving funds would be protected. This issue should be explored further in hearings before we decide to include this proposal in the fiscal year 1986 budget plan.●

Mr. LAUTENBERG and Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. All time has expired on the proponents of the amendment.

The Senator from Mississippi is recognized.

Mr. MOYNIHAN. Mr. President, the Senator from Mississippi wishes to speak.

Mr. COCHRAN. As I understand the Chair, the proponents of the amendment consumed all the time allotted under the rules for the consideration of the resolution, is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. May I inquire, Mr. President, how much time remains for the opponents of the amendment?

The PRESIDING OFFICER. Twenty-two minutes remain.

Mr. MOYNIHAN. May I make an inquiry of the distinguished Senator?

The PRESIDING OFFICER. The Senator from New York

Mr. MOYNIHAN. Mr. President, I, myself, and Mr. LAUTENBERG are alone on the floor, in which event I yield myself 5 minutes off the resolution.

The PRESIDING OFFICER. The minority leader is on the floor.

Does he yield 5 minutes to the Senator from New York?

Mr. BYRD. I yield 5 minutes to the distinguished Senator.

Mr. MOYNIHAN. Mr. President, I wish to make a very direct response to my friend from the State of Washington because if you want to know why we are going to have difficulty with this, let me tell you. May I ask you to look to "Special Analysis of the Budget, Fiscal Year 1986," page F-34, table F-11. It states the subsidy values of 1984 direct loan obligations. These are not in the budget. The American people pay for them; $8,312,000,000 in subsidies in that 1 year.

Mr. President, according to Export-Import Bank, the present value of the subsidy per year in 1984 was $237 million. And where did it go? It went to Boeing. It went to McDonnell Douglas. It went to General Electric. And we call these loans our inheritance. I thought the Grand Canyon was our inheritance, Mr. President.

I yield the floor.

Does the Senator from New Jersey wish to have the remaining time?

Mr. LAUTENBERG. I thank my colleague from New York.

How much time is there remaining of that 5 minutes?

The PRESIDING OFFICER. There are 3 minutes remaining.

Mr. MOYNIHAN. Will the Senator allow me to read into the RECORD the final two sentences from the New York Times editorial my friend from Washington described? It says:

> The way to find out is to test the market with some of the higher quality obligations. Auctioning them off promises no panacea, but it could be a step toward more responsible government.

That is all we propose. We propose also to have the country know what the Fortune 500 companies get in the way of subsidies from the Export-Import Bank.

I ask unanimous consent to have the following inserted in the RECORD: An editorial of March 22, 1985, in the Journal of Commerce, an editorial of March 21, 1985, by George Will in the Washington Post, and an editorial of March 16, 1985, in Newsday.

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

[From the Journal of Commerce, Mar. 22, 1985]

PORTFOLIO FOR SALE

There's nothing new under the sun, they say, and the latest deficit reduction scheme thrown on the table by Sen. Daniel Patrick Moynihan, D-N.Y., is no exception.

Sen. Moynihan, along with fellow Democrat Sen. Frank Lautenberg of Ohio, has suggested the United States solve its deficit problem by selling its $280 billion loan portfolio.

The portfolio selling plan, it turns out, has been under Office of Management and Budget consideration for some time.

That is significant, because with any kind of administration support the Moynihan plan stands a chance of really becoming law.

On first consideration, that's cause for concern. Sen. Slade Gorton, R-Wash., wisely points out that the plan could end up costing the Treasury more than it brings in, because of the steep discount the government would have to offer secondary investors in a portfolio that is admittedly high-risk.

There's also the persuasive argument that the Moynihan plan offers a temporary "gimmicky" solution to a difficult, long-term problem.

But in these desperate days, it's hard to dismiss anything that can help with the deficit outlook.

And certainly the sale of loan portfolios is a viable cash-raising mechanism that banks and other lenders use every day of the week.

Why not compromise? The initial sale of a small percentage of the federal government's loans won't balance the budget, but it won't bring down the republic (or the financial markets) either.

It could play a part—along with the more substantial spending cuts and possible tax increases—in the deficit reduction package.

[From the Washington Post, Mar. 21, 1985]

TOM SAWYER REAGAN

(By George F. Will)

A wit once defined a barometer as an ingenious instrument that reveals the kind of weather we are experiencing. If you have no barometer, you can consult the Senate Budget Committee. It, like a barometer, measures climatic pressure.

The committee has rejected the president's budget. That is "rejected" as in: Russia rejected Napoleon. The vote was 17-4 and reflected the fact that among the 535 members of Congress there probably are not 35 who would vote for the president's program of continuing the defense buildup at the pace he prefers, avoiding all tax increases and significantly cutting middle-class domestic programs.

Less than six months ago the president got a mandate to keep on keeping on—to continue the policies of the first term. That is not surprising. The public rather enjoys getting a dollar of government spending and being charged only 75 cents in taxes. Last week there was a languorous White House discussion about sending the Great Communicator back onto the campaign trail to communicate (as he forgot to do before the election) his zest for all those specific program cuts.

But his aides then thought: He would be campaigning against most Senate Republicans, 40 percent of whom face reelection in 19 months. Reagan would not be able to campaign for a "live legislative vehicle." (Sorry. They talk like that.)

What the Budget Committee approved might bring a blush to the presidential cheeks. It would cut the deficit by more than the president's budget would have done. Furthermore, the committee plan would confound skeptics by freezing Social Security benefits for a year. Of course, all this is in the subjunctive tense because the committee action binds no one. The only thing mandatory is that we pay the interest on the national debt.

The debt, without major policy changes (the likelihood of which has gone from "not very" to "are you kidding?"), will increase about $1 trillion in the next four years. If so, every year for the rest of the history of the republic, taxpayers will pay about $100 billion in interest just on this four-year addition to the debt.

Ronald Reagan is playing Tom Sawyer, who was the quintessential American, which means he was something of a sharpie. Tom, a cunning rascal, grew up about 185 miles west of Dixon, Illinois. Cunning rascals sprout like corn out there.

Not since Tom tricked the other boys into whitewashing Aunt Polly's fence for him has there been anything as nifty as Reagan's way of getting others to do his disagreeable chores. He says to Congress: Here is the division of labor: I'll look after the

Marine band, Air Force One and Camp David. You folks cut the social programs.

Sen. Pat Moynihan has a modest proposal for a one-shot cash infusion to trim the deficit without cutting any programs. His idea for slicing a substantial piece off the government's debt is: Sell it. Part of the debt, that is.

By the end of fiscal 1986, the government will have outstanding loans valued at (which does not mean "worth") $280 billion. That is three times the size of the loan portfolio of Citicorp, one of the nation's largest banks. This federal portfolio is scattered around the government and managed by bureaucrats paid less than a Citicorp branch manager.

Many loans are at far less than today's interest rates. Under Moynihan's plan, they would be sold at a discount reflecting their real market value today. Even assuming that the value of the $280 billion in paper is now just, say, $75 billion, that is the real value, no matter who holds the paper, and the government would get a cash infusion of $75 billion.

The loans were made to students, small businesses, large corporations, farmers and many other groups including foreign governments. The point was to let Congress spare those groups the torture of paying market rates for money. But selling the loans to private institutions would not change the terms. The people owing the money would just send their checks to a different address.

Moynihan's plan has an international dimension because of the doctrine of "comparative advantage." According to that, different nations do different things well and each nation should prosper by swapping goods and services according to its comparative advantage.

Japan, for example, is good at making cars and cameras and television sets and many other things. The United States, too, is gifted at making many things, but it is especially, even incomparably, gifted at making debts.

The Japanese save 20 percent of their wages, about triple the American rate. That is one reason why Japan has between $50 billion and $100 billion sloshing around the world, looking for things to buy. America has debt to sell at a discount. Call that the American advantage, comparatively speaking.

[From Newsday, Mar. 16, 1985]

MOYNIHAN'S PLAN TO RAISE CASH

The federal government, which borrows prodigious sums to finance its day-to-day operations, is a major lender as well: In 1985 it plans to lend well over $30 billion to individuals, businesses and foreign governments. Over the years, Washington has built up a portfolio of outstanding loans currently worth about $280 billion.

Now Sen. Daniel Patrick Moynihan (D-N.Y.) has come up with a novel suggestion: The United States should sell those loans to private investors and use the proceeds to reduce the huge federal deficit, which might reach $215 billion this year. Moynihan estimates that a loan sale would bring in about $150 billion.

Moynihan's proposal was rejected by the Senate Budget Committee Wednesday, but that shouldn't be the last word on it; the Reagan administration is reportedly interested in the idea, too.

Selling off its loan portfolio to investors would certainly give Washington a huge fiscal shot in the arm. But it also raises a lot of questions that must be answered first:

It's unlikely that the credit markets could handle a big infusion of new securities without pushing up interest rates, displacing other potential borrowers and depressing the price that Washington would get for its loan contracts. Could the sales be scheduled to prevent serious market dislocations?

If loan repayments stop coming in, because the loans have been sold to private investors, where will funds for new federal loans come from?

Applying the proceeds of a loan sale to help finance social programs, as Moynihan suggests, would paper over Washington's real problem; its inability to bring spending and revenues into balance. And since Congress doesn't make hard decisions unless it must, giving it a one-time injection of extra cash isn't likely to have lasting benefits. It would probably be wiser to use the proceeds of any loan sale to reduce the $1.6 trillion national debt rather than to offset the current year's deficit.

Despite all the obvious problems, though, Moynihan's idea is an innovative one and deserves careful study by Congress and the White House.

Mr. LAUTENBERG. In response to my friend from the State of Washington, first, I wish he would withdraw his characterization of this amendment. If we disagree, it is an honest disagreement about a procedure that is similar to one customarily used in business throughout this country. Many times, companies large and small will sell loans or sell receivables if they have to get cash in to work with.

I do not remember my colleague from New York nor myself suggesting that this was a way to solve the total budget deficit problem. You will find, as you examine the Budget Committee record, in vote after vote, we supported budget expenditure cuts of substantial proportion. We must restrain spending. But that is not enough. We need to reduce Government borrowing and interest costs, and the sale of loan assets will enable, us to do that.

I note that it is not unusual for the Government to sell loan assets. One can look at REA and FmHA. Their loans have been sold in the past, so the procedure is not unusual.

I would also ask my friend from Washington if he would permit me to read from a letter from the First Boston Corp., addressed to Senators MOYNIHAN and LAUTENBERG and signed by the managing director. It says:

> The sale of a portion of the Federal Government's loan portfolio would reduce outstanding Federal debt and lessen pressure on interest rates from Federally sponsored borrowings.

These sale of loans would not necessarily be made to the same market in which Treasury bills are sold. So my plea is for an open mind on this. We are not offering a panacea to the budget problem, but rather one significant way to help address the problem.

Mr. COCHRAN. Mr. President, let me make just a couple of observations, then I think we are prepared to go to a vote on the amendment. The yeas and nays have been ordered.

I would say to the proponents of the amendment that certainly this is an idea that ought to be carefully considered by the Congress. It does interest me that there could be a way that we could take advantage of this asset in a more businesslike way than is being done now by the Federal Government. But I think this would be a subject that would be properly explored in another forum, for instance in hearings before the Banking Committee. Maybe they have had hearings, but I do not know that that has taken place yet.

I think there should be, though, a careful review of the proposal by the committee that has jurisdiction over this area. And it may be that there could be a bill that would emerge that should be approved, and then this Senator certainly could consider supporting it. But I think at this point, Mr. President, it would be inappropriate for the Senate to approve the suggestion in the form of an amendment to the budget resolution.

Just looking at the figures that were cited from the CBO, I think it was suggested that there is a $95 billion receipt that we could have, a one-time receipt of funds, if we were able to find buyers for the loan portfolio. But I think we need to look at whether that is a good idea in terms of the face value of that portfolio which I understood to be over $200 billion. Now I am not sure that is a good deal. It may be. But it is less than half of the face value of the loan portfolio that we would be saying today that we ought to cash it in for. I am not sure that is a good idea.

It is a little like, Mr. President, saying "I think we ought to sell the furniture so we will have enough money to buy a new house."

We could be falling into a very bad financial trap. And I think it would be inappropriate for us to do that.

The PRESIDING OFFICER. Who yields time?

The question recurs, then, on the amendment of the Senator from New York [Mr. MOYNIHAN] and the Senator from New Jersey [Mr. LAUTENBERG]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Dakota [Mr. ANDREWS] is necessarily absent.

I also announce that the Senator from North Carolina [Mr. EAST] is absent due to illness.

Mr. CRANSTON. I announce that the Senator from Nebraska [Mr. EXON] is absent because of illness.

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

The result was announced—yeas 26, nays 71, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—26

Bentsen	Humphrey	Mitchell
Biden	Inouye	Moynihan
Bradley	Johnston	Pell
Byrd	Kennedy	Riegle
Cranston	Kerry	Rockefeller
Dodd	Lautenberg	Sarbanes
Eagleton	Leahy	Sasser
Gore	Matsunaga	Simon
Hart	Melcher	

NAYS—71

Abdnor	Goldwater	Murkowski
Armstrong	Gorton	Nickles
Baucus	Gramm	Nunn
Bingaman	Grassley	Packwood
Boren	Harkin	Pressler
Boschwitz	Hatch	Proxmire
Bumpers	Hatfield	Pryor
Burdick	Hawkins	Quayle
Chafee	Hecht	Roth
Chiles	Heflin	Rudman
Cochran	Heinz	Simpson
Cohen	Helms	Specter
D'Amato	Hollings	Stafford
Danforth	Kassebaum	Stennis
DeConcini	Kasten	Stevens
Denton	Laxalt	Symms
Dixon	Levin	Thurmond
Dole	Long	Trible
Domenici	Lugar	Wallop
Durenberger	Mathias	Warner
Evans	Mattingly	Weicker
Ford	McClure	Wilson
Garn	McConnell	Zorinsky
Glenn	Metzenbaum	

NOT VOTING—3

Andrews	East	Exon

So the amendment (No. 57) as modified was rejected.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 58.

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

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

The amendment is as follows:

In the pending amendment, do the following:

On page 3, decrease the amount on line 12 by $100,000,000.

On page 3, decrease the amount on line 13 by $100,000,000.

On page 3, decrease the amount on line 14 by $100,000,000.

On page 3, decrease the amount on line 18 by $100,000,000.

On page 3, decrease the amount on line 19 by $100,000,000.

On page 3, decrease the amount on line 20 by $100,000,000.

On page 3, decrease the amount on line 25 by $100,000,000.

On page 4, decrease the amount on line 1 by $100,000,000.

On page 4, decrease the amount on line 2 by $100,000,000.

On page 4, decrease the amount on line 6 by $100,000,000.

On page 4, decrease the amount on line 7 by $200,000,000.

On page 4, decrease the amount on line 8 by $300,000,000.

On page 4, decrease the amount on line 12 by $100,000,000.

On page 4, decrease the amount on line 13 by $100,000,000.

On page 4, decrease the amount on line 14 by $100,000,000.

On page 8, decrease the amount on line 1 by $200,000,000.

On page 8, decrease the amount on line 2 by $200,000,000.

On page 8, decrease the amount on line 10 by $200,000,000.

On page 8, decrease the amount on line 11 by $200,000,000.

On page 8, decrease the amount on line 19 by $200,000,000.

On page 8, decrease the amount on line 20 by $200,000,000.

On page 13, increase the amount on line 20 by $100,000,000.

On page 13, increase the amount on line 21 by $100,000,000.

On page 14, increase the amount on line 4 by $100,000,000.

On page 14, increase the amount on line 5 by $100,000,000.

On page 14, increase the amount on line 13 by $100,000,000.

On page 14, increase the amount on line 14 by $100,000,000.

On page 37, decrease the first amount on line 11 by $100,000,000.

On page 37, decrease the second amount on line 11 by $100,000,000.

On page 37, decrease the amount on line 12 by $100,000,000.

On page 37, decrease the amount on line 13 by $100,000,000.

On page 37, decrease the first amount on line 14 by $100,000,000.

On page 37, decrease the second amount on line 14 by $100,000,000.

On page 41, increase the amount on line 3 by $200,000,000.

On page 41, increase the amount on line 4 by $200,000,000.

On page 41, increase the first amount on line 5 by $200,000,000.

On page 41, increase the second amount on line 5 by $200,000,000.

On page 41, increase the amount on line 6 by $200,000,000.

On page 41, increase the amount on line 7 by $200,000,000.

On page 44, decrease the amount on line 10 by $100,000,000.

On page 44, decrease the amount on line 11 by $100,000,000.

On page 44, decrease the first amount on line 12 by $100,000,000.

On page 44, decrease the second amount on line 12 by $100,000,000.

On page 44, decrease the amount on line 13 by $100,000,000.

On page 44, decrease the amount on line 14 by $100,000,000.

On page 46, increase the amount on line 23 by $200,000,000.

On page 46, increase the amount on line 24 by $200,000,000.

On page 46, increase the first amount on line 25 by $200,000,000.

On page 46, increase the second amount on line 25 by $200,000,000.

On page 47, increase the amount on line 1 by $200,000,000.

On page 47, increase the amount on line 2 by $200,000,000.

On page 52, decrease the amount on line 1 by $100,000,000.

On page 52, decrease the amount on line 3 by $100,000,000.

On page 52, decrease the amount on line 4 by $100,000,000.

Mr. SYMMS. Mr. President, the pending amendment is very simple, very easy to understand. It will cut function 150, international affairs, by $200 million and transfer $100 million of that sum of money to function 350, agriculture. It is my intention and hope that that will be applied to agricultural research. The money we spend on foreign aid has substantially increased over the past 4 years and I think myself and most Senators in this Chamber have no objection to spending money overseas when it serves the national interest, when it goes to nations that are our strategic and tactical allies and to nations that have pressing humanitarian needs. But there is money being spent on foreign aid that does not meet those specifications. Consequently, I am simply proposing that we reduce our overall international affairs bill by a modest $200 million and direct part of those funds to a domestic area which has a much greater need for it.

Mr. President, the problems of American agriculture are known to us all. The solutions, unfortunately, are not something we all agree upon. I hope that at least a majority of my colleagues here today will agree with me that agricultural research is vital to our farmers and could benefit from some additional funding. It is our scientific and technological know-how that has helped our farmers in many instances, through the free enterprise profit and loss system, to be able to be competitive and keep a competitive edge around the world trade arena. Many of the well-intentioned farm programs of the past have hurt, not helped, the farmers and have actually reduced our ability to compete abroad.

Improving our research capabilities will enhance the profitability of American agriculture much more than commodity programs that have become removed from market incentives.

The Agricultural Research Service has historically taken only a small portion of the total USDA budget, yet it is often cited as the most beneficial area of Government involvement in agriculture.

A Federal dollar spent in research benefits the farmer an estimated seven times what direct subsidies do. Research has been responsible for increasing agricultural production per acre many times what it was only 10 years ago. We laterally grow two shoots a week where we used to grow only one. The size and quality of the famous Idaho potato owes much to ARS research.

I dare say it has been the agricultural research along with the cooperation

of the State agricultural colleges that has made our Nation a world leader in exporting agricultural technology. This is going to be a highly controversial year for the Federal agricultural policy. At the center of the debate will be the concept of aligning agriculture programs more closely with the free market and the principle of the free market, Mr. President. Unfortunately, we live in a world marketplace and the marketplace is not always fair. We find ourselves needing to be more competitive.

Mr. HARKIN. Mr. President, will the distinguished Senator yield?

Mr. SYMMS. I am happy to yield for a question.

Mr. HARKIN. As I understand it, the Senator is taking $200 million out of foreign aid. How does the Senator arrive at that $200 million figure?

Mr. SYMMS. By taking $200 million out of the foreign aid function, I thank the good Senator, and putting $100 million over in agriculture research and putting $100 million toward deficit reduction.

We have been hearing all these Senators talk about deficit reduction. Here is a chance to save $100 million.

Senator LUGAR's committee would have to make the ultimate determination where this $200 million would come out but just to give you a few suggestions: in 1983, Senator KASSEBAUM offered an amendment that was overwhelmingly approved by this body on a vote of 66 to 23 that would have reduced the United States U.N. contributions in 1984 to the level of its contributions in 1980. The savings I propose would amount to $200 million, with which the authorizing committee and ultimately the Committee on Appropriations make a decision to take half that money out of the U.N. programs; it would amount to less than a 10-percent cut to U.N. There are all kinds of examples we could go into.

I just say to my colleague one place we can save some money is from supporting the Communist government of Mozambique in Africa. I see no reason why the American taxpayer should be propping up a Marxist dictatorship in Mozambique.

Mr. HARKIN. Will the Senator yield?

Mr. SYMMS. I yield only for a question.

Mr. HARKIN. Mr. President, I am trying to see where the $200 million figure comes from. Is it a percentage of the foreign aid bill? Why is it $200 million and not $250 or $300 million? I wonder where the Senator got the figure?

Mr. SYMMS. To tell the truth, Mr. President, we could change that, and I am sure other Senators could make an offer of this amendment and they might decide $175 million or $225 million. This Senator decided the $200 million as far as budget authority goes, knowing that it would not have the impact on the budget that the Foreign Relations Committee has been dealing with. Then they would have to go work out where they are actually going to save the actual $200 million in budget outlays. I think there is plenty of room to do it without getting too specific. If you get much more than that, then we begin to get into an argument where we do have to have some specificity.

Just to tell my colleague from Iowa, in 1981, we had $13 billion in foreign aid; in 1982, $12 billion; in 1983, $11.8 billion; in 1984, $800 million; in 1985, an estimated $500 million. I think there is room to find that $200 million and let the authorizing committee be specific about it.

I would recommend that they look first to countries that are pro-Marxist, where they do enjoy the benefits of American taxpayer dollars, and the United Nations would make two places I would recommend they look first.

Let me finish and say to my colleague that ag research is an area where we all like to talk about the farm problem. If we add this $100 million—they are always left out on the short end of the stick. All this money gets sent out to farmers for various programs—not to farm and so forth—which have not worked so well, where ag research is always under pressure. I think it would be a good place to spend some money. So I therefore offer this amendment.

I hope that my colleagues will vote for it. It is very simple. I repeat again, we are suggesting that we reduce the international affairs budget function 150 by $200 million. We add $100 million into the ag function.

Mr. HARKIN. Will the Senator yield for one more question?

Mr. SYMMS. I yield just for one more question, then the Senator must seek his own time.

Mr. HARKIN. As I understand, Mr. President, this is $200 million. My observation is that it does not make that much of an impact on total foreign aid. I might agree with the Senator that perhaps we ought to have some cutbacks in our foreign aid program in some areas, but this does not seem to make that much of an impact; $100 million to agriculture does not really do enough for agriculture. I am sure my colleague knows that putting $100 million into agriculture is not going to solve all our agricultural problems but it is a start.

Mr. SYMMS. Mr. President, I would say to my colleague he knows the answer to that question or he would not have asked it. That $100 million in agriculture research certainly will not solve the problems of agriculture. That is a problem that has many, many other factors involved in it. This budget deficit has a great deal to do with American agriculture because it drives interest rates which have an impact on the international currency markets, which has an impact on the ability to market American agriculture overseas.

There are all kinds of reasons why American agriculture is in difficulty, but this is an opportunity, in the broad picture, for us to simply say that we have been adding money to the foreign affairs part of the Federal budget and we want to put a little priority back in the agriculture function for American agriculture.

I hope that all my colleagues will vote for this amendment.

Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, I might say, to clarify it for my colleague from Iowa, that that is $200 million in savings each year and $100 million put into ag research. Over a period of 3 years it is $300 million, and that is a significant amount of money to put into ag research. I think it would have a positive impact.

As the Senator knows, many of these ag research programs are run frugally in terms of the way the Federal Government runs a lot of things.

I think $300 million over 3 years could go quite a ways in agricultural research. It is a worthwhile amount of money that could be very beneficial to the American farmer and would save $200 million a year for foreign aid, which amounts to $100 million a year in deficit savings. It is a $300 million saving in 3 years.

The PRESIDING OFFICER. Who yields time? If neither side yields time, the time will run equally against both sides on the amendment.

Mr. SIMPSON. Mr. President, I yield to Senator LUGAR.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, as I understand the amendment that has been offered by the distinguished Senator from Idaho, $200 million is to be subtracted from the Function 150 account, which includes all foreign assistance, with $100 million to be devoted to the reduction of the Federal deficit and $100 million reallocated to agricultural research.

The two areas to which the Senator has designated some attention are especially worthy of out attention. I can think of no two areas I support than reduction of the national debt and the Federal deficit.

The distinguished Senator from North Carolina [Mr. HELMS], the chairman of the Agriculture Committee, is in the Chamber. He and I have

fought many battles together to try to extend agricultural research, and I have no doubt that we will be doing it again this year. I think we are making some headway. We have had conferences with the Secretary of Agriculture, who understands the needs of the land grant colleges, the competitive grants.

It so happens, coincidentally, that the Subcommittee on General Legislation and Research of the Committee on Agriculture, which I have been asked to chair by the distinguished chairman, deals with this very area. So my other responsibilities in the Foreign Relations Committee intersect with the amendment of the Senator from Idaho.

I just want to assure all Members that I will be a strong advocate within the committee, and I will have many allies, including my distinguished chairman, in trying to make certain that we do the best we can for agricultural research.

I suspect that by the time we have revisited this whole budget area, the Senate as a whole may want to cut money from many accounts. The 150 account may not be the only account that is revisited. I have no idea how many freezes, additions, or reductions we may want to take a look at.

So I move up to this subject with a certain amount of caution, because the objective sought by the Senator from Idaho has a lot to be said for it. The problem with it, I think, is obvious: Once you look at foreign aid and the 150 account as a whole, there is a long list of things that Members of the Senate might suggest should be done.

I plead with my colleagues that our entire foreign policy situation is precarious. Many Members would say that we have a lot of problems here at home as well, and while we are dealing with those problems, we should not be devoting so much attention to problems in other countries or with other people.

If, in fact, the 150 accounts were purely humanitarian gifts, some Americans would be for them; but others would say, "Let's start at home," and I suppose the bulk of the Senate might join the latter group. But 150 accounts are not sentimental accounts. They deal with trying to obtain support from other nations to help defend us.

We are not giving financial assistance to the State of Israel—and Israel will be the single largest recipient of the 150 account—or to the State of Egypt, without some expectation of benefits in terms of our Middle East policy.

Greece and the Philippines have U.S. bases, and we have entered into relationships that cost more than $500 million a year. If the Senator from Idaho or other Members want to terminate one of those bases, I suppose we might debate the programs in Greece or in the Philippines. Perhaps we will revisit them when we talk about foreign aid.

We also might want to debate Irsael on the Camp David Agreement, but I doubt that. Conceivably, we might want to withdraw from the United Nations, or we might want to shut down the Grove City Bank, which has been suggested on the floor from time to time. There is no end to the possibilities.

Of course, the Senate will finally determine, when we get to the appropriation, essentially what we want to do.

I just ask my colleagues to think with me for a moment about the logic of this situation.

The Senator from Idaho has fastened upon the 150 account. At the time of our markup, we took the position within the Foreign Relations Committee—and I think we are further along than most committees—to freeze the money that was spent last year. There are no add-ons.

As a matter of fact, in the budget on the floor of the Senate, which I hope will be acted upon, if the distinguished majority leader will give us the time, we know what is in the 150 account. We have frozen it.

As a matter of fact, we were so intent in holding down the budget levels that the Secretary of State has asked us to be somewhat more liberal and has made a plea to the Budget Committee to leave a little leeway, because he is afraid that the security of our embassies and personnel abroad might not be provided for. He has to accomplish a number of things, and he is not certain that the money is there to do them. I understand that. But the members of our committee took seriously the thought that we did not have sufficient funds, and we thought the Senate as a whole would come to a freeze, and that was what was substantially adopted by the Foreign Relations Committee.

We had some difficult problems in holding down the recommended level because the requests for Israel and Egypt were higher than in fiscal year 1985 and we have recommended the administration request levels. That is one area where we have increased the funding level.

The second area is in terms of security for our embassies. We are doing more, and you know the time will come if there is an attack upon an embassy and this body has not thought about that, that there will be some finger pointing as to why there was no vision.

But in order to do more for Israel and Egypt and for improved security for our embassies, we had to cut most other accounts and we have done so already.

I have no doubt that many Members would feel that we should not spend the money at all. But, at some point there must be a sense of responsibility in this body for our foreign policy, for our military security, for the obligations we have under treaties and agreements and for the fact that we would prefer to have other nations as allies working with us than having to send U.S. forces to respond to our security interests abroad.

As I have mentioned, the administration believes this account is already too low.

To come with the off-the-top-of-the-head suggestion that you allocate this over to agricultural research and then allocate the rest of it to the general treasury does not seem to me to make good sense, given our general responsibilities.

I am hopeful that Members of this body will reject this amendment. I am hopeful that as other suggestions come forward and there have been a number made—I have seen some amendments to allocate 150 amounts to various other amounts—that Members will likewise reject those.

If we adopt this amendment, there may be no limit to the efforts of getting into the 150 money to try to accomplish objectives Members have not been able to accomplish through the normal committee procedures or through the Budget Committee.

Therefore, Mr. President, I ask for very thoughtful consideration on this amendment. I ask Members to oppose it, and I ask for Members to oppose other amendments to reallocate money from the 150 account.

Mr. COCHRAN. Mr. President, one thing that should be pointed out, I think, is that in this resolution there is a provision for agricultural research that would make available over $1 billion next fiscal year for this purpose. As a matter of fact, the specific figure is $1,159,000,000.

Let me say that that is an illustration of an increase over the years for agricultural research. Back in 1980, we appropriated $858 million for that purpose.

The point is that Congress has been responding in a generous way in the allocation of resources for agriculture research.

As chairman of the subcommittee that has jurisdiction over those appropriations, this Senator has been very interested in seeing the maximum amount of resources being allocated for that purpose, and this next year I think we are going to see the subcommittee and the Senate and the House of Representatives, as well, respond in a sensitive way to the needs in this area.

The Senator from Idaho makes a very good point, that there is a great need for a continuation of research into ways to help farmers be more productive, to operate their farms in a

more economically efficient way, and certainly that is a good cause.

I wonder, though, about the approach that is being taken here on this resolution.

I have no better friend in the Senate than the distinguished Senator from Idaho. He is one of the finest people I know. We have served together in the House of Representatives. He does a great job. He is an outstanding Senator.

But this is a little like going through the budget resolution and picking out what, of course, may not be the most popular programs and suggesting that we transfer funds from them to the more popular programs.

I am suggesting that if we did that this resolution package is going to unravel and we are not going to be able to get a majority to support it. At the end we will not have a chance. So it is a delicate balance that is reflected right now in this resolution, and while I generally support the statements made by the Senator from Idaho, I am going to have to vote against this amendment because it would be another one of those amendments that would have the effect of causing the disintegration of a resolution that I think is very important for this Senate to pass.

We have heard good arguments made by many that we have to do something about deficit reduction during this Congress, and I believe that.

So for that reason, Mr. President, I hope that the amendment can be rejected.

The PRESIDING OFFICER. Who yields time?

Who yields time?

If no one yields time the time will be assessed against all Senators.

The yeas and nays have been ordered.

Mr. CHILES. We yield back any time.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. I am prepared to yield back the time, Mr. President. I yield back the time.

The PRESIDING OFFICER. It will be necessary to determine if the Senator from Idaho is willing to yield his time.

Mr. HELMS. Mr. President, I am confident that the Senator from Idaho will be willing to yield back his time but let me check. We will advise the Presiding Officer in a minute.

On behalf of the Senator from Idaho I yield back the time on his amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Idaho.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Dakota [Mr. ANDREWS] and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

I also announce that the Senator from North Carolina [Mr. EAST] is absent due to illness.

Mr. CRANSTON. I announce that the Senator from Nebraska [Mr. EXON] is absent because of illness.

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

The result was announced—yeas 40, nays 56, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—40

Abdnor	Gore	Mitchell
Baucus	Gramm	Nickles
Bentsen	Harkin	Nunn
Bingaman	Hatch	Pressler
Boren	Hawkins	Proxmire
Bumpers	Heflin	Pryor
Burdick	Helms	Sasser
Byrd	Hollings	Stennis
Chiles	Kassebaum	Symms
D'Amato	Laxalt	Thurmond
DeConcini	Long	Wallop
Denton	Mattingly	Zorinsky
Ford	McClure	
Garn	Melcher	

NAYS—56

Armstrong	Grassley	Moynihan
Biden	Hart	Murkowski
Boschwitz	Hatfield	Packwood
Bradley	Hecht	Pell
Chafee	Heinz	Quayle
Cochran	Humphrey	Riegle
Cohen	Inouye	Rockefeller
Cranston	Johnston	Roth
Danforth	Kasten	Rudman
Dixon	Kennedy	Sarbanes
Dodd	Kerry	Simon
Dole	Lautenberg	Simpson
Domenici	Leahy	Specter
Durenberger	Levin	Stafford
Eagleton	Lugar	Stevens
Evans	Mathias	Trible
Glenn	Matsunaga	Warner
Goldwater	McConnell	Wilson
Gorton	Metzenbaum	

NOT VOTING—4

Andrews	Exon
East	Weicker

So the amendment (No. 58) was rejected.

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

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

The motion to lay on the table was agreed to.

THE PACKWOOD AMENDMENT ON MEDICARE AND MEDICAID FUNDING

● Mr. KERRY. Mr. President, I rise today to clarify my support for the distinguished chairman of the Finance Committee's amendment concerning the Medicare and Medicaid systems. I believe that it is an amendment that is woefully inadequate but it is an amendment that I voted for because I feel that it begins, in some small measure, to address the problems that would be created if the Republican leadership budget were adopted. I hope that I will be given an opportunity soon to speak in support of an amendment that goes further than this one to protecting the health of our senior citizens and our poor.

I do not believe that this is the time to tamper with the Medicare system. Many respected researchers echo what many of us know from talking to our senior constituents; that large numbers of senior citizens are hovering dangerously near the poverty line. I believe that to further threaten senior citizens at this time would be insensitive and short sighted. The kinds of services that might be impacted by the Republican compromise are those that are of paramount importance to the elderly.

Raising the amount that senior citizens are required to pay out of their pockets for medical care is not the kind of deficit reduction that I think is responsible or efficient. We are just succeeding in increasing the burden of our States for the funding of the Medicaid system.

And while I am pleased that this amendment will eliminate the so-called Medicaid cap, I do not believe that this measure goes far enough to protect those among us who are the most needful of medical care and the least able to pay for that care.●

COMPACT OF FREE ASSOCIATION

Mr. McCLURE. Mr. President, will the distinguished chairman of the Budget Committee respond to a few questions as to where we stand under the assumptions underlying the resolution?

Mr. DOMENICI. I will be glad to respond to my distinguished friend, the chairman of the Committee on Energy and Natural Resources and chairman of the Subcommittee on Interior and Related Agencies of the Appropriations Committee.

Mr. McCLURE. As the Senator knows, one of the major legislative measures which the President has sent to the Congress for enactment is the compact of free association which has been reported by the Committee on Energy and Natural Resources. While the resolution does not specifically address any individual measure, I am concerned that we will be able to fully meet our promises contained in it.

Mr. DOMENICI. I am aware of the concern of the Senator, and as a member of the Committee on Energy and Natural Resources joined with my colleagues both last year and again this year in unanimously ordering the compact favorably reported to the Senate. As chairman of the Budget Committee, I and the other members of the committee have considered how the compact should be funded. It has been our recommendation each year that funding continue in the current account dealing with the Trust Territory of the Pacific Islands. I fully expect that upon passage of the compact, the administration will immedi-

ately transmit a supplemental to provide full funding for the compact under function 800 of the budget. I can assure the Senator of my full support in expediting passage of that supplemental in order to begin compact funding by the start of fiscal year 1986.

Mr. McCLURE. The Senator sees no reasons why passage of the resolution should in any way affect implementation of the compact by the beginning of the next fiscal year?

Mr. DOMENICI. I see no reason whatsoever. The President has twice sent the compact to the Congress and I would strongly resist any implication that he was not sincere in doing so. In the discussions with the administration leading to this resolution, the original assumption contained in the President's budget that funding would occur in function 150 in the Department of State was dropped by the administration. The assumption of this resolution is the same as has twice been agreed upon by the Budget Committee, and that is that funding for the freely associated states will continue in function 800 in the Department of the Interior. I can not conceive of the Department of the Interior, with the full support of the Office of Management and Budget, not transmitting the necessary supplemental in sufficient time for enactment prior to fiscal year 1986. I would like to commend the Senator for his strong support for the compact, and it is a tribute to him and also to the distinguished Senator from Louisiana, Senator JOHNSTON, that the compact has twice been reported unanimously to the Senate. I look forward to its early passage as reported by the committee and can assure the Senator of my full support in enactment of the necessary supplemental which the President will request.

SACCHARIN STUDY AND LABELING ACT AMENDMENTS OF 1985

The PRESIDING OFFICER. Under the previous order, the hour of 4 p.m. having arrived, the Senate will turn to the consideration of S. 484, which the clerk will state by title.

The assistant legislative clerk will read as follows:

A bill (S. 484) to amend the Saccharin Study and Labeling Act.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment:

On page 2, line 3, strike "1988", and insert "1987".

So as to make the bill read:

S. 484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Saccharin Study and Labeling Act (21 U.S.C. 348 nt.) is amended by striking out "During the period beginning on the date of enactment of this Act and ending twenty-four months after the date of enactment of the Saccharin Study and Labeling Act Amendment of 1983" and inserting in lieu thereof "During the period ending May 1, 1987".

Mr. HATCH. Mr. President, I bring to the floor for final consideration S. 484, which extends the Saccharin Study and Labeling Act for 2 years. It is subject to a time agreement worked out between myself and the committee majority.

The Labor and Human Resources Committee ordered the bill reported on April 17, 1985 without opposition.

The Saccharin Study and Labeling Act was passed in 1978 in response to a proposal by the Food and Drug Administration to remove saccharin from the market. This proposal followed a study report implicating saccharin in increased bladder tumor incidence in rats. At that time saccharin had been in use as an artificial sweetner for over 80 years and had never been causally linked to any illness or death in humans. It was an important factor in the physical and emotional health of diabetics and others who need to control their weight or caloric intake.

The FDA proposal prompted considerable congressional interest. After pursuing its own inquiry, Congress felt that the evidence at that time was insufficient to conclude that saccharin was a significant health risk in humans, and found that it conferred real benefits on a significant portion of the population. Congress' response was the Saccharin Study and Labeling Act, which forbade FDA from moving against saccharin solely on the basis of data available when it was enacted. This step clearly conveyed to FDA Congress' intent that the agency have more solid and substantial evidence of a human health risk before it restricted or eliminated the use of the sweetener.

Despite the passage of 7 years, the essential conditions have not changed, thus S. 484's extension of the act is completely appropriate. Specifically, though several important studies have been completed since that time, no scientists at the hearing on the bill felt that saccharin has been demonstrated to be a significant human health risk or that the current evidence warrants its removal from the market. Additional studies are currently underway to try to determine saccharin's mechanism of action in humans. But 7 years after passage of the original act, there is still no evidence that saccharin is a carcinogen in humans, despite an unusually long marketing history. And the Commissioner of the Food and Drug Administration testified:

[A]s in the past, we still do not adequately know the answer to all of the questions and uncertainties giving rise to the original 1977 saccharin moratorium. The actual risk, if any, of saccharin to humans still appears to be slight, however.

Further, saccharin's importance to the health of diabetics and others, while somewhat diminished in several applications by the availability of aspartame, remains significant. Thus, the American Diabetes Association and the Juvenile Diabetes Foundation, among others, support the extension.

I note in conclusion that the so-called moratorium in the Saccharin Study and Labeling Act is not absolute, but simply imposes certain limitations on regulatory action against the sweetener. Should information come available during the next 2 years demonstrating a public health risk from continued use of saccharin, under S. 484 the FDA retains the authority to take regulatory action.

Thus I have no hesitation in asking my colleagues to support this bill. It is a bipartisan bill, and it is passed out of committee without an opposing vote.

We have agreed to a time agreement on this bill with one amendment.

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

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield the Senator time.

Mr. KENNEDY. Mr. President, I support this bill to extend the Saccharin Study and Labeling Act.

Saccharin is an important part of the diets of many Americans who need to avoid sugar intake. It is particularly important for diabetics.

While some things have changed in the artificial sweetener field since the last extension of this legislation—including the development of aspartame and new studies suggesting cyclamates may not be carcinogenic—there does not appear to be a fully satisfactory substitute for saccharin currently available.

The committee hearings we held reinforced my belief that an extension of the saccharin ban moratorium is appropriate at this time.

Senator METZENBAUM will be offering an amendment to require quantity labelling of aspartame in soft drinks. While the FDA has found aspartame to be generally safe, the center for disease control has recommended that further tests of aspartame be conducted to determine whether some groups may suffer harmful effects from aspartame consumption—particularly at high dose levels.

Our committee report mandates that these tests occur. It seems to me appropriate that consumers should be able to monitor their own consumption of aspartame.

Mr. President, I hope that the Members of this body will support Senator METZENBAUM's amendment to insure that the consumers of this country

would be able to make that determination in terms of their own consumption.

Mr. President, on the bill itself, was there not time yielded to the Senator from Massachusetts?

The PRESIDING OFFICER. I did not catch the request of the Senator from Ohio.

Mr. KENNEDY. On the bill itself, is not the time divided between the Senator from Utah and the Senator from Massachusetts?

The PRESIDING OFFICER. It is divided between the Senator from Utah and the Senator from Ohio or their designee. I did not catch how much time the Senator from Ohio yielded.

Mr. KENNEDY. I thank the Chair.

Mr. METZENBAUM. Mr. President, I appreciate the support of the distinguished Senator from Massachusetts, whose record in the field of health legislation is second to none in this Congress. We have before us the bill to extend the period of exemption from the Delaney Act for the continued use of saccharin. I supported that extension because the distinguished chairman of the committee was kind enough to set a hearing not alone on the issue of saccharin but on the issue of saccharin and other sweeteners, including cyclamate and aspartame.

Out of that hearing, the committee concluded that there should be an extension of the saccharin exemption, not for 3 years but for 2 years. In addition, the committee provided that the Food and Drug Administration must report to the Congress on how the label laws for saccharin are being observed. It is a fact that some companies are complying with the law while others are not. For others it is a question of degree—some labels are in typeface so tiny that it is almost impossible to read.

The real issue that we have before us here today, Mr. President, relates to the aspartame labeling amendment which I shall shortly send to the desk. What this amendment would do is amend the Saccharin Study and Labeling Act to provide that any soft drink which contains aspartame shall state the total number of milligrams of aspartame contained in such serving of such soft drink.

I want Members of this body to understand where we stand on this issue. I shall not raise my voice during this debate. I shall not implore Senators to vote for my amendment. I shall ask them only to consider the merits of the issue. If they consider the merits of the issue, then they have to vote for the amendment because, on the merits, people have a right to know how much aspartame is in the product that they are drinking. That is all.

Nobody is saying that consumer cannot use aspartame. I point out to my colleagues that, as a matter of fact, the National Soft Drink Association, the organization that represents all of the soft drink people, at one point was prepared to take a position totally opposed to the use of aspartame in soft drinks. They never took quite that position as I shall discuss later.

Mr. President, if this amendment passes, the industry will have 18 months to implement its provisions. We are willing to give the industry adequate time to make the changes on the cans so that people may learn what is in the product that they are ingesting.

Mr. President, let me at the beginning deal with a prevalent misconception about this amendment. Lobbyists have been on the telephone, scurrying around all over the Hill, calling Members of this body, telling everyone that this amendment will, in some way, injure the bill. They have indicated that there is an urgent need for the saccharin extension and that my amendment will slow the bill down and even kill it.

I want Members of this body to understand that that claim is totally absurd. The FDA Commissioner, Dr. Young, testified at our hearing as follows:

> I must emphasize that even if the ban were not extended, it would take a period of time for FDA to evaluate its action and then proceed through preliminary and final rulemaking which would be in itself, a couple of years' process . . . with the most rapid action it is 180 days to a year.

It appears my colleague, with whom I worked very well, the chairman of the committee, wrote a letter on this subject. He indicated in that letter that the attachment of my amendment to this bill would jeopardize the bill's fate in the House. I thought that was an important statement for him to be making, so I called the distinguished chairman of the House committee having jurisdiction over this matter.

I am pleased to report to my colleagues that he does not confirm that it would cause delay. Actually, he said that until he knows what the amendment specifically provides, he is hardly in a position to make any such indication. However, there is certainly no indication that it would kill the bill.

Mr. SIMON. Would my colleague yield for 1 minute?

Mr. METZENBAUM. I do indeed yield.

Mr. SIMON. I thank him for yielding.

Mr. President, I think the point he made a moment ago needs underscoring. He mentioned lobbyists contacting Members of the Senate on his amendment. They were contacting on the basis that he had a 6-month time limitation. In fact, with that 18 months, there should be no difficulty for any bottler to accommodate to this reality. It just seems to me that the Senator's amendment can do no harm and very well may do some good in safeguarding the people of this country, particularly some who may have some very real problems with this particular ingredient.

Mr. METZENBAUM. Mr. President, I very much appreciate the comments and the support of my friend and colleague from Illinois. I have no reservation in saying that, indeed, at one point, we were contemplating 6 months.

The Senator from Illinois had indicated his concern about that being too short a period of time. I agreed with the Senator's contention, and therefore I put in the 18-months figure. However, the issue is not so much how long the industry will have to implement the amendment. The issue is can we prevail upon the industry to disclose how much aspartame is in the can or the bottle?

Mr. SIMON. I thank the Senator from Ohio.

In his leadership on this matter as in many others, I have referred to him, half in jest and half not in jest, as the tiger of the Senate. He is that. He gets hold of an issue and fights for the cause. He has been fighting for the health of the people of this country. I commend him, and I am pleased to support his amendment.

Mr. METZENBAUM. I appreciate the support of the Senator from Illinois, who has served well and with distinction in the Congress of the United States, and we are happy to have him in this body.

Mr. President, I should like now to get to address the substance of this issue.

During the committee hearing, we had an aspartame scientific panel as well expert FDA testimony on aspartame. Aspartame issues were examined in extensive detail. This amendment evolved from that hearing and I would now like to offer three basic reasons for its passage.

Reason No. 1 is the consumer's right to know. People have a right to know about the makeup of the products they consume. It is no secret that the distinguished Senator from Florida [Mrs. HAWKINS] and I have a bill pending which has to do with the labeling of products generally.

Reason No. 2, the FDA as well as doctors around the country have received hundreds of complaints from people who believe that they have had adverse physical reactions to NutraSweet.

Professor Wurtman of MIT made a very strong case at the hearing for quantity labeling, on the basis that physicians treating these complaints would at least know how much has been consumed. They will be able to take into consideration, in making their diagnosis, whether the taking or the use of aspartame was a factor.

Professor Wurtman also argued that those with symptoms who consumed large amounts of NutraSweet will be able to gauge their consumption, and those who think they have symptoms but in reality have consumed only small amounts of NutraSweet would be able to stop worrying.

Third, significant medical and safety questions have been raised about NutraSweet, and I will get into some of those questions as we proceed in the debate this afternoon.

Clearly, we need to provide people with more information about this product than they already have. With respect to the criteria of aspartame or NutraSweet safety, the food and safety law is clear. The Government does not have to prove that a particular food additive or artificial sweetner is harmful. The Government does not have that burden of proof. The manufacturer must prove that it is safe and that there is reasonable certainty that no harm will result from its use.

I should like to share with my colleagues the history of NutraSweet. In 1977, the Food and Drug Administration recommended that Searle—it is their product—be brought before a grand jury, on the basis that its testing procedures were irregular and that false statements were made. It was the FDA that made that recommendation. These tests included many of the key NutraSweet tests.

In 1980, a public board of inquiry recommended that NutraSweet not be approved until further tests on brain tumors could be dealt with. The FDA Commissioner rejected that finding and approved NutraSweet. I will return to that issue at a later point in the debate.

At the hearing, we referred to in-house FDA memos which showed that three of the six FDA scientists advising the Commissioner, the so-called Commissioner's team, recommended that NutraSweet not be approved because certain tests were still dubious. We have, in addition, the concern expressed by Dr. Wurtman about the effects on brain chemistry of aspartame, concerns which the Soft Drink Association itself cited in its draft objection to NutraSweet in 1983. I will return to that draft objection of the Soft Drink Association subsequently, as well.

Clearly, questions surround this product.

In addition to those questions having to do with the testing and approval of NutraSweet, there is also the issue of the ADI for NutraSweet, or the acceptable maximum daily intake.

I should like to quote from an FDA memorandum dated January 8, 1983:

> The Bureau of Foods had previously evaluated the results of data from an extremely comprehensive animal testing program and established the acceptable maximum daily intake, the ADI, for aspartame to be 20 milligrams per kilogram of body weight per day. This figure is based on application of a hundredfold safety factor to the no-effect dose, 2,000 milligrams per kiligram, in a chronic rat study.

What does that mean? It means that the FDA normally applies a hundredfold safety factor to regulated food additives. In the case of aspartame, they made an exception. They increased the ADI to 50 milligrams per kilogram, and they said they had the tests to prove that this could be done safely.

What does an ADI really mean,

What an ADI means is this: If you weigh 150 pounds, you would have to drink 17 cans of diet soda with 100 percent NutraSweet to hit the acceptable maximum daily intake.

I do not really believe that many people drink 17 cans of diet soda with 100 percent NutraSweet and hit the ADI. However, if you are a child weighing 25 to 30 pounds, you would hit that limit with three or four cans of soda. That is not something that is going to happen to all kids. But certainly large numbers of children are likely to consume NutraSweet at these levels.

Nobody is saying that someone is going to keel over if they exceed the ADI on a given day. But with all the concerns raised about the safety of NutraSweet, does it not make sense, is it not logical, for individuals and their physicians to know how much NutraSweet is in the diet soda?

What could be so terrible about stating the amount? How else will the user or the physician know if the person is exceeding reasonable consumption limits, particularly during the summer months?

Some would say, "Well, even if we told them the amount, they wouldn't understand." Some would. Some would not. But what in the world is so horrific? What in the world is so terrible? Why is it such a problem for the industry, within 18 months, to change their cans to indicate the amount of aspartame—that is NutraSweet—in the product?

Some would say, "Why label only soft drinks?" The answer to that is soft drinks are the major source of NutraSweet consumption.

Those who argue against the amendment on the basis that it singles out soft drinks are very quick to point out that they do not support labeling of any products containing NutraSweet.

Besides, if we mandate labeling of soft drinks, do you not think the other manufacturers will get the message and seriously consider implementing their own labeling?

Some would argue—and it has been stated—"Why don't you indicate how much sugar there is on the label?" As a matter of fact, if somebody cares to offer an amendment or to suggest such labeling, I would have no problem with that. I am one who firmly believes that the more the individual is able to know about the food he or she consumes, the better chance that individual has in seeing to it that the food ingested by him or her will be healthful and not dangerous to his or her life.

Dr. Roberts, of the National Soft Drink Association, testified at the hearing and said if a consumer wants to know how much NutraSweet is in a can of diet soda, they can write the National Soft Drink Association in Washington to find out. He said:

> We like people to have this information so we have no objection whatsoever, and, in addition, we try to provide additional information by putting our associated kinds of brochures.

So they are saying, "You can get the information, we are willing to give it to you, we might even make up a brochure, but we don't want to put it on the can."

Why? Is it that there is no room on the can? Is it that the people are just too nosy, to find that out?

I went to a can of Diet Coke to see what was on the can. Mr. President, they have enough reading material on the can to fill the CONGRESSIONAL RECORD.

On the front label they say, "100 percent NutraSweet brand sweetener." They say, "Saccharin-free, low-calorie cola; "phenylketonurics," contains "phenylalanine."

Let us take a look at the back of the Diet Coke label.

Nutrition information per serving

Serving size (ounces)	6 oz.
Servings per container	2
Calories per serving	0
Protein	0
Carbohydrate	(1)
Fat	0
Sodium (milligrams)	35

[1] Less than 1 gram.

And it continues on. They have a lot of material on the back of that label.

> Perentage of U.S. recommended daily allowances (U.S. RDA): contains less than 2 percent of the U.S. RDA of protein, vitamin A, vitamin C, thiamine, riboflavin, niacin, calcium, and iron. Contains carbonated water, caramel color, aspartame, (NutraSweet brand), phosphoric acid, potassium benzoate preservative, natural flavors, citric acid, caffeine.

That is not all. It has more on the back label. "NutraSweet and the NutraSweet symbol," says the back label, "are the trademarks of G.D. Searle & Co. Consumer information: call 1-800-GET-COKE," and then the number "438-2653."

Well, I guess it would not be too much of an imposition for the soft drink industry to indicate that there are 180 to 200 milligrams of NutraSweet in that can of Diet Coke. It would not ruin the can or its appearance.

Now, the Soft Drink Association has also said that if consumers want to

know how much aspartame is in a can of Diet Coke, they can call the number on the can; 1-800-GET-COKE.

Now, my staff did just that. At 9:09 a.m. on May 1, my staff called the Coke consumer information line, 1-800-GET-COKE, and after listening to a jingle, the operator came on the line. She was a very nice woman. Her name was Pat. My staff asked her the following question: "Can you tell me how much NutraSweet is in the can?" Her reply, "No. I'm sorry, I don't have that information." My staff then asked, "Is there any limit to the amount you should consume?"

Reply: "No. You can drink 40 cans a day." My staff asked her about kids. Could they drink that amount? Her reply, "No problem."

Now, FDA's acceptable maximum daily intake for a 150-pound person is 17 cans, and for a 25- to 30-pound person, 3 to 4 cans.

So I say that dialing 1-800 GET-COKE does not get you very far in obtaining information on how much NutraSweet is in a can of Diet Coke. Would the Chair be good enough to advise how much time the Senator from Ohio has remaining?

The PRESIDING OFFICER. The Senator has 32 minutes remaining.

Mr. METZENBAUM. I thank the Chair.

I ask my colleagues to keep in mind that the soft drink association, which is strongly opposed to letting consumers know how much NutraSweet they are consuming, is the same association which in 1983 prepared a draft legal document objecting to NutraSweet ever being allowed on the market, citing serious and unresolved questions about the public health.

Let me explain the significance of that statement. The National Soft Drink Association, along with the law firm of Patton, Boggs & Blow, prepared a document that was to be submitted before the U.S. Department of Health and Human Services, Food and Drug Administration. The document was entitled "Objections of the National Soft Drink Association to a Final Rule Permitting the Use of Aspartame in Carbonated Beverages and Carbonated Beverage Syrup Bases and a Request for a Hearing on the Objections." The issue before the Food and Drug Administration at that time, according to this draft objection was aspartame; food additives for direct addition to human food, 48 Federal Register 31376, July 8, 1983.

I want to explain to my colleagues that the draft legal document was not filed, but it was prepared and I ask unanimous consent that at the conclusion of my remarks the entire contents of that draft objection be included in the RECORD.

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

(See exhibit 1.)

Mr. METZENBAUM. Although it was not filed, that does not mean that it was not the position of the organization at that time. It does not mean that the findings and the conclusions reached in that document were not valid. It only indicates that for reasons best known to them, unquestionably business reasons, they decided not to file it.

But they were not objecting to labeling, which is all that my amendment would do. My amendment would only indicate the amount of aspartame that is in the product.

Their objection took the position that aspartame should not be included in soft drinks. That draft objection indicates that the organization had significant health concerns with the product before it was approved for soft drinks.

Let me direct your attention to some of the things that they said in that draft document:

G.D. Searle and Company has not demonstrated to a reasonable certainty that the use of aspartame in soft drinks, without quantitative limitation, will not adversely affect human health as a result of the changes such use is likely to cause in brain chemistry and under certain reasonable anticipated conditions of use.

For these reasons, Searle has not met its burden of demonstrating to a reasonable certainty that the unlimited use of aspartame, especially in combination with carbohydrates, will not adversely affect human health.

It went on to say that:

The questions posed by Dr. Wurtman are significant because of the seriousness of the potential effects E.G., changes in blood pressure and because of aspartame's anticipated widespread use—use that includes consumption by potentially vulnerable subgroups, such as children, pregnant women, and hyperactives.

They went on to say in that document:

Specifically, Searle has not met its burden under section 409 . . . to demonstrate that aspartame is safe and functional for use in soft drinks.

And they further stated:

Collectively, the extensive deficiencies in the stability studies conducted by Searle to demonstrate that aspartame and its degradation products are safe in soft drinks intended to be sold in the United States, render those studies inadequate and unreliable.

Now, the National Soft Drink Association in August 1983, thought that aspartame should not be used in soft drinks. But so many of my colleagues have been called recently and told that they should not vote for this amendment. Yet this amendment does not provide that the product should not be sold, only that the people who use the product have a right to know how much of it they are consuming.

Now, I think that it is important to know what occurred at the Department of Health and Human Services when aspartame was approved. I would like to share with my colleagues a memo dated May 19, 1981, from the Acting Associate Commissioner for Health Affairs on the subject of aspartame to the Commissioner of the Food and Drug Administration.

In this memo, they state the following:

The first and primary agenda item relates to the brain tumor issue. This was the point on which the Public Board of Inquiry concluded that safety had not been shown. A first draft "final decision" on this issue is attached.

They went on to say:

The major issue discussed at the hearing was the background rate for spontaneous brain tumors in the specific strain of rat used by Searle.

They talked about the conduct of the study.

The conduct of all three rat studies has been criticized by Dr. Olney. Some of the staff scientists believe the studies were adequately conducted, while others tend to agree with Dr. Olney that one or more of the studies was severely flawed. Again, the different positions are documented.

Mr. President, I ask unanimous consent that the FDA memo be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. METZENBAUM. Now, Mr. President, my colleagues may go ahead and defeat this amendment. But I hope they will remember this debate in the months ahead. I do not claim children will develop brain tumors. I do not know that. I do know that the FDA was worried about it. I do know that three of the six FDA scientists advising the FDA Commissioner on final approval were sufficiently worried about it that they were not willing to approve the product. The FDA's own scientists were split on the issue.

So what we are talking about is, do we agree that there will be labeling indicating how much aspartame is in the product or do we close our minds to all the questions surrounding this product and turn our backs on the consumer's right to know.

I am frank to tell you I stand on the floor and I do not have all the answers. But I believe that this body has some responsibility to the children, grandchildren, and adults who are consuming these soft drinks. And all I am asking for here today is that which I consider to be the very minimum. To tell the people who are drinking these diet sodas how much aspartame is in the product.

Now I might note that some have said that the Diabetes Association opposes this amendment. My staff spoke with their Washington representative today. They do not oppose this amendment. Their official position is to

advise caution for pregnant women and children for both aspartame and saccharine consumption.

In conclusion, Mr. President—and I will confess that I have spoken at some length, but I speak at some length because I am concerned about what aspartame may do to people if ingested in too great quantities. I am concerned about the possibility of brain tumors and other forms of brain damage. Those who studied the issue at the FDA were concerned as well.

This amendment is basic. It is simple. It does not really ask for much, and for the life of me, I cannot understand why the Soft Drink Association has spent so much time and has done so much lobbying. What have they got to hide? All we are asking is how much aspartame is in the soft drink. And we are saying take 18 months, if you need that amount of time, in order to change your cans in order that we will not place an economic burden on your business.

My amendment is no big deal. It is not going to save the world. It is not going to solve problems in Nicaragua and it is not going to balance the budget. But it is one little step in the right direction. We will be providing people with the minimum amount of information they deserve about a substance which poses many unanswered questions about basic consumer health and safety.

Mr. President, I do not wish to delay the Senate with lengthy debate. I would like to submit for the record a number of scientific and other submissions relating to aspartame. I ask unanimous consent that they be printed in the RECORD.

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

[From the Washington Post, April 24, 1985]

SWEETENERS FACE SCRUTINY OVER SAFETY

(By Sally Squires)

Just in time for spring dieting, three artificial sweeteners—aspartame, saccharin and cyclamates—are in the news.

Last week, a Senate panel rejected an amendment requiring labeling on soft drinks containing aspartame. This week, Congress considers whether to keep saccharin on the market. Meanwhile a National Academy of Sciences committee is reviewing the health effects of cyclamates, which were banned in 1970 because of a possible link with cancer.

Despite growing scientific evidence that aspartame causes alterations in brain chemicals and may change behavior, the Labor and Human Resources Committee defeated an amendment requiring soft drinks containing aspartame to list the amount of the chemical on the package.

Aspartame, marketed under the trade name NutraSweet by G.D. Searle and Co., is used in a variety of foods and beverages, ranging from diet soft drinks to the table sugar substitute known as Equal. Products containing NutraSweet carry a label warning people with the genetic disease phenylketonuria (PKU) to avoid these food and beverages. PKU sufferers are born lacking an important enzyme that allows them to digest the amino acid phenylalanine—a building block of protein and an important constituent of NutraSweet. PKU infants who consume phenylalanine become severely brain-damaged, and thus must be placed on a restricted diet for the rest of their lives.

Studies in humans and in animals suggest that aspartame can cause changes in neurotransmitters—the chemical substances that send messages throughout the brain. These changes are particularly pronounced when aspartame is consumed with carbohydrates. Among the health effects associated with aspartame consumption are headaches and behavioral changes.

The FDA has established guidelines that suggest limiting aspartame consumption to 50 milligrams per kilogram of body weight. A kilogram is equal to 2.2 pounds. This means that a 25-pound child (about 11 kilograms) should consume no more than 550 milligrams of aspartame a day—about the amount in four cans of diet soda.

Without labels describing how much aspartame is included in a product, "it is difficult if not impossible for the patient or his physician to know how much aspartame he has eaten or drunk," Dr. Richard Wurtman, a professor at the Massachusetts Institute of Technology, reported at a recent hearing before the Labor and Human Resources Committee. "I doubt that one consumer (or physician) in a thousand now realizes, for example, that a can of Tab provides less than one fourth as much aspartame as a can of Diet Pepsi or Diet Coke."

"Although we've made some progress with further NutraSweet and saccharin tests, we still have not fully protected the health and rights of consumers," said the amendment's sponsor, Sen. Howard M. Metzenbaum (D—Ohio).

"I believe that it is essential that companies which include aspartame in their products be required to indicate on the labels how much of the sweetener is present in each can or serving," adds Wurtman, who says he uses aspartame himself. "I think that it would be very good to have labeling of all artificial sweeteners."

A spokesman for Searle said that the company is not "against labeling if it appears on all food products. We thought it would be unfair to single out just NutraSweet."

"It is a very safe product. NutraSweet is the most tested product on the market today."

Other recent scientific evidence suggests a link between the development of nonmalignant skin lesions and the consumption of aspartame. Research also suggests headaches and perhaps even high blood pressure can result from combining aspartame with certain medications.

One study published in the Annals of Internal Medicine described how a 22-year-old woman who drank daily 36 to 44 ounces of an aspartame-sweetened diet drink developed skin lesions on her thighs. Controlled tests over a period of weeks documented that the woman's lesions disappeared and reappeared with the use of aspartame. Two other reports published earlier this year in the American Journal of Psychiatry and the British journal Lancet document behavioral changes among aspartame users.

Cyclamates could again become a choice for dieters and diabetics. A National Academy of Sciences committee is currently reviewing the scientific literature regarding the banned artificial sweetner—at the request of the Food and Drug Administration (FDA)—to help determine whether it causes cancer. The committee is expected to report its findings in June. If the scientific evidence is inconclusive, then the committee will design research that could answer the safety question of cyclamates once and for all.

Saccharin could soon be banned if Congress refuses to extend the most recent moratorium on prohibiting saccharin sales, which expired Monday. In 1977, despite evidence that saccharin caused bladder cancer in rats, Congress passed a law that allowed it to remain on the market. But FDA Commissioner Frank Young told a congressional committee recently that even if the moratorium is not renewed this week, it would take between six months and a year for saccharin to be removed from the market.

[From the Science Times, Feb. 5, 1985]

SWEETENER WORRIES SOME SCIENTISTS

(By Jane E. Brody)

As sales of aspartame, the nation's newest artificial sweetener, expand rapidly among millions of users, scientific concern is also growing among some researchers about its safety.

The researchers are alarmed by recent reports that a small percentage of users, including at least two young children, may have suffered severe adverse reactions to aspartame. Especially worrisome are reactions involving the brain, including seizures, incapacitating headaches, dizziness, behavioral changes and depression.

Although there is at present no evidence, there is concern, too, over the possibility that in some consumers, aspartame may cause subtle disruptions in the balance of brain chemicals that influence mood, alertness and hunger for certain nutrients. Animal studies have raised the issue but its investigation is only just beginning.

Two scientists, Dr. C. Keith Conners of Children's Hospital in Washington and Dr. Richard Wurtman of the Massachusetts Institute of Technology, believe that the Food and Drug Administration misled the public on aspartame's safety by understating the concern voiced in a recent official scientific analysis of consumer complaints.

"If you read the C.D.C. report," Dr. Wurtman said in an interview, referring to the national Centers for Disease Control, "it doesn't sound nearly so complacent as the F.D.A. Talk Paper that interpreted the findings for the public."

According to the C.D.C., its detailed investigation of 200 consumer complaints, out of more than 600 received, suggests the need for a systematic study of adverse effects, especially neurological and behavioral effects, which accounted for 67 percent of the complaints received.

"The number of instances of persons challenging themselves several times with aspartame-containing products and reporting symptoms with each rechallenge suggests that some individuals may be sensitive," the report states. "The only way to clearly determine this is through focused clinical studies." Citing the "subtlety and potential seriousness of some of the manifestations" reported by consumers, the disease control centers said the studies should concentrate on such symptoms as "headaches, mood alterations and behavior changes."

The manufacturer of aspartame, G.D. Searle & Company, said a proposal for a clinical study has been submitted to the F.D.A., but there are as yet no plans to ac-

tively monitor the effects of aspartame in the general population.

Searle says the C.D.C. findings are not surprising, given the fact that more than 100 million people now use aspartame. Dr. Gerald E. Gaull, vice president for nutrition and medical affairs for aspartame at Searle, said it is possible that "a few people may be allergic or sensitive to it." He added that "for those few people, the issue is not one of safety but rather of food selection."

Both the drug agency and Searle say aspartame is the most extensively studied food additive in history and that the studies clearly establish its safety. Dr. Gaull noted, "It's not just the F.D.A. that has viewed the tests as adequate, but also the World Health Organization and comparable regulatory agencies in Canada, the United Kingdom, Japan and about 37 other countries."

Dr. Sanford Miller, head of the F.D.A.'s Bureau of Foods, said: "I don't know of any substance in recent years that's been looked at with the intensity of aspartame. No one had yet come up with the slightest evidence to show we were wrong in approving it."

However, some researchers and consumer organizations assert that the studies have not been careful or far-reaching enough to establish the safety of aspartame, which is now entering the food supply at an unprecedented rate following its approval in 1983 for use in soft drinks.

For example, Dr. Walle Nauta, a Massachusetts Institute of Technology psychologist who heads a public board of inquiry that was asked by the F.D.A. in 1980 to review safety concerns about aspartame, has said that had the panel known how widely aspartame would be used, it would have issued stronger recommendations. He told Common Cause, a public affairs organization that completed a nine-month investigation of aspartame last year, that use of aspartame in soft drinks "never figured in our decision making."

Dr. Nauta's panel was also limited in its assessment to interpreting the results of safety tests. Whether the tests were properly conducted in the first place was not considered, he said.

FOUND IN WIDE VARIETY OF FOODS

Aspartame, marketed as Nutra-Sweet (when used as a food additive) and Equal (the table-top version), is now found in such foods as soft drinks, gum, breakfast cereals, mixes for hot chocolate and cold drinks and pudding mixes. Although in most products it is combined with either sugar or saccharin, a trend is already evident toward the use of aspartame as the sole sweetener in processed foods. Coca-Cola and Pepsi-cola, for—example, announced they would be using it alone in diet soft drinks, and Ralston-Purina has just introduced a new cereal, Sunflakes, sweetened only with aspartame. Several food processors have filed proposals to use the sweetener in yogurt, ice cream and flavored drinks.

Since it was approved for use in this country in 1981, worldwide sales of aspartame have grown from $74 million in 1982 to $800 million last year. It has been an enormous financial boost for a company that a decade ago was embroiled in costly controversy over the quality of its safety tests on several major drugs and aspartame.

Aspartame was originally approved for marketing in 1974, but the approval was quickly stayed when a scientist, Dr. John Olney of Washington University, and an attorney, James S. Turner, objected on the basis of Dr. Olney's findings in animals that aspartame might cause cancerous brain tumors. Dr. Olney remains a strong critic of aspartame approval. Mr. Turner, a consumer advocate with the Community Nutrition Institute in Washington, said the studies needed to clarify this risk had not yet been properly done. The institute recently petitioned the United States Court of Appeals for the District of Columbia to halt further marketing of aspartame products pending the outcome of a requested public hearing on aspartame's safety.

Nor were a number of key studies that had been called into question as scientifically lacking in design and execution ever redone, according to Common Cause and Mr. Turner. Nonetheless, in 1981, Arthur Hull Hayes, then Commissioner of Food and Drugs, approved aspartame for use in dry foods and as a table-top sweetener. Two years later Mark Novich, as acting commissioner, approved aspartame for use in soft drinks. Soon after Dr. Hayes left the agency and took a job as senior medical consultant for Burson-Marsteller, a public relations agency that represents Searle. The company says Dr. Hayes, who is also dean of New York Medical College, has never consulted on anything having to do with aspartame or any other product he ruled on at the drug agency.

MANY FACTORS IN POPULARITY

Among the reasons aspartame is so popular are that it provides the sweetening power of sugar at one-tenth the caloric cost; unlike products made with saccharin, it does not carry a warning about cancer risk and it tastes very much like sugar but, unlike saccharin, has no unpleasant aftertaste.

The drug agency has set an allowable daily intake of 50 milligrams of aspartame per kilogram of body weight, and the agency predicted that actual average use would run around eight to ten milligrams. According to Dr. Gaull of Searle, levels of use found in a national survey last spring showed that the average was then already twice that—19 milligrams—and the maximum level consumed by "aspartame abusers" was 28 milligrams. A United States attorney representing the F.D.A. said in court last month that average consumption is now 30 milligrams and that many consumers are above the 50 milligrams maximum suggested.

According to Dr. Wurtman, some consumers can easily reach consumption levels that have been linked in animal studies to adverse effects on brain chemicals. Ironically, he added, those using the sweetener to control calories may be defeating their purpose, since his studies show high levels of aspartame may trigger a craving for carbohydrates by depleting the brain of a chemical that registers carbohydrate satiety.

Dr. Conners is worried about aspartame's effects on certain highly sensitive individuals. He has studied two young children who suffer extreme agitation following doses of aspartame equivalent to the amount found in a six-ounce serving of Kool-Aid sweetened with NutraSweet. One of the children becomes so agitated he has to be restrained, Dr. Conners said. The other, who is sensitive to sugar, becomes even more aggressive when given aspartame, he said.

Aspartame is the product of two amino acids (the chemical building blocks of protein), aspartic acid and phenylalanine, which are found in rather large amounts in ordinary protein-rich foods. When digested and metabolized, aspartame breaks down into its component amino acids and methyl alcohol.

Scientific concern has focused on phenylalanine, since some people are unable to process it properly, causing a buildup in the body that can damage the developing brain. A phenylalanine buildup, should it occur in response to aspartame, could endanger an unborn child whose mother has high levels of phenylalanine in her blood in pregnancy, some scientists say. Dr. William Pardridge of the University of California at Los Angeles, for one, is worried about possible detrimental effects on I.Q. in the children of phenylalanine-intolerant women who consume large amounts of aspartame in pregnancy.

Phenylalanine is also the precursor to tyrosine, a neurotransmitter in the brain. A recent study in rats by researchers in Dr. Wurtman's laboratory showed that aspartame can cause large buildups of phenylalanine and tyrosine in the brain. However, Dr. Wurtman has noted that rats process phenylalanine differently from people. He added that a federally financed study of the behavioral effects of aspartame in animals and people was now under way in his laboratory.

[Western Union Telegram, Apr. 22, 1985]

Senator HOWARD METZENBAUM,
Capitol One DC.

With your permission I would like to amplify some of my responses to the questions that you asked me during the recent committee hearings on artificial sweeteners:

1. Many foods besides aspartame apparently cause chemical changes in the brain. Examples include virtually all carbohydrates (sugars and starches), proteins, lecithins, and caffeine. However, the particular changes that follow aspartame consumption have not been associated with other foods, and thus must be fully evaluated to determine their effects on health and behavior. This evaluation should be pursued vigorously. Hereafter it must be assumed that all new food additives will require a similar careful evaluation.

2. For the reasons that I indicated, I believe it is important that food labels should now include the quantities of aspartame that the products contain. I also believe, though, that similar information should be provided about their contents of other food additives, because this is good nutritional policy; because health questions have also been raised about other sweeteners; and because the biologic effects of combining two chemicals (like sweeteners) can sometimes be quite different from the effects of giving the individual compounds by themselves.

3. I am not proposing that the ADI for aspartame be changed at this time; I'd have difficulty justifying any specific number rigorously. Rather, I believe that the ADI should be subject to continuing review, as new information about aspartame's effects (or lack of effects) accumulates, ultimately I would like to see labels also include information about the upper limits of daily consumption for children and adults, but for the present, I believe that indicating the quantities of aspartame in each product would constitute an important and necessary first step.

4. I beleive that well designed, placebo-controlled clinical studies should be intitated, particularly on aspartame's possible involvement in headaches and in lowering seizure thresholds. These studies should also determine whether aspartame metabolism is abnormal in subjects who develop such side effects (for example, whether the plasma

amino acid pattern changes abnormally after aspartame consumption). The proposed studies should use ADI doses of aspartame, given acutely and chonically for many days, in circumstances similar to those in which people may actually use the sweetener (for example, taken along with some dietary carbohydrates and by people on weight reduction diets). I hope soon to initiate such studies at MIT's clinical research center, and understand that other institutions are also dong so.

Thank you for considering these comments.

Sincerely yours,

RICHARD WURTMAN, M.D.,
Professor, M.I.T.

UNIVERSITY OF CALIFORNIA,
LOS ANGELES,
April 22, 1985.

Statement to Senator HOWARD METZENBAUM:

Thank you for giving me the opportunity to express my views on the potential safety issues related to the effects on the brain of high dose usage of a new dipeptide sweetener, aspartame.

1. If high dose aspartame usage does have harmful effects, the sequelae are likely mediated via the phenylalanine component of aspartame, and not via the two other components of the compound, e.g., aspartate or methanol, or via the dipeptide itself. Among the tissues of the body, the brain is selectively vulnerable to large increases in blood phenylalanine. Thus, if aspartame is to have any harmful effects, it is most likely that the brain will be the target organ of aspartame-induced sequelae. Indeed, the Center for Disease Control recently concluded, "the highest priority for any in-future investigation might be in the neurologic/behavioral area".

2. A central question is, "what is a substantial increase in blood phenylalanine caused by aspartame igestion?" The 1980 Public Board of Inquiry concluded that a minimum toxic threshold of blood phenylalanine of 0.5–0.6 mM may be used in man, and blood concentrations below this critical threshold may be considered harmless. If the threshold concept is true, then I do not believe that aspartame will cause harmful effects since even high dose aspartame usage will rarely cause an increase of blood phenylalanine up to 0.5–0.6 mM. However, a review of the medical literature indicates that there is insufficient evidence to conclude that the relationship between high blood phenylalanine and brain disorders follows a threshold relationship. Recent evidence indicates that the relationship between blood phenylalanine increases and brain effects is a linear one (1,2), and that changes in brain function occur when blood phenylalanine rises in increments of 0.25 mM (1,2). For example, there is a 10.5 point drop in I.Q. in infants born of mothers with blood phenylalanine increases in the range of 0.25 mM over normal levels (1,3). Another study shows that neuropsychologic performance in children, e.g., choice reaction time, is altered when plasma phenylalanine is increased in the 0.25 mM range (2). These two studies are illustrative in that they describe effects in the two groups who are most at risk to develop high blood phenylalanine; (a) developing fetuses, owing to the ability of the placental membrane to concentrate phenylalanine inside the fetus, and (b) 7–12 year old children who, owing to their reduced body weight, consume high doses of aspartame in terms of mg/kg/day.

3. The studies showing effects on the brain in man of blood phenylalanine in the 0.25 mM range are of importance since the available data indicates that plasma phenylalanine will increase to this level in humans consuming aspartame on the order of 25 mg/kg, three times a day, particularly in heterozygotes (4) (and there is an estimated 4–20 million heterozygotes in this country) (1). Although 25 mg/kg three times per day, or 75 mg/kg/day, is nearly ten-fold greater than the expected FDA or industry projections of aspartame intake, the evidence in the literature indicates this is a likely daily intake for many consumers. For example, 7–12 year old children are found to consume up to 77 mg/kg/day (5). Normal weight adults are found to consume up to 32 mg/kg/day (6).

On the basis of the likelihood of a linear relationship between blood phenylalanine increases and brain function, I think it is essential that a case be made for labeling products with the mg of aspartame per product on the label. Thus, the physician who attempts to relate any possible neurologic/behavioral effects to aspartame intake may be able, through dietary survey, to compute the patient's average daily intake of aspartame in mg/kg. For example, if the physician determines that the daily intake is 10–20 mg/kg, then it is very unlikely that the patient's neuologic/behavioral problems are related to aspartame. On the other hand, if the daily intake is on the order of 50–75 mg/kg/day, then the physician may undertake a retrospective and prospective analysis of the possible relationship between aspartame-induced high blood phenylalanine and the patient's neurologic/behavioral problems.

Yours very truly,

WILLIAM M. PARDRIDGE, M.D.,
Associate Professor of Medicine.

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SEVERE BEHAVIORAL REACTIONS TO ASPARTAME IN A FOUR YEAR OLD BOY

(C. Keith Conners, Karen Wells, Sandra Kronsberg and Ellen Schwab)

BACKGROUND

The subject of this study is Stephen, a 4 year old boy who was referred for evaluation by his mother. During August of 1983 mother had begun providing Stephen with Sugar Free Kool-Aid with NutraSweet (Cherry artificial flavor) over a period of 3 weeks. He was thought to drink approximately 20 ounces/day in a more diluted form than called for on package instructions.

His behavior became increasingly erratic over this period (as reconstructed by the mother later). He became tearful, easily frustrated, had unprovoked angry outbursts and was extremely irritable. This culminated in a dramatic episode in which he became inconsolably and wildly emotional. He had to be isolated to his room where he repeatedly ran full force into the wall, knocking himself to the floor, crying, and repeating the performance until he was restrained.

Mother called her pediatrician who suspected that the new Kool-Aid might be responsible, and advised her to remove it. She did so and his behavior then returned to normal within 24 hours. About 2 weeks later the mother re-introduced the Kool-Aid, whereupon another violent reaction occurred within about 30 minutes. This episode subsided the same day. Suspecting the Aspartame in the drink, mother called us upon the advice of the pediatrician who had heard of our interest in sugar products and behavior. After some hesitation, she agreed to examine the problem in an experimental, double-blind fashion. An informed consent was obtained.

HISTORY

Stephen weighed 10.5 pounds at birth. Mother gained 55 pounds during pregnancy (twice the recommended amount), and delivery was 2.5 weeks late. He was described as "a great baby, a good sleeper and good eater." He had some feeding problems as an infant, exhibiting rhinitis and diarrhea following feedings of formula. He eventually tolerated formula feedings of Similac with iron (a cow's milk formula). Upon examination he was found to be a well-developed, well-nourished four year old at the 30th percentile of weight (16 kg) for his stature (105.4 cm).

Stephen is reported to be a very active boy, "going all the time". He still naps every afternoon. He is described as quite oppositional, saying 'no' to everything. Mother appears to try to manage mostly by 'yelling and screaming', though she was observed to be quite tender and solicitous of Stephen in the waiting room. He is quite a happy boy on the whole, seems very bright and precocious, but he can be quite aggressive and "beats his brother (7 years old) to a pulp". Sugar appears to make him more energetic.

There is some question of a possible milk allergy and allergy to molds. Mother says she cannot eat apples, pears, peaches or plums because of allergy to pectin. She is also allergic to jellied candies, pollen, penicillin and macrodantin.

Stephen's mother filled out a 93-item parent questionnaire (Conners Parent Questionnaire). The Restless-Impulsive factor showed an elevation of about 2 standard deviations, but was otherwise within normal range.

METHOD

Ratings. Mother was asked to fill out the 10-item Hyperactivity Scale on a daily basis. These items measure restless, impulsive, emotional behaviors. She was asked to obtain data over a 2-week period to establish Stephen's baseline.

Observations. On four occasions, about one week apart, Stephen and his mother returned to the hospital where they were observed through a one-way mirror for an hour or more. For the first half of the session mother was instructed to simply sit in

the room and let Stephen do whatever he wanted. A variety of toys were available and he was asked to play by himself while mother sat and busied herself with some work. For the second half of the hour mother was instructed to issue various commands, such as "pick up the toys", "clean up the room", "sit in the chair", etc.

The behavior was videotaped from the other side of the room and later scored blind (without knowledge of the conditions) by an experienced behavioral observer. Behavior was coded in 15-sec blocks using an interval-sampling procedure developed by Hanf and Forehand. The main category of interest is child noncompliance to commands. Other categories include "whine/cry", and "destructive".

Challenge. Just prior to each observation period Stephen was given a 6 ounce cup of Cherry Kool-Aid to drink. On two occasions this was the sugar-sweetened version and on two occasions it was the NutriSweet version. The dietician (E.S.) made the determination of order of challenge, and neither parent, child, nor other observers had knowledge of the sequence. As it turned out, the sequence chosen was ABAB, with A=Aspartame, B=Sugar.

RESULTS

The results of the Hyperactivity Ratings is shown in Figure 1. After a stable baseline there is a clear increase in deviant behavior on the Aspartame days compared with the sugar days.

Figure 2 shows the percent of scoring intervals during which noncompliance occurred. Again there is a substantial increase in this behavior during the Aspartame challenge days.

Followup. Mother has continued to restrict Stephen from Aspartame, but on several occasions he has accidentally had drinks provided at school or at friends' parties. On each and every occasion mother claims that he has become quite disturbed. On one of these occasions he became very tearful and repeatedly said something was wrong, crying "Mommy, Mommy, please help me, I can't stand it."

Conclusion. We cannot be sure at this point that the observed reactions were truly due to the Aspartame. The artificial color in the drink is another possibility. It is also possible in a child that has a high rate of deviant behavior, that occasional challenges could, by chance coincide with an episode. One cannot, of course, generalize beyond this single case.

However, we are inclined to believe that the clear results from both direct observation and home observations, obtained under strict double-blind conditions, are sufficiently compelling to conclude that Aspartame (and/or its vehicle) are causing deviant behavior of quite severe proportions in this boy. We believe that further study of this problem in children is clearly indicated.

[From the Am J Psychiatry 142:2, February 1985]

INTERACTION OF ASPARTAME AND CARBOHYDRATES IN AN EATING-DISORDERED PATIENT

SIR: Wurtman (1) has pointed out that the acute ingestion of aspartame, particularly when combined with carbohydrates, can have a marked effect on the level of tyrosine in the brain. He speculated that the resulting acute elevation of brain tyrosine level might induce behavioral or functional changes in the predisposed individual. In the following clinical case this appears to have happened.

Ms. A, a 22-year-old white woman, began to binge eat and purge soon after she developed secondary sexual characteristics at age 13. This habit evolved into a binge-purge cycle that took place an average of 15 times a day; she had a marked fear of obesity and a craving for carbohydrates. At age 21 she was placed on a regimen of fenfluramine and metoclopramide for her bulimia. Within a few weeks she stopped binge eating and vomiting. She then began to restrict her food intake excessively; her weight began to decrease and she became increasingly depressed. When her weight reached 79 lb, she was hospitalized. In addition to behavioral and psychotherapeutic treatments, she was given full therapeutic trials of impramine, desipramine, and nortriptyline for her depression, which persisted despite her regaining a normal body weight. As an outpatient, she developed the habit of chewing her food and spitting it out to enjoy the sweet taste of carbohydrates and to avoid the excess calories. Each day she used about 10 packets of an artificial sweetener that contains aspartame. She was given a trial of a monoamine oxidase inhibitor (MAOI) to treat her "tricyclic-resistant" depression.

After being on a regimen of 10 mg/day of tranylcypromine for approximately 2 weeks, the patient noticed severe headaches that coincided with times when she was eating and spitting out high-carbohydrate foods and consuming the aspartame. She described the headaches as throbbing and said she felt flushed and sweaty. On each of five occasions when she experienced these symptoms, the headaches stopped within a few hours of stopping ingestion of the sweetener.

Ms. A refused to take the artificial sweetener and have her blood pressure checked. The headache was sufficiently unpleasant and the correlation between the ingestion of the sweetener and the headache was so strong that she preferred to use saccharine, which did not produce further headaches.

In this clinical case it appears that aspartame combined with carbohydrates led to the symptoms one might expect from an elevated CNS level of tyrosine in a patient who was taking an MAOI. It is important to keep this possible interaction in mind, particularly with the increased use of MAOIs to treat patients with eating disorders and atypical depressive states.

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JAMES M. FERGUSON, M.D.
La Mesa, Calif.

[From the Annals of Internal Medicine, Vol. 102, No. 2, February 1985]

ASPARTAME-INDUCED GRANULOMATOUS PANNICULITIS

(By Nelson Lee Novick, M.D.)

The low-calorie artificial sweetener, aspartame (NutraSweet; G.D. Searle & Co., Skokie, Illinois), a synthetic combination of aspartic acid and the methyl ester of phenylalanine, is currently used in many diet sodas, cereals, and chewing gums and as a substitute for granulated sugar. Although the Food and Drug Administration has approved aspartame for routine use (except in patients with phenylkentonuria), its potential for toxicity remains controversial (1–4). This report describes the first confirmed case of aspartame-induced granulomatous panniculitis.

A 22-year-old, otherwise healthy woman had numerous, bilateral, nontender, nodular lesions on both legs for 2 months. The patient denied having used any oral, systemic, or topical medications during the preceding 6 months. She also denied any history of recent infections or trauma, and she had no accompanying constitutional symptoms. For the previous 6 years, the patient had habitually consumed between 1080 and 1320 mL (36 to 44 fl. oz) daily of a popular saccharin-containing diet soft drink. Approximately 10 weeks before presenting for evaluation, she had switched to the same manufacturer's new aspartame-sweetened diet soda. She made no other changes in her diet. Two weeks later, the patient first noted the onset of several nontender, deep nodules on her left thigh. New lesions subsequently appeared elsewhere on her legs while the previous lesions slowly enlarged: none disappeared.

On examination, numerous deep nodules ranging from approximately 0.5 to 5 cm in diameter were palpated bilaterally on the thighs and calves. The overlying skin appeared normal. The nodules were firm and in some areas coalesced to form large deep plaques that were freely movable over the underlying facial tissues. No adenopathy or other cutaneous or mucous membrane lesions were present; the rest of the general physical findings were normal.

Complete blood and differential count, erythrocyte sedimentation rate, serum electrolyte and amylase levels, and urinalysis findings were normal; liver function tests, serum protein electrophoresis, direct and indirect immunofluorescence studies, tuberculin tine test, and tests for antinuclear antibody and anti-steptolysin-O were negative. The patient refused a chest roentgenogram. Histologically, a septal panniculitis with lymphocytes and histioncytes predominated within the thickened fibrotic septae. Many multinucleated histiocytic giant cells and a lymphohistiocytic infiltrate extended into the adjacent fatty lobules, consistent with erythema nodosum.

The patient was advised to stop using the recently introduced aspartame-sweetened beverage. During the next 4 weeks, no new lesions appeared and all previous lesions spontaneously resolved without residua. She was then advised to resume daily consumption of the suspected aspartame-sweetened diet drink; 10 days later, she again developed the nodular lesions on both legs, this time in greater number than before. Withdrawal of the beverage once again resulted in gradual and complete resolution of all lesions.

The patient was next challenged with pure aspartame, 50 mg four times daily, in capsule form (supplied by G.D. Searle & Co.). Ten days later, nodules reappeared on her legs. Withdrawal of aspartame resulted in spontaneous clearing of all lesions.

Widely used, aspartame is 180 times sweeter than sucrose and is metabolized primarily to aspartic acid, phenylalanine, and methanol (5). No previous reports could be found in the literature conclusively linking aspartame to any cutaneous eruptions. (6). Several unconfirmed reports of "dermal eruptions" and urticaria have been received by the manufacturer according to Robert L. Alberti, M.D., Director of Medical Communications, G.D. Searle & Co. In addition, the Adverse Drug Reaction Report System of the American Academy of Dermatology has received an unconfirmed report of a macular, erythematous, confluent pruritic eruption in a man who had consumed large

amounts of an aspartame-sweetened diet cola (Report no. 1170031284, reported 12 March 1984 and transferred to the FDA 10 April 1984).

The precise classification and pathogenetic mechanism of the panniculitis in my patient are unclear. Absence of tenderness in lesions, overlying skin changes, constitutional symptoms, and residual pigmentary changes upon resolution is inconsistent with erythema nodosum (7), whereas the histopathologic finding of septal panniculitis strongly favors that diagnosis (8).

The formation of toxic metabolites of aspartame, either during the drugs shelflife or as metabolic byproducts, offers one possible explanation for the reaction seen in this patient. Boehm and Bada (9) have recently reported that the heating of aspartame results in conversion of some of its amino acids to their racemates. Although they note that the possible toxicity of consuming large amounts of these racemates remains to be determined, they speculate that some food or beverage components may catalyze the racemization of aspartic acid and phenylalanine in aspartame at room temperature. Furthermore, despite extensive prior testing, no such reaction has yet been reported, suggesting that this phenomenon may be idiosyncratic rather than dose-related. Fortunately, in the present patient, mere discontinuation of the aspartame-containing beverage resulted in complete and relatively rapid resolution of the condition without residua.

[From the Food Chemical News, Apr. 15, 1985]

INTERNAL FDA UNCERTAINTIES ABOUT ASPARTAME SAFETY REFLECTED IN 1981 MEMO

A 1981 briefing memorandum on aspartame reflects internal Food and Drug Administration uncertainties about the safety of the artificial sweetener in the months immediately preceding the decision of then FDA Commissioner Arthur Hull Hayes to permit its use as a food additive.

The May 19, 1981 briefing memorandum which was referred to during recent hearings on the extension of the saccharin moratorium (See FOOD CHEMICAL NEWS, April 8, Page 26), reveals that statisticians in FDA were uneasy about concluding that the brain tumors observed were not statistically significant and that questions were also raised about the conduct of the studies.

"I do not concur that aspartame has been shown to be safe with respect to the induction of brain tumors," Robert J. Condon, of FDA's Center for Veterinary Medicine, wrote in a "dissenting opinion on the brain tumor issue," explaining that his opinion was "based on. . . three reasons: (1) positive results seen. . . for female rats (in one of the studies); (2) problems in the conduct (of two of the studies); and (3) power of the studies."

Similarly, a memo from Satya D. Dubey of FDA's Center for Drugs and Biologics, pointed out "certain statistical difficulties" associated with the key studies "within the framework of statistical principle, theory, method and practice."

The two statisticians were members of the Commissioner's Team on Aspartame, as was Douglas L. Park, now with the Center for Food Safety and Applied Nutrition, who noted in a memo that "the available evidence is limited and provides clear proof neither of the safety nor of lack of safety."

Appendices to the memorandum made available following the hearing reveal that FDA scientists also questioned the data on risk of aspartame ingestion in terms of amino acid imbalance, a question raised also by outside researchers, specifically MIT's Dr. Richard Wurtman.

One of these appendices cautioned that "a four-fold increase in phenylalanine might cause some adverse effects if the diet is deficient in protein."

Another, prepared by FDA's Barry N. Rosloff, of the Center for Drugs and Biologics, pointed out that conclusions on aspartame were dependent "on how well the studies performed reflect the conditions of anticipated usage, particularly regarding (1) dose levels, (2) concentration of aspartame in solution, and (3) concomitant consumption of food, particularly carbohydrates."

"The latter factor is particularly important since the presence of carbohydrates has been shown to reduce the increase in plasma glu (glutamic acid) seen with MSG feeding," Rosloff noted.

Noting the studies with aspartame were performed with orange juice or a flavored beverage base and there was no information on how much carbohydrate was present in the vehicles or when food had last been consumed by the subjects, Rosloff commented, "Hopefully these variables do not deviate in a significant way from the anticipated conditions of aspartame consumption."

[From Common Cause Magazine, July/August 1984]

HOW SAFE IS YOUR DIET SOFT DRINK?

(By Florence Graves)

(NutraSweet has been touted as the most tested food additive in history, but our investigation reveals such serious flaws in the government's approval of NutraSweet that Congress should begin its own investigation immediately.)

NutraSweet, America's newest sugar substitute, has been an overnight sensation. Low in calories, with a taste almost like sugar, NutraSweet is not only converting former saccharin users but drawing consumers away from sugar as well. Robert Shapiro, president of the NutraSweet Group at G.D. Searle & Co., which owns the patent on NutraSweet, declared at a gathering of soft drink companies last December that NutraSweet is "one of the most important developments in the history of food and beverages." In a recent interview with Common Cause Magazine, Shapiro said he realizes that NutraSweet "sounds too good to be true."

Ironically, Shapiro may be right. A Common Cause Magazine investigation based on dozens of interviews and a review of thousands of pages of documents, many obtained under the Freedom of Information Act, raises serious concerns about whether the Food and Drug Administration (FDA) established that aspartame—the scientific name for NutraSweet—is safe. The investigation shows that some scientists say tests have not resolved major health issues—including whether aspartame can cause cancerous brain tumors, and whether it can affect brain chemistry and therefore behavior. The magazine has also learned that some scientists have serious concerns about the sweetener's potential effects on children and pregnant women.

Meanwhile, the FDA acknowledges receiving at least 600 consumer complaints relating to aspartame. In these complaints—which Common Cause Magazine obtained under the Freedom of Information Act—people allege that they have suffered headaches, rashes, dizziness, menstrual problems and seizures after consuming aspartame. The complaints, most of which were received this year, are being investigated by the Centers for Disease Control in Atlanta.

Our investigation reveals such serious flaws in the FDA's approval process that Congress should begin its own investigation immediately. The investigation shows that then FDA commissioner Arthur Hull Hayes approved aspartame three months after taking office in April 1981, despite the fact that some of the FDA's own scientists had serious reservations about the validity and quality of pivotal tests used in his decision. (Hayes, through an assistant, refused to be interviewed.)

Hayes' decisions to approve aspartame for use in dry foods such as cereals in 1981 and soft drinks in 1983 does not square with the role the FDA is supposed to play. The FDA is the government agency that reviews and approves all tests submitted by companies before allowing food additives on the market. The law requires a manufacturer—in this case, Searle—to prove to the satisfaction of the FDA that there is a "reasonable certainty" that a food additive is safe. The government does not have to prove that it is harmful—an important distinction. If tests are inconclusive, an additive is not supposed to be approved by the FDA.

In deciding to allow aspartame in dry foods in 1981, Hayes ignored not only the recommendations of some FDA scientists, but also a recommendation by a 1980 scientific Public Board of Inquiry appointed by the FDA. The board said aspartame should not be approved because it had not been conclusively shown that the sweetener did not cause cancerous brain tumors. The board called for further testing to resolve the issue. In 1983, just two months before leaving office, Hayes approved aspartame for use in soft drinks, dramatically expanding its use.

Hayes defended his 1981 approval, saying, "Few compounds have withstood such detailed testing and repeated close scrutiny, and the process through which aspartame has gone should provide the public with additional confidence of its safety."

But in fact, a 1975 special FDA task force had raised serious concerns about a number of the tests that Hayes eventually relied on in his decision to approve aspartame. Despite the fact that one former FDA commissioner said what was discovered about a number of Searle's tests—including pivotal brain tumor tests—was "reprehensible," our investigation shows serious questions about the tests were never resolved and the tests eventually relied on were never repeated.

Consumer attorney James Turner, who has gone to court to try to force a public hearing on aspartame, charges that Hayes picked "his way through a mass of scientific mismanagement, improper procedures, wrong conclusions and general scientific inexactness." Turner represents the Community Nutrition Institute, a Washington, D.C.-based public interest group.

Two FDA officials have told Common Cause Magazine that Hayes was determined to push aspartame forward, in part as a signal that the Reagan administration was ushering in a new regulatory era. One official privy to some of the deliberations made at Hayes' level says the "people at the top" were not receptive to important concerns raised about the quality and validity of some of the key tests submitted in support of aspartame.

"There were real questions" about the reliability and interpretation of the data "that were glossed over" at the commissioner's

level, this official says, adding that Hayes and his close associates wanted FDA scientists to concentrate on providing rationales for overturning the 1980 Public Board of Inquiry instead of focusing on the fact that there were unresolved issues about a number of key tests.

The financial consequences of Hayes' decisions are enormous for G.D. Searle & Co. A Kidder Peabody financial analyst says Searle's U.S. sales of NutraSweet and Equal (the powdered sugar substitute) reached $74 million in 1982. By the end of 1983, following soft drink approval in the summer, sales had jumped to $336 million. Most of that increase was accounted for by soft drink use, the analyst says.

Meanwhile, a number of scientists continue to raise questions about aspartame's safety, especially with the widely expanded soft drink market.

Dr. Walle Nauta, head of the 1980 Public Board of Inquiry and an institute porofessor in the Department of Psychology and Brain Science at the Massachusetts Institute of Technology (MIT), says "extensive testing" is needed regarding a theory raised by MIT's Dr. Richard Wurtman that consuming large amounts of aspartame—especially with carbohydrates—may affect brain chemistry. In light of the consumer complaints, Nauta said in a recent interview, "I would think [the FDA] should be following [the issue] with great concern. Dr. Wurtman may be right." Aspartame "may be harmful in the long run."

In extending aspartame approval to soft drinks, Hayes dismissed Wurtman's concerns, saying his hypothesis is not supported by his data. The FDA says it is not requiring tests concerning Wurtman's theory.

Searle's Robert Shapiro agrees with the FDA, and Searle has said that "the various hypotheses suggesting a potential health risk from aspartame consumption are not supported by the scientific evidence submitted by Searle and exhaustively reviewed by FDA prior to aspartame's approval."

In an interview, Sanford Miller, chief of FDA's food safety division, defended the FDA's approval and said, "The same dead horses keep getting dragged up again and again and again."

Miller said aspartame is the most tested food additive in history, and he points to the more than 100 tests Searle submitted to the FDA.

But as one FDA scientist said in an interview, it doesn't matter how many tests are done on a food additive, the proper question is, how many of them are valid? And do they prove the additive is safe?

The key element of the controversy is that the vast majority of the tests—90 of 113 entries—were submitted by Searle in the early to mid-1970s. All aspartame tests submitted during that period by Searle and its major contractor, Hazleton Laboratories Corp., were called into question by a 1975 FDA special task force investigation. The special task force's findings were so serious that they led the FDA general counsel to request a grand jury investigation of Searle.

All aspartame tests that have been described by the FDA as "pivotal" were conducted during this period. Eighty-eight percent were done by Searle or Hazleton. Dr. Alexander Schmidt, FDA commissioner from 1972 to 1976, said in a recent interview that Searle's testing then was "incredibly sloppy science." He added, "What was discovered was reprehensible."

Schmidt says a pivotal test is one that is so important that it must be repeated if found invalid. The important question, he says, is, "Were there new pivotal experiments?" Our investigation shows that only one pivotal test was repeated. The FDA later said it was not used in the agency's safety assessment.

Despite the fundamental questions concerning the tests submitted before the end of 1975, Hayes and the Bureau of Foods relied on some or all of these tests when they made their decisions that aspartame is safe. Our investigation found no evidence in the public record that Hayes or the bureau ever successfully explained how their decisions were reconciled with the questions raised by the special task force about Searle's flawed tests.

OTHER HIGHLIGHTS OF THE INVESTIGATION

Internal FDA documents obtained by Common Cause Magazine show that a number of significant deficiencies in the three pivotal tests used to determine whether aspartame might cause cancerous brain tumors were brought by FDA scientists to the attention of those advising Hayes during his deliberations, yet he decided to approve aspartame anyway.

A draft memo to Hayes on the brain tumor issue reads, "As you know, this is a subject upon which competent, neutral scientists have differed. The [FDA] Bureau of Foods found aspartame approvable on this ground. The Public Board of Inquiry found it not approvable without further testing. Your final decision, therefore, will largely reflect a policy judgment on how certain you want to be." According to the law, if tests are inconclusive, an additive is not supposed to be approved by the FDA.

In reference to one of the pivotal brain tumor tests used to determine that aspartame is safe, Jerome Bressler, team leader of a 1977 special FDA task force investigating the test, told Common Cause Magazine that "you don't have to be brilliant to know . . . it was a lousy study; it was a sloppy study."

The Bressler team found evidence—including a photograph—that the experimental rats may not have eaten the intended doses of the test substance diketopiperazine (DKP), a breakdown product of aspartame. Bressler also recalls that there were indications that the rats found the DKP distasteful and may have avoided eating it.

Searle submitted 13 tests to try to establish that aspartame would not cause genetic damage. Memos in the public record show that the FDA scientists who initially reviewed the tests found serious deficiencies in all of them, describing three as "incomplete individually and collectively." Nevertheless, 1980 Public Board of Inquiry documents showed that although FDA officials acknowledged numerous problems with the tests, they decided that all the tests were good enough to rely upon in establishing the safety of aspartame.

Common Cause Magazine asked Dr. Marvin Legator, professor and director of environmental toxicology at the University of Texas medical branch in Galveston to review the FDA's reviews of the tests Searle submitted. Legator helped pioneer mutagenicity testing at the FDA, where he worked from 1962 to 1972. Although Legator says he has "no reasons to suspect that aspartame would be active," he says all the tests are "scientifically irresponsible" and "disgraceful."

"I'm just shocked that that kind of sloppy [work] would even be sent to FDA," and that FDA administrators accepted it, he says. Legator adds that "there is no reason why these tests couldn't have been carried out correctly. It's not that we are talking about some great scientific breakthrough in methodology."

In documents submitted to the 1980 Public Board of Inquiry, Searle said the tests were "adequate screening tests for mutagenicity." FDA would not comment on the tests because of pending litigation to get a public hearing regarding aspartame's approval.

In 1973 the FDA's Bureau of Foods asked the Bureau of Drugs to evaluate 10 tests on humans (called "clinical tests") submitted by Searle to determine "whether safety problems might be anticipated should this sweetener be marketed for general use." Memos found in the public record show that Dr. Martha Freeman, then of the FDA's Bureau of Drugs, concluded that "the information provided is inadequate to permit an evaluation of potential toxicity of aspartame."

Although the FDA does not require clinical testing for proposed food additives, Freeman recommended that "marketing for use as a sweetening agent should be contingent upon satisfactory demonstration of clinical safety of the compound," which she said would require more rigorous testing.

In an interview, Freeman said she made the recommendation because aspartame was an unknown substance whose toxicity was not known. "In general I think [unknown substances] should be more closely monitored than is currently done for food substances."

The Bureau of Foods rejected her recommendations and has continued to cite these 10 studies along with others conducted later as evidence of safety in humans.

The FDA opposed letting two critics—consumer attorney Turner and Dr. John Olney, professor of neuropathology and psychiatry at Washington School of Medicine in St. Louis—raise questions about the quality and validity of some of Searle's tests when the 1980 Public Board of Inquiry was convened.

The two critics had challenged the 1974 approval of aspartame, saying they believed that the sweetner might cause brain damage. They also questioned the validity of some key tests. In a 1977 letter to Turner, the FDA general counsel said that if Turner disagreed with the FDA's conclusions about the reliability of Searle's tests, "The Public Board of Inquiry on aspartame should provide a vehicle for a definitive resolution, at least for those studies about which you are most concerned."

Yet once the board was convened, the FDA argued that the board was not the proper forum for Turner and Olney to use to bring up their questions about the quality and validity of Searle's tests. The board agreed.

MIT's Dr. Walle Nauta, head of the 1980 scientific Public Board of Inquiry appointed by the FDA to review safety concerns about aspartame, said in an interview that scientists serving on the board had "concern about the validity of a number of the [test] data" supplied by Searle and challenged by Olney and Turner. But he continued with the board inquiry because "we had absolutely no way of knowing who was right"—the Bureau of Foods or Turner and Olney. "It was a shocking story we were told," he said, referring to the history of Searle's testing, but the board had "to take the FDA's word" that the tests in question has been properly conducted.

Nauta also said in an interview that the 1980 scientific review of aspartame "specifi-

cally excluded use in soft drinks." Soft drink use, he says, "never figured in our decision making."

Nauta also said he was surprised when the FDA approved aspartame for soft drinks three years later. He says FDA officials had told him that because aspartame breaks down in solution and when exposed to heat and loses its sweetness, its use in soft drinks would be "uneconomical." Nauta said the board "definitely" would have considered other tests and factors if he had known there were plans to eventually use the sweetener in soft drinks.

According to a draft objection obtained by Common Cause Magazine, within two weeks before aspartame was finally approved for soft drink use, the national Soft Drink Association (NSDA) appeared to have had enough concerns about the safe use of aspartame in soft drinks that it considered formally submitting an objection to the approval. NSDA science director Dr. Robert McQuate says the association didn't file the objection because all safety concerns were totally resolved. But a lengthy interview with McQuate leaves a number of troubling questions.

Searle and the FDA frequently point to the fact that aspartame has been approved in more than 30 countries and by the World Health Organization as evidence it is safe; Robert Shapiro, head of Searle's NutraSweet division, confirmed that approval in these foreign countries was based "essentially" on the controversial tests also submitted to the FDA. A financial analyst with Kidder Peabody of New York estimates that including U.S. sales, Searle will sell about $600 million of aspartame world wide in 1984.

Aspartame was discovered 19 years ago, when a scientist who was working on an ulcer drug absentmindedly licked his fingers and discovered a sweet taste. When aspartame was first approved in July 1974 for use in dry foods, such as cereal and powdered drinks, saccharin was the only low-calorie sweetener on the market. There were concerns that saccharin might cause cancer, and the serendipitous discovery of aspartame seemed to be the answer to dieters' dreams: a low-calorie sweetener made from natural products.

Aspartame, which is 180 to 220 times sweeter than sugar, is composed of two amino acids—phenylalanine and asparatic acid. But it really is a synthetic compound, because it is produced by isolating and synthesizing these two amino acids from the 20 or so usually found in a complete protein. Complete proteins are large, and take considerable time to digest. Aspartame, however, is a small molecule, and is digested quickly. Therefore, phenylalanine and aspartic acid are released quickly into the bloodstream.

It was up to Searle, as federal law requires, to establish a "reasonable certainty" that it was safe to consume this synthetic compound.

The company laid out its strategy for getting aspartame approved by the FDA in a December 1970 memo. The goal: "Bring [FDA officials] into a subconscious spirit of participation" with Searle;

The FDA said "yes" in 1974, but before aspartame could go on the market, consumer attorney Turner and Washington University scientist Olney formally objected, saying they believed that aspartame might cause brain damage. A former Nader's Raider, Turner has spent a great deal of his own money and the past 10 years fighting the approval. Both Turner and Olney were particularly worried about aspartame's potential effects on children.

Olney also believes that when aspartame-sweetened foods or drinks are consumed with foods containing monosodium glutamate (MSG), a seasoning used to enhance flavors in some processed foods and Chinese food, the chances of brain damage, particularly in children, are greater.

The FDA agreed in 1974 to hold a Public Board of Inquiry composed of scientists to consider Turner's and Olney's objections. But before the board could be convened, an FDA scientist stumbled across an irregularity in a test submitted by Searle on a drug called Flagyl, which is used to treat trichomoniasis, a sexually transmitted disease. This set off a controversy about the quality and validity of tests submitted by Searle on several drugs as well as the food additive aspartame.

The FDA's Dr. Adrian Gross, who is now with the U.S. Environmental Protection Agency, recalled at Senate hearings in 1975 that when he first noted the discrepancies in the Flagyl test, none were "in any way 'alarming' at that particular point in time; they could have been nothing more than typographical errors. . . . We had no reason to suspect anything more serious than a simple error or mistake at that time."

But it took Searle two years to respond to questions about the discrepancies in the Flagyl test, Gross told the hearing. When the company finally answered, Gross found their response only raised more questions about the company's testing in general.

This led to additional investigations, and finally in 1975, then FDA commissioner Alexander Schmidt took the unusual step of appointing a special task force to investigate about 25 key tests Searle had submitted on seven products, including the drugs Flagyl, Aldactone and Norpace, and aspartame. The task force looked at 11 tests on aspartame, more than on any other individual product.

The task force report, which concluded that there were very serious deficiencies in Searle's operations and testing practices between 1967 and 1975, still lies at the heart of the controversy over aspartame's testing.

Before the task force had completed its investigation in 1976, Searle had submitted the vast majority of the more than 100 tests it ultimately gave the FDA in an effort to get aspartame approved. These included all tests ever described as "pivotal" by the FDA. About half the pivotal tests were done at Searle; about one-third were done at Hazleton Laboratories. "Pivotal" tests include long-term (two-year) tests such as those done to determine whether aspartame might cause cancer. Former FDA commissioner Alexander Schmidt said in a recent interview that if a pivotal test is found to be unreliable, it must be repeated "Some studies are more important than others, and they have to be done impeccably," Schmidt said.

Critics such as Turner say—and indeed the public record shows—that when the FDA approved aspartame in 1981, the agency had not successfully explained how the serious problems with the tests done during this period—including some pivotal tests—were reconciled with its decision to rely on a number of these tests.

Lead investigator Philip Brodsky, described in the 1975 task force report as "one of the FDA's most experienced drug investigators," recalled in an interview that he had "never seen anything" as "bad" as Searle's testing. " I wouldn't want to rely" on those tests "for making a decision about the products," he said; there were "too many errors."

When the task force submitted its report in March 1976, it reached some very serious conclusions. The investigation brought into question all of Searle's testing between 1967 and 1975, former FDA commissioner Schmidt said in congressional hearings, including pivotal tests eventually used as the basis for the 1981 and 1983 approvals of aspartame. The task force's conclusions, which were endorsed by Schmidt in congressional hearings, included the following:

"At the heart of the FDA's regulatory process is its ability to rely upon the integrity of the basic safety data submitted by sponsors of regulated products. Our investigation clearly demonstrates that, in the G. D. Searle Co., we have no basis for such reliance now."

"We have uncovered serious deficiencies in Searle's operations and practices which undermine the basis for reliance on Searle's integrity in conducting high quality animal research to accurately determine or characterize the toxic potential of its products."

"We have noted that Searle has not submitted all the facts of experiments to FDA, retaining unto itself the unpermitted option of filtering, interpreting, and not submitting information which we would consider material to the safety evaluation of the product."

"Finally, we have found instances of irrelevant or unproductive animal research where experiments have been poorly conceived, carelessly executed or inaccurately analyzed or reported."

"While a single discrepancy, error or inconsistency in any given study may not be significant in and of itself, the cumulative findings of problems within and across the studies we investigated reveal a pattern of conduct which compromises the scientific integrity of the studies. We have attempted to analyze and characterize the problems and to determine why they are so pervasive in the studies we investigated."

Investigators who looked at four chronic (i.e., long-term exposure) toxicity studies and one acute (short-term exposure) toxicity study found numerous discrepancies and problems with each of the five pivotal tests. They concluded that in all five studies, "the housing and control of animals was not adequate to insure the validity of the studies." According to documents submitted to the 1980 Public Board of Inquiry, the FDA Bureau of Foods used two of these as the basis for its conclusion that aspartame is safe.

Searle described the report of the 1975 task force as "incomplete, inaccurate in some instances" with "prematurely drawn and misleading conclusions."

At Senate hearings in 1976, Searle defended its testing, saying that it "believes that the scientific validity of the basic conclusions of its animal studies, and thus the safety of its products, has not been affected." The testing problems of Searle and others, however, led to the establishment of the FDA's Good Laboratory Practices regulations, which are now required industrywide for tests that will be submitted to the FDA.

The FDA found errors and omissions so serious on several tests—including two aspartame tests—that in January 1977 FDA general counsel Richard Merrill wrote a 33-page letter requesting that the then Northern District of Illinois U.S. Attorney, Samuel K. Skinner, convene a grand jury. One of Merrill's charges: "Concealing material facts and making false statements in re-

ports of animal studies conducted to establish the safety" of aspartame.

What happened to the probe? Dan Reidy, of the U.S. Attorney's office, says he can't discuss the issue at all because "once we use the grand jury investigation, we are bound by law to secrecy."

A Searle spokesperson says the grand jury investigation was dropped because there was "no validity to charges" of wrongdoing. Searle was "exonerated," the spokesperson said.

Task force lead investigator Philip Brodsky was surprised Searle officials weren't indicted. "I thought surely they would prosecute them," he told Common Cause Magazine. Former FDA commissioner Schmidt said in an interview that "my understanding was that the Justice Department didn't feel there was sufficient evidence of willful wrongdoing. It's hard to bring a criminal indictment on the basis of sloppiness."

Plagued by troubles, Searle, in the spring of 1977, hired Donald Rumsfeld, a former Member of Congress and secretary of defense in the Ford administration, as its president. He was brought in, a company official told one reporter, because Searle "wants someone with a Boy Scout image and Rumsfeld certainly has that."

For his part, Rumsfeld issued a statement saying he "was mindful of the challenges" that lay ahead. Within six months after Rumsfeld had taken over, industry analysts quoted in The Wall Street Journal said that Searle, whose fortunes had been falling, was "a 'likely turn-around candidate' this year because of the new chief executive's actions so far."

"Like any good politician," the article went on to say, "Don Rumsfeld keenly understands the importance of a public image. So, he has been mending fences with the FDA by personally asking top agency officials what Searle should do to straighten out its reputation."

In fact, "Our whole relationship with the FDA has improved," Westley M. Dixon, then Searle's vice chairman, told the Journal. He added that without Rumsfeld, "We wouldn't have gotten approval of Norpace," a drug that was also investigated by the 1975 FDA task force.

But approval for aspartame, a product that Shapiro says has been an unprecedented success for Searle, was still hanging in the balance. By the end of 1978, however, the picture began to brighten. The Journal reported that the Justice Department and a federal grand jury had dropped the investigation of Searle's animal testing.

The grand jury probe, triggered by findings in the 1975 investigation, was not intended to answer questions about whether all Searle's tests on aspartame were valid. The grand jury would only have determined whether there was enough evidence that Searle officials knowingly misrepresented findings to the FDA to prosecute those officials.

While the grand jury investigation was in progress, the FDA's Bureau of Foods still had to determine whether Searle's tests were valid. At this stage, the FDA had the option of requiring Searle to repeat, at a minimum, the pivotal tests. By repeating them, Searle could have presumably resolved the debate over the validity of aspartame's safety tests.

Instead, in 1977, the FDA decided to have another special task force look at three of Searle's pivotal tests. An internal FDA memo says this decision came after Searle and the FDA reached an impasse in negotiations concerning a proposal to have a group of pathologists from the Universities Associated for Research and Education in Pathology (UAREP) review a number of pivotal tests.

The results of this second special FDA investigation, known as the "Bressler Report" after team leader Jerome Bressler, revealed a number of problems with three pivotal aspartame tests.

For example, in one pivotal long-term rat study using DKP, an aspartame breakdown product, the scientists reviewing the Bressler Report found that "the question of whether the rats' diet was homogeneous cannot be conclusively resolved. Although there is no doubt that the animals ingested the DKP, it cannot be determined with certainty whether the intended doses were in fact ingested."

There were a number of reasons to question whether the feed had been properly mixed with the DKP. The FDA team found that "no homogeneity tests were performed on any batches of diet mix" used in the study. The team also found memos on two reports which said, "These samples were not homogeneous."

More evidence of concern: The Bressler Report also says that when FDA scientists were interviewing personnel about two other tests, a former Searle employee, Raymond Schroeder, volunteered that "homogeneity may have been a problem in the DKP mixtures." In a follow-up phone call, the report says, Schroeder said he had seen the DKP mixtures and that "in his opinion, the particles of DKP were large enough to allow the rats to discriminate between the DKP" and the food.

But the third time the FDA interviewed Schroeder, "he seemed reluctant to make any positive statements," saying that after thinking about it, he was no longer sure about his previous statements to the investigators.

When contacted by Common Cause Magazine in May, Schroeder said he "hadn't really worked on" the test in question, nor did he recall volunteering information that the feed wasn't homogeneous. Relevant parts of the report were read to Schroeder to refresh his memory. Did the FDA scientists fabricate these conversations? "I'm not saying they're making it up," Schroeder replied, but "I don't recall being that emphatic."

Team leader Bressler told Common Cause Magazine recently that "you don't have to be brilliant to know" that "it was a lousy study; it was a sloppy study." Bressler also recalls there were indications that the rats may have found the DKP distasteful and therefore not eaten it.

Former FDA toxicologist Dr. Jacqueline Verrett, one of several scientists asked by the FDA to review the Bressler Report findings, also said in an interview, "There's no question about it, it was a lousy study." She agreed with Bressler that the "question about the homogeneity of the [rats'] diet was a serious one."

Some FDA officials were apparently so concerned by the findings that they recommended that the FDA ask UAREP, which eventually reviewed 12 pivotal tests, to look at this study along with two others the Bressler team had investigated and found problems with.

FDA officials refused, saying that although the suggestion had "merit," the UAREP review wasn't necessary, an internal FDA document shows.

The Bressler review marked the second time the long-term DKP pivotal study had gotten a hard look. The 1975 task force investigators also found a number of problems and discrepancies with this study. The task force concluded that in this test—as in several others—"the housing and control of animals was not adequate to insure the validity of the studies," that treatment mixtures were not tested to see whether they were homogeneous, and that there were discrepancies in the protocols.

In addition, the report of the 1975 task force also said investigators were stumped by this incident: Although one Searle scientist had submitted a written evaluation of a tissue mass supposedly found on one of the rats, a technician had reported that he couldn't find a mass in the bottle.

The investigators said they asked the pathologist whether the missing tissue mass might be in another bottle. According to the report, the pathologist said that at the time the animals were sacrificed, "you should have seen things when this study was run—there were five studies being run at one time—things were a mess!"

FDA officials and Searle defend the study, saying that although there may have been problems, the study was still valid. Both the FDA and Dr. Daniel Azarnoff, president of Searle's research and development division, say one of several indications that the rats ate the required amount of DKP is the fact that a statistically significant number of rats developed tumors in their wombs (called "uterine polyps").

FDA officials asked several outside scientists to determine whether the uterine polyps were precancerous. The scientists decided they were not; therefore, the FDA said, there was no cause for concern.

But Turner and Olney see it differently. They say the fact that the rats developed polyps—precancerous or not—is an indication that DKP may pose health concerns. "Are you going to tell the American public, 'Well, don't worry, it's not going to cause cancerous polyps, all it's going to do is cause benign polyps?'" Turner says.

Turner and Olney say the fact that the rats got uterine polyps at what could have been very low or uneven doses of DKP is even more cause for concern. They say it is not unreasonable to assume that the rats could develop cancerous polyps at higher doses.

Despite the problems found by the Bressler team with this DKP test and the two others reviewed, the FDA decided to proceed with its plan to have the group of university pathologists review 12 other pivotal studies rather than making Searle do the studies again. UAREP's mission was to examine lab notebooks, recalculate tables and look at Searle's interpretations of microscopic slides to determine whether the information corresponded to what was reported to the FDA.

Like the 1975 task force investigation, this review also lies at the heart of the current controversy over Searle's aspartame tests. And like the report of the 1975 task force, the UAREP report raised as many questions as it answered. Although the FDA has tried to use this review as evidence that the questionable studies are valid, our investigation shows that the UAREP review does not establish the Searle tests are valid.

In the words of commissioner Hayes in his 1981 decision, UAREP was to "make sure that the studies were actually conducted." The pathologists were specifically told that they were not to make a judgment about

aspartame's safety or to look at the designs of the tests. Both Olney and former FDA commissioner Schmidt said in interviews that examining the design of a test—that is, ascertaining whether it actually does what it purports to do—is one of the key factors in determining whether a test is valid.

Why did the FDA choose to have pathologists conduct an investigation when even some FDA officials acknowledged at the time that UAREP had a limited task which would only partially shed light on the validity of Searle's testing? The answer is not clear.

Dr. Kenneth Endicott, director of UAREP, said in an interview that the FDA had "reasons to suspect" that Searle's tests "were not entirely honest." Because the FDA "had doubts about [Searle's] veracity," Endicott said, officials wanted UAREP "to determine whether the reports were accurate."

FDA scientist Dr. Adrian Gross, in a letter to an FDA official, said, "speaking as a pathologist," it seemed questionable that the group could do the kind of comprehensive investigation that was required. He pointed in particular to a variety of issues that needed to be investigated. He said some of these would involve closely questioning administrators and lab technicians about their practices. Since many important issues that should be investigated "have nothing to do with pathology," he said, only trained FDA investigators were qualified to do a comprehensive evaluation of the testing.

Consumer attorney Turner also raised concerns, saying he was "unnerved" by the UAREP plan. That was when FDA general counsel Richard Merrill wrote Turner saying that if he disagreed "with FDA's conclusions on these issues, the Public Board of Inquiry on aspartame should provide a vehicle for a definitive resolution, at least for those studies about which you are most concerned."

Meanwhile, an interview with Endicott indicates that Adrian Gross was right: the pathologists couldn't—and didn't—carry out a comprehensive review. UAREP determined that Searle had not lied about the test data, but UAREP didn't do a searching investigation of how the tests were conducted.

As former FDA commissioner Alexander Schmidt put it in a recent interview, UAREP looked at the slides to determine whether they had been misrepresented, but didn't look at the conduct of the experiments in depth. The 1975 task force investigation looked at the conduct of the experiments in depth, but did not look at the slides.

In an interview, Endicott agreed that UAREP's conclusions did not mean the tests were valid. Although UAREP did comment on issues such as protocols, food consumption and the handling of data, Endicott said, "there were lots of other opportunities for error"—errors that would not have been in the record UAREP reviewed. "We could only look at what was there—the tissues," he said. In fact the 1975 task force had looked at a number of these other areas and had found Searle's testing wanting.

What other aspects of testing are important to the validity of a test?

Are laboratory practices important?

"Oh yes," Endicott said. The UAREP report said it had no way of evaluating lab practices when the studies were conducted.

But the 1975 task force investigation had revealed such serious problems with lab practices at Searle and other companies in the late '60s and early '70s that the FDA was prompted to develop detailed regulations on good laboratory practices, which all laboratories submitted tests to the FDA must now follow. Searle indirectly seemed to acknowledge its problems by developing its own laboratory practices regulations and providing a draft for the FDA to use in developing its industry-wide standards.

Is the quality of the personnel important?

"Oh, yes, very important," Endicott said, especially the credentials of the "senior people." The UAREP report said the pathologists didn't have enough information to evaluate the quality of the personnel.

The 1975 task force, however, did raise concerns about the quality and training of personnel. Pointing out that studies in reproduction and teratology (fetal damage) are an "extremely important phase in safety evaluation," the report says that "the person [at Searle] responsible for most of the reproduction studies reviewed was apparently inexperienced in conducting studies of this nature and yet given full responsibility at Searle with a title of senior research assistant in teratology. His prior experience was one year's employment with the Illinois Wildlife Service, where his work involved [the] population dynamics of the cotton tail rabbit."

The report continued: "When asked by investigators during an interview what qualifications or training he had for conducting reproduction and teratology studies, he replied that shortly after his employment he went to a meeting of the Teratology Society, and Searle provided him with any books on the subject he wanted. This individual wa also responsible for the training and supervision of a research assistant and two technicians." By the end of 1975, Searle had submitted 18 studies relating to reproduction and teratology.

Is animal care important?

"Oh yes, very important? Endicott said. "The main thing to guard against is introducing an error into the results because of improper animal care."

UAREP said it couldn't possibly evaluate animal care facilities at the time the tests were done, but noted that since 1968, Searle facilities had been approved by the American Association of the Accreditation for Laboratory Animal Care.

However, the 1975 task force said that although it also had no way of evaluating animal care facilities at the time the tests were done, the investigators found "poor practices" at Searle in October 1975. For example, they found that an exterminator hired to spray the animal rooms with insecticides twice a month used a fogging machine for two or three minutes without removing the animals from the rooms. "Evidence indicates this practice has been in effect at least since 1970," the report said. The investigators could find no evidence that treatment mixtures used in the studies had been tested for pesticide content.

Does the diet deteriorate in storage? Is it important that the test substance be uniformly mixed in the animal feed?

"That's very important. You might vary the dose," Endicott said.

The 1975 task force reported that in studies conducted by Searle and its major contractor, Hazleton Laboratories Corp., "little concern was evidenced for the need of proper quality control of homogeneity, concentration or stability of the active ingredient-diet." The report said that because of inadequate practices at both Searle and Hazleton, "there is *no* (italics theirs) way in which it can be assured that animals received the intended dosages."

UAREP reinforced these points in its report. Noting that the stability (the extent to which it deteriorates in storage) of aspartame and DKP are "obviously important to any interpretation of the results of these studies," the university scientists reported that some records indicated that the stability of aspartame was "uncertain." Furthermore, "to UAREP's knowledge, no samples were analyzed for stability of [aspartame] or DKP, or uniformity of mixing." Hazleton Laboratories told UAREP that "Searle did not request such tests."

UAREP offered to carry out "an independent analysis on the mixing characteristic," the report says, but Searle "declined" the offer.

At this point, the FDA was left with the following issues:

The 1975 task force had looked at a number of the pivotal tests and raised questions about all of Searle's tests—including the vast majority of the aspartame tests—done between 1967 and 1975.

The Bressler team had reviewed three pivotal tests and found a number of problems with those tests.

The designs of the tests apparently had not been reviewed by the Bureau of Foods since the tests have been submitted for the 1974 approval. The 1975 task force said it found problems in the designs of some aspartame tests.

UAREP had verified that 12 pivotal tests had been conducted, and that few, if any, of the discrepancies that the pathologists found would have changed the statistical results of the test. UAREP says it was told by both Searle and FDA not to evaluate the designs so "any interpretation of results applies only to the experiments as designed." UAREP also did not take responsibility for a number of aspects important to the way the studies were conducted—including animal care, lab practices and homogeneity of feed. UAREP also said its conclusions "are not necessarily representative of other Searle studies."

The FDA's Bureau of Foods relied upon a number of tests called into question by the 1975 task force investigators which were not reviewed by either the Bressler team or UAREP, according to 1980 Public Board of Inquiry documents. That leaves questions about how the FDA determined they were valid.

How did the FDA take all these factors into account when it decided that the tests were good enough to rely upon?

Our investigation found no evidence on the public record that the FDA successfully reconciled these factors.

In his 1981 decision approving aspartame for dry foods, Hayes argued that because the 1975 task force investigation "only peripherally" involved aspartame, it was "superceded" (sic) by the UAREP review of the 12 pivotal tests and the Bressler review of three other tests. In an interview, Sanford Miller, chief of the FDA's food safety division, also made this argument. But Hayes and Miller appear to be wrong. The 1975 task force investigation looked at 25 tests involving several drugs and aspartame. The task force looked at 11 pivotal aspartame tests, so it seems safe to say that aspartame was not a "peripheral" part of the investigation.

And who checked the Searle tests to see whether their designs, which are crucial to an evaluation, actually measured what they purported to measure? FDA official Dr. Anthony Brunetti says the FDA didn't need to check the designs of the tests because they

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had already been checked when the tests were first submitted for the 1974 approval of aspartame.

But Turner and Olney point out that because the conduct of Searle's tests had been seriously questioned by the 1975 task force, there is no reason that the designs of Searle's tests checked in 1974 should be considered reliable.

Asked whether he knows how the report of the 1975 task force was taken into account, Dr. Daniel Azarnoff, president of Searle's research and development division, replied, "I guess that was done by the FDA."

It seems reasonable to assume that if the FDA did resolve these questions in a deliberative fashion, there would be some written record or report. Yet the FDA has never brought forward any document to answer the questions that have been raised in various forums over the years—including the courts.

Nevertheless, the FDA decided the studies could be relied on, and then submitted them for the Public Board of Inquiry's review.

The 1980 Public Board of Inquiry was held because the FDA is required to have substantive objections to the approval of a food additive or drug reviewed. Ordinarily, public hearings are conducted by administrative law judges, but Turner and Olney had agreed with the FDA's suggestion to try something new: have scientists act in the capacity of judges. All parties—Searle, the FDA, and Turner and Olney—had a say in choosing the three scientists who served on the board.

The questions before the Public Board of Inquiry included:

Could aspartame cause cancerous brain tumors?

Could aspartame—either alone or in combination with MSG—cause brain damage resulting in mental retardation, endocrine dysfunction or both?

Turner and Olney argued that aspartame had not been proven safe. They were particularly concerned that the sweetener could expose people—especially unborn children and infants—to a considerable risk of brain damage leading to either mental retardation or endocrine dysfunction or both. Searle and the FDA's Bureau of Foods argued that aspartame had been proven safe.

Although Turner and Olney participated in the 1980 Public Board of Inquiry, they were not allowed to present their concerns about the quality and validity of the tests, including the pivotal tests.

Even though the FDA general counsel had said in 1977 that this should be the appropriate forum in which to raise these questions, Dr. Walle Nauta, head of the board, refused to allow questions about how the tests were conducted.

Nauta said he believed the board's job was to interpret the results of tests. He said the board had to assume that the tests had been well-conducted. Although Turner and Olney maintained that there were still major questions about the validity of the tests, the FDA and Searle argued at the Public Board of Inquiry that UAREP's review had validated the tests.

In an appeal to the FDA commissioner following the report of the 1980 Public Board of Inquiry, Turner wrote, "The entire argument that since the studies are no longer considered fraudulent by FDA they are therefore scientifically valid is an example of a rhetorical shell game that, if successful, can only bring discredit and ridicule on the FDA."

Was Nauta concerned about the questions Turner and Olney raised about the testing? In an interview in April with Common Cause Magazine, Nauta acknowledged that he was. He said the "general tenor" among board members was "one of worry" about the validity of the test data. "There was considerable concern," he said. "It was a shocking story we were told," about the history of Searle's testing, but "there was no way we could go after it. We had absolutely no way of knowing who was right. We had to take the FDA's word." So Nauta allowed the scientific inquiry to continue, based on an assumption that the tests were valid.

Olney tried to tell the board that he believed there were serious, unresolved questions about some of the pivotal tests—especially three brain tumor tests later used by commissioner Hayes in his decision that aspartame is safe. Tipped off by an FDA employee, Olney had filed under the Freedom of Information Act for a copy of the Bressler Report, done by the special team of FDA investigators and scientists. The team had reviewed three pivotal tests in 1977, before UAREP began its study. The Bressler Report raised questions about whether the rats in one key test—a test supposedly helping to prove aspartame does not cause brain tumors—had been fed sufficient amounts of the test substance, DKP, a breakdown product of aspartame.

Olney was incredulous when he found out that the FDA had never made this report part of the record to be reviewed by the board. In trying to make his case that the quality of the tests should be reviewed, he told the board there are "a number of disturbing irregularities and research deficiencies revealed in the Bressler Report, but I shall focus on a single item, a Polaroid picture of a feed mixture in which the test compound was so poorly integrated into the feed that a chemistry technician at Searle had to re-grind the feed mixture herself every time it was brought to her for assay [measuring]." Both Searle and the FDA say the photograph is evidence the problem was discovered and corrected.

Olney also told the 1980 Board of Inquiry that there were—among other concerns—serious questions about two other studies done to determine whether aspartame might cause brain tumors. These studies were later used in commissioner Hayes' decision that aspartame is safe. The first test, Olney says, "revealed a very high incidence of brain tumors, all confined to animals who were fed aspartame." A second test, "known to have been conducted under conditions considered 'sloppy at best,' continued to reveal exceedingly high brain tumor rates, but with the incidence perfectly balanced between experimentals [rats that consumed aspartame] and the controls [rats that didn't eat aspartame]."

Olney said it is unusual for the strain of rat used in the experiments to develop spontaneous tumors (that is, to have tumors develop without being exposed to a test substance). That's why Olney was surprised to find that the control rats in the second group experienced a high number of brain tumors. He suggested that there was evidence in the UAREP report that the controls in the second test may have been accidently exposed to aspartame, thus invalidating the test.

"Because there is reasonable basis for suspecting that such mixups could have occurred in the Searle tumor studies," Olney said, "these studies should be repeated."

The Public Board of Inquiry agreed that the tests results were "bizarre," and recommended that another long-term test be conducted. But in his 1981 decision overruling the board, Hayes said he believed both the board and Olney were wrong about the incidence of spontaneous brain turmors in the strain of rats used. Olney said in a recent interview that Hayes' reasoning was "aribitrary" and "irresponsible."

Hayes also said Olney's theory that both groups of animals in the second test may have been fed aspartame was "speculation."

Our investigation also turned up questions about the second test, in which both control and experimental groups got high incidences of brain tumors.

A Dec. 8, 1975 task force memo obtained by Common Cause Magazine states that this lifetime toxicity study in rats was "the most pivotal" of the tests being investigated by the 1975 task force because "it was designed to show the no-effect level" of aspartame. According to the memo, Richard Ronk, deputy director of the FDA's food safety division, said that if we were not possible to "reconstruct the tables from the raw data on the key study," then the FDA "would recommend revocation of the [Searle] petition" that aspartame be approved.

When UAREP reviewed the study, its report said that it has been "difficult to reconstruct and document the progression of the changes of the experiment. . . . This task was complicated by the fact that written instuctions requested all earlier versions of protocols [research plans] be destroyed as they were updated."

When these comments were read to Ronk recently, he noted that UAREP said it was "difficult" not "impossible" to reconstruct the test. Asked how UAREP's difficulties were reconciled, Ronk said, "I'm not going to express an opinion" because questions about aspartame's approval are now in the courts.

Without considering questions raised by Turner and Olney about the validity of the tests, the Public Board of Inquiry reached a decision. The board determined that aspartame—either alone or in combination with MSG—wouldn't cause brain damage or neuroendocrine regulatory dysfunction. Both Turner and Olney disageed with this finding. But the board decided that there were too many unresolved questions about brain tumors, and recommended that another long-term test be conducted before aspartame was approved.

Both the FDA Bureau of Foods and Searle disagreed with the board's findings on brain tumors and concluded that aspartame was safe and should be approved. The final decision was in the hands of the FDA commissioner. In the fall of 1980, Searle filed suit in federal court in Washington, demanding that the FDA commissioner, then Dr. Jere Goyan, speed up the final decision.

And on January 16, 1981, just days before Reagan's inauguration, Searle wrote Goyan, President Carter's FDA commissioner, asking him to make a decision on aspartame before leaving office. "The aspartame proceeding has dragged on for more than six years. Searle has on numerous occasions expressed its concern over the inordinate delay and has pointed out the substantial expenses and erosion of our patent protection associated with the dalays." (In December 1982, Congress passed a law permitting Searle to extend its patent, which is now scheduled to expire in 1992.)

Goyan left office without deciding, and Arthur Hull Hayes took over as commissioner in April 1981. A group of FDA scientist had been assembled to review the aspartame

data and to make recommendations. Two FDA officials have told Common Cause Magazine that Hayes made it clear from the beginning that he wanted to push aspartame forward, in part as a signal that the Reagan administration was ushering in a new era of regulatory reform. Hayes refused to be interviewed for this story.

Hayes adopted the Public Board of Inquiry's decision that aspartame wouldn't cause brain damage.

But the brain tumor issue was a different story. An FDA source says questions regarding the validity of some of the tests being relied upon, especially brain tumor tests, brought to the attention of those close to Hayes, but "the people at the top were not receptive."

Instead, a source says, the scientists advising Hayes were encouraged to concentrate on arguments that could be used to overturn the Public Board of Inquiry's recommendation that aspartame not be approved because the brain tumor issue had not been resolved.

Despite what one FDA official described as "very serious" questions about some of the key brain tumor tests discussed at the time, Hayes overruled the board in July 1981 and approved the use of aspartame in dry foods. Accepting the Searle tests as having been conducted properly, he said he disagreed with some of the board's analysis on the brain tumor issue and he believed the board had made some erroneous statistical assumptions that change the interpretation of some test results.

The board had recommended that another long-term study on brain tumors be conducted, and Hayes pointed to a test that had just been completed by an aspartame manufacturer in Japan. However, Hayes acknowledged in his 1981 decision that he had only a "preliminary report" of the test and that it had not been reviewed in depth by the FDA. "Taking the available information at face value," he wrote, "this [test] appears to be negative in terms of brain tumors." He described the test as "additional evidence" which did not serve "as a central basis for my decision."

But an FDA source said that in fact the Japanese study figured prominently in Hayes' decision-making process, even though he claimed it had not.

This source says FDA lawyers assigned to write Hayes' decision phrased Hayes' comments on the Japanese study very carefully. Legally, Hayes could not use this test as a basis for his decision because it had not been reviewed in detail by the board or the FDA. One FDA source says that even though Hayes could not say the Japanese study was a basis for his decision, he wanted to hold it out as satisfying the call by the Public Board of Inquiry for another long-term test.

It appears that the strategy has worked. When Common Cause Magazine asked two members of the Public Board of Inquiry why, as reported in the press, they had agreed with Hayes' decision to overrule them, they both initially answered it was because of the additional evidence—the Japanese study. In interviews, Dr. Walle Nauta and Dr. Vernon Young, both of MIT, seemed to be under the impression the Japanese study figured prominently in Hayes' formal decision to approve aspartame. When Nauta was told that Hayes wrote in his decision that the Japanese study was not the basis of his decision, Nauta replied, "That's news to me." Young said, "If that's the case, I've been somewhat misled."

Nauta, who was chosen by the FDA to serve on the board, then said the statistical errors "should have been enough" for Hayes to overrule the board. Young then said he nevertheless agreed with Hayes' decision because of the additional study and the powerful arguments made by Searle in response to the Public Board of Inquiry decision. Young, who had been recommended by Searle as one of the board members, said his views are based on the assumption the tests were conducted properly.

The third board member, Dr. Peter Lampert, professor and chairman of the Department of Pathology at the University of California, San Diego, was out of the country, but an assistant said Lampert did not agree with Hayes' decision. Lampert had been chosen to serve on the board by Turner and Olney.

Two years after Hayes approved aspartame for use in dry foods and two months before he left office, he approved aspartame for use in soft drinks, again citing some of the same controversial tests done before the end of 1975.

Nauta told Common Cause Magazine he was surprised. He said the Public Board of Inquiry's decision "specifically excluded use in soft drinks." He "definitely" would have wanted to look more closely at other tests and factors if he had known soft drink use was being anticipated. But he says that at the time of the 1980 Public Board of Inquiry, FDA officials led him to believe that soft drink use was unlikely because aspartame breaks down in solution and loses its sweetness when exposed to heat, so use in soft drinks would be "uneconomical."

Aspartame breaks down into chemicals such as DKP and methyl alcohol. The FDA says this poses no safety concerns. Turner and Olney and others disagree. (See page 32.)

Nauta also said questions raised by MIT's Dr. Richard Wurtman after the 1981 Public Board of Inquiry and prior to soft drink approval should not be dismissed without "extensive testing." Wurtman says his preliminary tests indicate that large amounts of aspartame, especially when consumed with carbohydrates, may affect brain chemistry and therefore behavior. Given consumer complaints, Nauta said, "Dr. Wurtman may be right;" aspartame "may be harmful in the long run."

Hayes and the FDA's Bureau of Foods disagreed, saying Wurtman's hypothesis is not supported by his data. The FDA is not requiring testing of Wurtman's hypothesis.

Given the questions surrounding the validity and interpretations of a number of key tests, did Hayes' decision to approve aspartame meet the legal test that a food additive is safe if there is "reasonable certainty of no harm?"

An internal FDA document says, "The statute is quite clear: The proponent of a food additive petition must prove safety. This is very important because it is quite possible that the data may fall in the 'grey area' where the food additive has not been shown conclusively to be either safe or harmful."

As a precedent, the document goes on to point out that in the case of another sweetener, cyclamates, former FDA commissioner Jere Goyan concluded that because "the data were 'suggestive' of a carcinogenic effect, though admittedly inconclusive," he could not approve cyclamates. "It is in this same 'grey' area that Dr. Olney, Mr. Turner and the Board [of Inquiry] believe aspartame falls into," the document pointed out.

Internal FDA documents reveal that some scientists advising Hayes raised serious questions that the tests did not establish a "reasonable certainty" that aspartame was proven safe.

But Hayes, as the record shows, decided that the Searle tests were good enough.

Soft Drink Use—A Continuing Controversy

When the FDA approved the use of aspartame in soft drinks last July, Dr. Walle Nauta was surprised.

An institute professor in the Department of Psychology and Brain Science at the Massachusetts Institute of Technology (MIT), Nauta had chaired a 1980 Public Board of Inquiry convened by the FDA to examine concerns that aspartame might cause brain damage or brain tumors. The board members agreed that brain damage wasn't a concern. But the board believed that it had not been established that aspartame wouldn't cause brain tumors, and therefore recommended that aspartame not be approved. The board was overruled by then FDA commissioner Arthur Hull Hayes.

In an interview in April with *Common Cause Magazine*, Nauta said the 1980 scientific review "specifically excluded use in soft drinks. We were told by the FDA that aspartame in solution has limited life. . . . We took the whole conversation to mean it was unlikely [to be considered as a sweetner] in bottles or cans."

If he had known there were plans to add aspartame to soft drinks, would Nauta have conducted the Public Board of Inquiry differently? "Definitely, yes," he said. "We certainly would have had to look at other things," such as "what happens in the breakdown process."

Nauta also said he is concerned with the issue raised by Dr. Richard Wurtman that large amounts of aspartame, especially when consumed with carbohydrates, may affect brain chemistry and therefore behavior. Wurtman is professor of neuroendocrine regulation at MIT. Nauta said Wurtman's theory, which was raised after the Public Board of Inquiry met, needs "extensive testing."

"I would think [the FDA] should be following [the issue] with great concern," Nauta said. "Dr. Wurtman may be right;" aspartame "may be harmful in the long run." The FDA has said Wurtman's hypothesis isn't supported by his data.

The FDA's approval of aspartame (marketed as NurtraSweet) for use in soft drinks last summer dramatically expanded sales. The approval has been "incredibly important," says one industry analyst, who points to a jump in U.S. sales of aspartame from $74 million in 1982 to $336 million in 1983. He says much of the dramatic increase can be attributed to soft drink use.

In light of the expanded use of aspartame with the approval for is use in soft drinks, three major concerns have arisen. There is sharp scientific controversy concerning these issues, but critics charge that the FDA:

Failed to recognize the possibility that large amounts of aspartame, especially when consumed with carbohydrates, may affect brain chemistry and therefore behavior;

Significantly underestimated aspartame consumption levels;

Failed to adequately address questions of safety raised by aspartame's decomposition products, among them diketopiperazine

(DKP) and methyl alcohol (methanol). Aspartame decomposes to these and other chemicals after sitting in liquids, particularly acidic liquids, and when exposed to heat.

WILL NUTRASWEET AFFECT BRAIN CHEMISTRY?

Those who had raised questions include the National Soft Drink Association (NSDA), which wrote a letter to the FDA in June of last year. Common Cause Magazine has also learned that NSDA considered filing an objection to FDA's approval of aspartame use in soft drinks. A draft of the objections spells out in detail several of these safety concerns, in addition to others (see related story, page 30). An NSDA official says the objection wasn't filed because all the safety concerns were resolved in the minds of NSDA officials.

But NSDA does agree with several scientists and consumer groups who believe additional research should be done to answer questions raised by Wurtman.

Wurtman, who testified in favor of aspartame before the 1980 Public Board of Inquiry—and who says he occasionally sprinkles Equal on his strawberries—does not believe aspartame should be banned. But he's worried about the significantly increased consumption posed by approval in soft drinks. As he explained in a letter to the editor in The New England Journal of Medicine last August, his "pilot studies" suggest that an increase in aspartame's use—i.e., in soft drinks—may cause "neurochemical changes that could affect behavior." Moreover, he said he found that the combination of aspartame and carbohydrates, which are found in foods such as sandwiches and cookies, increases the "sweetener's effect on brain composition."

In a June 1983 letter to the FDA, Wurtman suggested that approval of aspartame for use in soft drinks he withheld pending further tests. He pointed out that Searle "has nothing to gain from receiving FDA approval now and then finding out six months from now that the aspartame-carbohydrate combination seriously alters brain neurotransmitters in rats, or behavior in humans."

With final FDA approval imminent, Wurtman wrote the FDA in August 1983, saying while he felt "moderate levels of aspartame in the diet are likely to be safe . . .," he would feel more comfortable if the FDA would place a limit on the amount of aspartame soft drinks could contain. While most soft drinks companies are using a combination of aspartame and saccharin, they are doing so primarily because aspartame is so expensive (about $90 a pound, to saccharin's less than $4 a pound) and because it decomposes after sitting in solution or at high temperatures. There's nothing to stop companies from using 100 percent aspartame. And indeed a few products such as Squirt, Sugar-Free Hires Root Beer and Sugar-Free Orange Crush, probably are using 100 percent aspartame to take advantage of its image as a safe, low calorie sweetener, according to Dr. Robert McQuate of the USDA.

Last summer the Center for Science in the Public Interest, a Washington, DC.-based health group, echoed Wurtman's concerns in a letter to the FDA which noted, "Our organization would like nothing more than to see saccharin, a carcinogen, replaced as quickly as possible. However, it would be most unfortunate if the replacement(s) had undesirable side effects." The center recommended that Searle be "required to submit to FDA thorough studies of aspartame's effects on neurotransmitter levels and human behavior immediately."

The FDA, however, dismissed Wurtman's concerns, concluding in a 13-page letter to him that it didn't believe "additional behavioral testing in animals or man was required prior to approving its use in soft drinks." The FDA has said Wurtman's "data do not support [his] hypothesis."

Searle's Robert Shapiro also argues that Wurtman's research is insuffient evidence that aspartame alone, or when consumed in combination with carbohydrates, may cause health risks. Dr. L.D. Stegnik, professor of pediatrics at the University of Iowa, who carried out a number of studies "with humans for Searle prior to FDA approval, adds, "There's a possibility Wurtman is right, but the probability is low."

But since the law says the burden of proof is on Searle to prove to a reasonable certainty that aspartame is safe, why not wait until Wurtman's hypothesis is tested? After all, the National Soft Drink Association stated in its draft objection to soft drink approval—which was never filed—that Wurtman's hypotheses could be "resolved conclusively' in "approximately six months."

"You can always ask one additional question," Shapiro said. "Has it been tested on left-handed shorstops on Thursday afternoons in the Tropic of Capricorn after midnight?"

He says Wurtman had an opportunity to make his case; the FDA concluded he was wrong. Shapiro says he has talked to "a hell of a lot of people—doctors, scientists, whom I respect"—who believe there was no valid reason to delay approval.

Wurtman told Common Cause Magazine that before aspartame was approved for soft drinks last summer, he discussed his concerns at an NSDA meeting. He also recalls running into Howard Roberts, the NSDA vice president for science and technology, at Washington's National Airport and telling Roberts that "if you and your constituents listen to the FDA, they'll be in a pack of trouble."

Wurtman says he has recently received funding to conduct further tests.

WILL AMERICANS CONSUME MORE THAN THE FDA ESTIMATES?

The second major controversy involves questions about consumption levels. Use in soft drinks dramatically expands the availability of aspartame in the food supply. Several months after the FDA gave approval for aspartame use in soft drinks, Dr. William Pardridge, associate professor of medicine at the University of California, Los Angeles, wrote to the FDA, saying he believed it had "considerably" underestimated the consumption of aspartame.

The Community Nutrition Institute (CNI), represented by attorney James Turner, agrees and has gone to court seeking a hearing on the basis of this as well as other issues. Turner believes the FDA's underestimation of consumption levels "is going to be at the core of any problems that emerge from now on."

The FDA agrees that "the projected estimates of aspartame consumption are central to the safety evaluation." In fact, in his 1981 decision approving aspartame for use in dry foods, former Commissioner Hayes stated that "the safety assessment on the brain damage issues is tied closely to projected aspartame consumption levels."

In his decision, Hayes said the maximum projected consumption of aspartame is 34 milligrams a day per kilogram of body weight.

However, the National Soft Drink Association pointed out in a draft paper on aspartame use in soft drinks written last summer that a child weighing about 66 pounds would consume 23 milligrams of aspartame per kilogram of body weight by drinking 45 ounces of a drink flavored exclusively with aspartame. That means that a child who drank four cans of the soft drink in a day could be well on the way to hitting the FDA's maximum projected consumption.

Pardridge also believes it wouldn't be at all unusual for a person, particularly a child, to consume significantly more aspartame than the FDA estimates. In his letter to the FDA, he cites the hypothetical case of a 45-pound boy who eats a variety of aspartame-sweetened foods throughout day—cereal and orange drink for breakfast, another drink plus chocolate pudding for lunch. In the afternoon the child snacks on a soft drink and five sticks of chewing gum—all sweetened with aspartame.

Pardridge points out that the child will have consumed 31 milligrams of aspartame per kilogram before dinner, "where he might be confronted with aspartame-containing iced tea, chocolate milk, milk shakes, chocolate pudding pie, Jello, ice cream and numerous other products that will, no doubt, be created by an inventive aspartame cookery." He says it wouldn't be surprising if a child consumed 50 milligrams per kilogram of body weight in one day.

Therefore, "my question to the FDA is, what is the allowable daily intake of aspartame in milligrams per kilogram per day?"

Common Cause Magazine put that question to Sanford Miller, chief of the FDA's food safety division. He replied, "Oh, probably over 100 milligrams per kilogram. . . . I suppose we could go up to 100 milligrams per kilogram and still not have any of the faintest worries at all about what the consumption is. It's hard to pick a number and we picked a conservative one [34 milligrams per kilogram]."

He points out that the Joint Expert Committee on Food Additives, an advisory group to the World Health Organization, has recommended a higher maximum level, which is 40 milligrams per kilogram.

In his 1981 decision, Hayes said, "the available data establish" that the maximum projected consumption of 34 milligrams per kilogram is "still far, far below any level even suspected of being toxic."

So what is the toxic level? "That's hard to say," Miller observed. "In all the experiments that were done so far, including the short term human studies, no one's been able to find anything of significance except some reduction in weight gain, which isn't surprising. . . . So a no effect level can be established at a variety of different levels. To answer your question, 'What's a toxic level?' that's hard to say."

But again, Hayes' decision stated that the "safety assessment on the brain damage issues is tied closely to projected aspartame consumption levels." So what's the level at which aspartame causes brain damage?

Miller says animal studies by Dr. John Olney, a critic of aspartame, didn't show brain lesions "until you get to very high levels," which he implied humans couldn't possibly reach.

While the FDA has said repeatedly it does not believe aspartame at projected levels of consumption could cause brain damage, Pardridge says "that is not the proper question." Instead, he says the FDA should have asked if high dose aspartame use would "cause subtile changes in brain develop-

ment." He points to the possibility that women with a phenylalanine intolerance who consumed large quantities of aspartame while pregnant might give birth to infants with "a 10 to 15 percent drop" in expected IQ levels. He believes there "are 20 million individuals in the country with phenylalanine intolerance," many of whom may be unaware of their condition.

Pardridge recommended that the FDA restrict new products containing aspartame from entering the food supply "as soon as possible, until clinical and basic research allows for the reevaluation of the intended dosage and the norms for what constitutes a harmful effect of aspartame in humans."

ARE BREAKDOWN CHEMICALS SAFE?

The third controversy surrounds the decomposition of aspartame. When exposed to heat and acidic solutions, aspartame breaks down more rapidly and decomposes to chemicals such as DKP and methanol. The FDA has said that while aspartame loses some of its sweetness, there are no safety concerns.

But others, such as the Community Nutrition Institute (CNI), aren't as sure. The FDA acknowledges that aspartame breaks down in heat and/or acidic solutions but says, "any concern over possible toxic effects from DKP has been eliminated as a result of long term animal studies conducted using DKP itself as the test compound."

One of these studies, it's important to note, is the subject of a controversy of its own: A long term study to determine whether DKP causes brain tumors in rats was investigated by a 1977 FDA task force which concluded it was not certain that the rats ate the required amounts of DKP, thus possibly invalidating the test. Other FDA officials disagree, saying other evidence indicates the diet was homogeneous. This controversial long term test was one of the three tests examined at the 1980 Public Board of Inquiry to determine whether aspartame might cause cancer. (See main story for more on this controversy.)

Meanwhile, CNI and Dr. Woodrow Monte, director of the Food Science and Nutrition Laboratories at Arizona State University, charge that methyl alcohol, another breakdown product, may pose safety concerns for consumers. Monte says methyl alcohol's "chronic toxicity and carcinogenicity . . . have not been thoroughly investigated." Monte's criticisms, dismissed by Shapio as the equivalent of saying "the world is flat," have been widely reported, but Monte's outspoken criticisms of aspartame were undermined when it was revealed in The Wall Street Journal earlier this year that he and his lawyer allegedly had purchased "put" options on Searle stock shortly before Monte appeared on The CBS Evening News expressing his views. A "put" option enables the investor to profit if the stock value goes down.

DID THE SOFT DRINK INDUSTRY RESOLVE ITS SAFETY QUESTIONS?

According to a draft document obtained by Common Cause Magazine, the National Soft Drink Association (NSDA) considered filing an objection to the Food and Drug Administration's proposed approval of the use of aspartame in carbonated beverages. The draft objection was dated July 28, 1983, just two weeks before the deadline for filing formal objections.

In an interview, Dr. Robert McQuate, science director for the trade group, which represents franchise companies such as Coca-Cola and Pepsi as well as hundreds of individual bottlers, described the document as an "internal draft." He said the fact that the NSDA never filed the objection means the association resolved all the concerns it had raised in the draft objection about aspartame's safety. "I don't think it warrants a detailed defense," he said in response to questions about the document.

"The bottom line," McQuate says, "is that one, FDA approved the use of aspartame in carbonated beverages; and two, the soft drink industry has incorporated NutraSweet in about 70 percent of the diet soft drinks."

Nevertheless, the interview seemed to raise as many questions as it answered.

Neither McQuate nor Robert Shapiro, head of Searle's NutraSweet Group, who was also interviewed by Common Cause Magazine, fully explained what happened behind the scenes to turn the NSDA around. Both, however, hinted at significant maneuvering in the soft drink industry before NutraSweet was added to the soft drinks.

Shapiro, for example, scoffs at the suggestion that the industry ever had serious safety concerns. He and others suggest instead that the trade group was using the draft objection as a weapon during intense negotiations with Searle over, among other things, NutraSweet's cost. (Industry sources say Searle sells the sweetener for approximately $90 a pound, in contrast with saccharin, which costs less than $4 a pound.) As evidence, he points out that Searle and Coca-Cola thrashed out a "breakthrough agreement that defined the ground rules for NutraSweet use" close to the deadline for filing objections.

The NSDA draft petition outlines several concerns that echo criticisms made by others who think aspartame should not have been approved for soft drinks. The draft objection focuses primarily on two concerns: the instability of aspartame, which decomposes to chemicals such as DKP and methyl alcohol when in solution or exposed to heat; and concerns raised by Dr. Richard Wurtman, a professor of neuroendocrine regulation at the Massachusetts Institute of Technology (MIT). Wurtman says preliminary experiments indicate that large amounts of aspartame, especially when consumed with carbohydrates, may affect the brain's neurotransmitters and therefore behavior. The FDA and Searle disagree.

The draft objection states that Wurtman's questions are "significant because of the seriousness of the potential effects" and "because of aspartame's anticipated widespread use—use that includes consumption by potentially vulnerable sub-groups, such as children, pregnant women and hypertensives. Dr. Wurtman's concerns are shared by other distinguished scientists expert in this field." The draft objection also says the legal burden is on Searle to prove that there is a "reasonable certainty that no harm to human health will result form aspartame," and points out that it would be possible to resolve Wurtman's hypothesis "conclusively" within "approximately six months." The NSDA draft objection also says the FDA underestimated consumption of aspartame in soft drinks.

Why didn't the NSDA go forward with its objection based on the concerns raised by Wurtman?

McQuate says the issue was resolved by a 13-page response from the FDA to Wurtman saying his data didn't support his hypothesis.

Also during the interview, however, McQuate said the NSDA takes Wurtman's concerns "seriously." "I think there's a legitimate basis for his hypothesis. . . . I think it's worthy of further investigation."

Regarding the decomposition question, the draft objection states that Searle used an "inferior" analytical technique that "resulted in inadequate characterization of aspartame's decomposition products" and that there were "extensive deficiencies" in the stability studies. The draft objection also states that "under moderate conditions, extensive decomposition of aspartame may occur in soft drinks." yet Searle is unable to account for more than one third of the chemicals to which aspartame decomposes. Therefore, "judgments about the safety of aspartame in soft drinks cannot be made confidently."

How did NSDA resolve the decomposition question?

McQuate says the decomposition question was resolved when one or more of the soft drink companies did their own studies last summer that demonstrated "the breakdown would not be hazardous."

McQuate acknowledges that the studies were short term. Long term studies that might shed light on the potential effects of long term exposure to aspartame's unidentified breakdown products were not done "because that obviously would take two years just to conduct, let alone evaluate the results," McQuate says.

Have the soft drink companies made the short term studies available to the public? No, McQuate says, adding he doubts these studies would satisfy critics such as consumer attorney James Turner, who he suggests would never be satisfied with any study. Why provide "fodder" for critics? he asked. "I don't think it's in our best interest [to make the studies public]. It becomes another issue we have to defend."

If NutraSweet is safe, why aren't all the soft drink companies using 100 percent NutraSweet instead of a blend of NutraSweet and saccharin, since saccharin is known to cause cancer in rats?

McQuate says there are two reasons. First, aspartame is much more expensive than saccharin. Second, NutraSweet is known to lose its sweetness when exposed to high temperatures. Therefore, soft drinks which aren't sold expeditiously could lose sweetness and "you will have an unacceptable product."

He says he believes that companies which are using 100 percent NutraSweet—such as Squirt—are doing so as a marketing strategy that takes advantage of a public perception that saccharin isn't safe. So how has Squirt resolved the concern that aspartame breaks down in heat and loses sweetness? Squirt representatives refused to return phone calls.

Finally, McQuate won't acknowledge that saccharin isn't safe, only that it "has been shown to produce bladder cancer in male rats at high [dosage] levels."

(In 1977 the FDA proposed banning the use of saccharin in food and beverages. In response to public pressure, however, Congress said it could be used.)

Why haven't studies been done to determine the synergistic (combined) effects, if any, of blending saccharin and aspartame?

"It's a good question," McQuate answered. "I am not sure that the technology is there to do that . . . . Maybe it could be done, but I don't think it would be a simple design of an experiment. I guess, in general, you've got me thinking it's a good question."

Has Searle conducted such studies? "That's an interesting question," Shapiro

said. "I don't think so. In fact, it's the first time I've ever heard that question raised."

Notwithstanding the draft objection, Shapiro insists that NSDA never had serious concerns about safety. Instead, he says, the soft drink companies were worried about the high price of aspartame and the fact that its instability might cause some drinks to lose sweetness before they were sold. The instability "poses no safety issue whatever, but it does pose a product quality issue," Shapiro says.

He also acknowledges that Searle, which owns the patent on both NutraSweet and the NutraSweet-saccharin blend, was reluctant to let companies use the blend in part because of fears that consumers who first tested the blend would decide, "'Hey, I don't like NutraSweet,' when in fact they really would like NutraSweet—it's the saccharin they don't like."

A high level FDA official says Searle was trying to force the soft drink companies to use 100 percent NutraSweet, and in additon Searle wanted the companies to sign ling term contracts that featured regular price escalations.

So, would it be accurate to say that Searle wanted the soft drink companies to use 100 percent NutraSweet, but they balked because of the cost, and therefore used the threat of filing an objection to stop the approval as leverage in negotiatons?

"You're inferring to much," Shapiro says. "I can only say that if you were to ask people in the soft drink industry whether they have concerns as to the safety of NutraSweet as used in their product, I think the answer very clearly is no.' They have been through that kind of agony in the past," he says, referring to cyclamates, which the FDA banned in 1970, and saccharin, which FDA proposed banning in 1977. "They are not eager to go through that process again."

Does NutraSweet Cause Adverse Reactions?

In an affidavit filed in a U.S. district court last January, a woman named "Jacqueline" stated that her four-year-old son Stephen had had numerous adverse reactions to aspartame (NutraSweet)—among them headaches, uncontrollable behavior and slurred speech. The woman, whose full name was deleted in the affidavit to protect her privacy, said she had given Stephen various aspartame-sweetened products, among them Kool-Aid and Wyler's Lemonade.

Her affidavit stated that her doctor concurred that aspartame was the cause of Stephen's "aberrational behavior and symptoms," and she concluded by expressing her concern that it would be hard for Stephen, "and other children who cannot read labels for contents," to avoid exposure to aspartame in the future.

As of June the FDA acknowledged receiving about 600 complaints (most of them this year) from consumers across the country who believe they have had adverse reactions to aspartame. These complaints, which experts refer to as "anecdotal," did not follow a pattern, the FDA maintained. However, taking a step it describes as "unusual," the FDA forwarded the complaints to the Centers for Disease Control (CDC) in Atlanta, which carries out epidemiological research for the federal government. The FDA says it "hopes" the CDC's investigation will be completed this July. "We are looking at this very, very carefully," says Sanford Miller, who heads the FDA's food safety division. "We take these [complaints] very seriously.

Copies of many of the complaints, along with complaints received by Searle and by MIT scientist Dr. Richard Wurtman, were obtained from FDA by Common Cause Magazine under the Freedom of Information Act. They cite symptoms ranging from headaches, dizziness and insomnia to numbness, rashes, menstrual problems and nausea.

It is obviously harder for a person to detect a reaction to a food additive than to a prescription drug, but a number of people filing complaints said that to be certain in their own minds, they had tested their reactions by stopping their consumption and then starting it again to see whether the symptoms reappeared.

An August 1983 letter to Wurtman stated that about a half-hour after consuming an aspartame-sweetened drink made from a powdered mix, the writer "suddenly felt slightly dizzy and could not concentrate on what I was reading. The skin on my face felt itchy and my ears began to ring. . . . My heart was beating quite rapidly and I had a burning sensation in my chest. This episode lasted for about one hour." The consumer acknowledged also taking a medication called Dyazide, but said the adverse reaction had "never happened to me before, nor has it happened since" last consuming aspartame.

A mother wrote that her son broke out in hives two hours after drinking aspartame-sweentened Kool-Aid . . . A man reported that he experienced headaches, dizziness and irritability after drinking five to six bottles a day of diet soda. . . . A diabetic reported that after using four packets of Equal powder he "broke out in quarter-sized, red blotches on chest, arms and hips." . . . And another person wrote that after using Equal "I started to have waves of numbness and tingly feelings in my head." After discontinuing use of the product, the person wrote, the symptoms disappeared.

People started to write to MIT's Wurtman after he began to appear in various media reports on aspartame. Wurtman, who told the FDA in February he had received "well over 1,000" letters and "related communications" from consumers, pointed out that "most of these letters have lacked creditibility and have been discarded. However, an important number have described symptoms which seemed to bear a relationship to aspartame consumption, and which were compatible with what might be expected after an increase in brain phenylalanine levels." Phenylalanine, an amino acid, is one of the major components of aspartame. Wurtman had done some experiments which he believes indicate that large amounts of aspartame—especially when consumed with foods containing carbohydrates—may affect behavior.

Consumer attorney James Turner, who represents the Community Nutrition Institute, a public interest group, points out that a number of complaints correspond to symptoms reported in one Searle test on humans. He says the study "reported five times as many complaints by aspartame users than by the control group, including complaints of menstrual cramps, vaginal spotting, depression, alteration of menses, headaches, appetite increase and weight gain."

But the FDA says Turner is taking the study's results out of context: "The clinical study referred to . . . was only one of several clinical studies, which included normal adults and children, as well as obese and diabetic adults, conducted by [Searle] and submitted to the agency in support of its petition on dry uses of aspartame," the agency stated in turning down one of Turner's requests for a public hearing on aspartame's safety. If added, "based on an analysis of the results from all these studies, FDA concluded that there was no evidence of any consistent or obvious pattern of specific complaints from aspartame use."

Searle executive Robert Shapiro agrees with the FDA that the results of that test were not statistically significant and says he doesn't believe the complaints were related to aspartame use. Both Shapiro and the FDA's Miller point out that it's worth noting that in Canada, where aspartame has been used for three years, few people have complained to Canada's health officials. They both say that Searle's mass advertising campaign promoting NutraSweet and the media attention regarding the product and its alleged problems may have led people to believe their symptoms were associated with NutraSweet. In an interview Shapiro remarked, "I believe if we were to introduce lettuce to the market tomorrow with a big national publicity campaign, and nobody had ever seen lettuce before, and people started eating lettuce, my guess is you would get exactly the same kinds of complaints."

Shapiro readily acknowledges, however, that if there were a problem with a food product, an individual probably wouldn't know to associate a given symptom with it unless made aware of the possible connection.

By December 1983, Wurtman wrote to the FDA saying he had "received enough letters describing what may be seizures after a high dose aspartame consumption that I think you all ought to look into it systematically."

Consumer attorney Turner points out that in an experiment submitted by Searle in the early 1970s, all monkeys receiving aspartame in medium and high doses experienced grand mal seizures. FDA scientists reviewing the study in 1973 said in documents obtained by Common Cause Magazine that it was unfortunate the monkeys had not been purchased by Searle so that they could be killed and their nervous systems examined in order to learn more about the seizures. Although Searle had implied in its report to the FDA that the monkeys were unavailable for purchase, a team of FDA investigators later said this was untrue. The monkeys had been available; Searle chose not to buy them.

FDA officials were so concerned about this omission that it helped form the basis of a 1977 FDA request for a grand jury investigation of Searle. The letter requesting a grand jury stated that Searle used "very great literary license in drafting its report" on the monkey study and alleged that Searle had made "four false statements and entries" in the report.

The letter also alleged that it was "more likely" that Searle didn't buy the animals because "no post-mortem comparative data" were available, saying, "if Searle had found adverse effects, it would have had no way to show that the consequences were not attributable to aspartame. Searle did not want to take this chance." The grand jury probe was later dropped.

Searle and the FDA now agree that the monkey study was poorly designed and run and therefore invalid. In documents submitted to the 1980 Public Board of Inquiry, which reviewed aspartame, the FDA said it did not need to rely on the monkey study, which it had described in 1975 as "pivotal," in its safety evaluation. Meanwhile Searle

had commissioned another monkey study; these monkeys did not have seizures. While the FDA acknowledged at the Public Board of Inquiry that it had not subjected this study "to detailed review," it nevertheless concluded, "none of the experimental animals showed abnormal EEGs [readings of electrical activity in the brain] or seizures."

But Turner is still not satisfied. He believes the second test did not fully account for seizures in the first test and that a third test should have been done for assurance. He has argued that even if you granted that the study was poorly run, the fact that the monkeys had seizures is reason for concern. The FDA and Searle disagree.

Wurtman also believes a third study should have been done before resolving the question, although, "its sort of academic now. It's getting warm again and consumption is much greater on a hot day in August than a cold day in January." Given the increased consumption this summer, Wurtman says if there is a correlation between aspartame consumption and various complaints, "we'll know." How will we know? "If relatively large numbers of people have unpleasant experiences with neurologic functions," Wurtman responds.

Wurtman hastens to add, "I can't say if there is a problem; I can't say there isn't. But it's unfortunate to experiment on people."

He says he hopes doctors will ask patients about their aspartame consumption. Searle sent out information kits to 200,000 doctors assuring them of aspartame's safety.

Shapiro says he is "not prepared to say . . . in the absence of examining people" that a product containing aspartame might have caused a certain symptom, and "I'm certainly not prepared to say it was caused by the aspartame." (In other words, the symptom may have been caused by something else in the product.)

However, Shapiro says, "In the case of any serious complaints, you would want to do a medical workup. I am prepared to pick an independent outside science center and pay the cost of somebody getting examined to find out in fact if there is some population group which has some reactions I'd want to know about."

[Committee Report]

XII. Additional Views of Senator Howard M. Metzenbaum on S. 484

On April 2, the Labor Committee held an extensive hearing on three low-calorie, nonnutritive sweeteners: saccharin, aspartame (NutraSweet) and cyclamate. The hearing was held to assist the Committee in its deliberations on S. 484, a bill to amend the Saccharin Study and Labeling Act.

It was clear from the outset that the issues of science and safety surrounding the three sweeteners were inextricably entwined. The justification for the moratorium on the saccharin ban proposed by the FDA in 1977 had always been the fact that there were no substitutes for saccharin's principal uses. Since the introduction of aspartame (NutraSweet) in 1981, and its approval for use in soft drinks in 1983, that situation has clearly changed. The FDA's current review of cyclamate is also a key component of the artificial sweetener "equation" and one more reason that it is impossible to consider in isolation the issues of health and safety surrounding these substances.

As a result of the hearing, a number of issues became clear. First, regarding saccharin:

In 1977, the FDA estimated that saccharin could cause up to 1,200 additional cases of bladder cancer a year, assuming everyone in the U.S. consumed the saccharin equivalent of one diet soda a day. The FDA still stands by that assessment.

Two recent studies on saccharin as a carcinogen and a co-carcinogen (or cancer promoter) show the substance produces tumors in the rat at lower doses than those in the 1977 tests. The FDA used these 1977 tests to justify its proposed ban on saccharin as a food additive.

The Canadian government has seen no new evidence to cause it to reconsider its decision in 1977 to ban saccharin as a food additive in foods and soft drinks.

If the current saccharin legislation lapsed for a period of time, the product would remain on the market. The FDA Commissioner testified that, "with the most rapid action, it is 180 days to a year" before any action would be taken to remove saccharin from the market.

The original Saccharin Information and Labeling Act required warnings on products containing saccharin. These warnings cite the link between saccharin and cancer in laboratory animals. The law states:

Such statement shall be located in a conspicuous place on such label, and labeling as proximate as possible to the name of such food shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter.

It is clear that this provision of the law is being ignored. Report language acompanying this bill directs the FDA to examine the efficacy of these warnings and report to Congress on how the law is being obeyed.

Regarding cyclamate, the FDA is currently undertaking a review of the carcinogenicity of this substance. Concern had been expressed that the FDA was not going to give full consideration to other problems associated with cyclamate, i.e., testicular atrophy and genetic damage. The FDA Commissioner testified that the FDA intends to examine these issues fully and that it could be up to three years before any decision is made.

In addition, a number of concerns regarding aspartame (NutraSweet) were raised at the hearing on April 2. In July, 1984, Common Cause published an extensive investigative report on the manner in which the FDA approved aspartame. The highlights of that report include the following:

In 1977, the FDA recommended that Searle be brought before a grand jury for fraudulent tests including tests on aspartame.

The FDA Commissioner in office when aspartame was approved rejected the findings of a Scientific Board of Inquiry that recommended that aspartame not be approved pending further tests on brain tumors.

The FDA Commissioner's own in-house team of scientists split on the issue of aspartame approval. Three of the six scientists recommended against approval.

Those who say there is no reason to be concerned about the safety of NutraSweet point to a recent study of consumer complaints carried out by the Center for Disease Control. Though the CDC concluded that the consumer complaints provided no cause for removing NutraSweet from the market, they did suggest further studies in their report:

"The number of instances of persons challenging themselves several times with aspartame-containing products and reporting symptoms with each rechallenge suggests that some individuals may be sensitive. The only way to clearly determine this is through focused clinical studies. Because of the numbers of reports, the subtlety and potential seriousness of some of the manifestations, the concerns of some scientists, and the possibility that one complainant has had his symptoms of hyperactivity verified on independent exam, it would seem that the highest priority for any future investigations might be in the neurological/behavioral area, focusing on such symptoms as headaches, mood alterations, and behavior changes."

The report language accompanying this bill directs the FDA to ensure that these tests are undertaken.

At mark up, I proposed an amendment which would require the manufacturers of diet soft drinks to include on their label how much aspartame (NutraSweet) each serving contains.

I believe consumers have a right to this information given the questions which have been raised about NutraSweet and the extraordinary increase in consumption levels of this product since its introduction in 1981 (last year per capita consumption increased 66%).

The National Soft Drink Association has lobbied strongly against this proposal. However, this is the same association which, in 1983, prepared a draft legal document objecting to NutraSweet's being allowed on the market, citing serious and unresolved questions about the public health. Though that document was not filed, it indicates the organization had significant health concerns relating to the amount of aspartame consumed before this product was approved for soft drinks. The following quotes are from a document entitled "Objections of the National Soft Drink Association to a Final Rule Permitting the Use of Aspartame in Carbonated Beverages and Carbonated Beverage Syrup Bases and a Request for a Hearing on the Objections." The document is dated August 8, 1983, and was prepared by Patton, Boggs and Blow and the General Counsel for the National Soft Drink Association:

"G. D. Searle and Company has not demonstrated to a reasonable certainty that the use of aspartame in soft drinks, without quantitative limitation, will not adversely affect human health as a result of the changes such use is likely to cause in brain chemistry and under certain reasonably anticipated conditions of use."

"For these reasons, Searle has not met its burden of demonstrating to a reasonable certainty that the unlimited use of aspartame, especially in combination with carbohydrates, will not adversely affect human health. The questions posed by Dr. Wurtman are significant because of the seriousness of the potential effects (e.g., changes in blood pressure) and because of aspartame's anticipated widespread use—use that includes consumption by potentially vulnerable sub-groups, such as children, pregnant women, and hypertensives."

"Specifically, Searle has not met its burdens under section 409 . . . to demonstrate that aspartame is safe and functional for use in soft drinks."

"Collectively, the extensive deficiencies in the stability studies conducted by Searle to demonstrate that aspartame and its degradation products are safe in soft drinks intended to be sold in the United States, render those studies inadequate and unreliable."

There have been hundreds of reports from consumers around the country suggesting a possible relationship between their consumption of NutraSweet and subsequent symptoms including headaches, aberrational behavior, slurred speech, etc.

During the Labor Committee hearing on saccharin, NutraSweet, and cyclamate held on April 2, Dr. Richard Wurtman of M.I.T., testified as follows:

"The problem at present is that it is difficult if not impossible for the patient or his physician to know how much aspartame it contains . . . I believe it is essential that companies which include aspartame in their products be required to indicate on the labels (in readable print) how much of the sweetener is present in each can or serving. This simple change in labeling practice would, I believe, sharply reduce the number of consumers who believe without probable foundation that they have suffered aspartame-related side-effects. Perhaps more importantly, it would also enable physicians to identify those patients who might really have had such responses, so that such people might then undergo controlled clinical testing."

Since 1981, the FDA has attached an ADI (acceptable maximum daily intake) to NutraSweet. That ADI is currently 50 milligrams per kilogram of body weight. While an adult weighing 154 pounds would not meet that limit before he consumed 5 liters of diet soft drink, a four-year-old weighing 25 pounds would hit that limit at three cans of diet soda. Consumers have no way of knowing if they have reached the FDA limit without knowing how much is in the can. Ideally, we should have the ADI on the can as well, but it will take some time to figure out how that could be done effectively. In the meantime we should ensure that the quantity is on the label. We must start somewhere, and this is an important first step.

Many questions must be resolved concerning aspartame. The FDA should take an active role to ensure that tests are conducted to determine whether individuals, particularly children, are likely to experience side-effects from NutraSweet at current and projected consumption levels. The FDA should also run tests on how NutraSweet affects those who might be taking different types of medication.

Finally, given the serious questions which remain regarding the FDA approval process for NutraSweet, the FDA should ensure that certain key pivotal animal tests are repeated. Only when all of these questions are resolved can consumers be certain that they are receiving the full protection provided by our food and drug laws.

EXHIBIT 1

OBJECTIONS OF THE NATIONAL SOFT DRINK ASSOCIATION TO A FINAL RULE PERMITTING THE USE OF ASPARTAME IN CARBONATED BEVERAGES AND CARBONATED BEVERAGE SYRUP BASES AND A REQUEST FOR A HEARING ON THE OBJECTIONS.

(Docket No. 82F-0305]

DRAFT: JULY 28, 1983

Objection One: Searle has not demonstrated to a reasonable certainty that aspartame and its degradation products are safe for use in soft drinks. Without quantitative limitation, under temperature conditions likely to prevail in the United States.

SUMMARY OF BASIS FOR OBJECTION

Aspartame is inherently, markedly and uniquely unstable in aqueous media. In a liquid, such as a soft drink, APM will degrade as a function of temperature and pH. Higher temperatures and more acidic liquids increase the rate of degradation. Higher temperatures may also affect the degradation products which are formed. Given the circumstance of APM's unusual instability, reliable and comprehensive analyses of APM's degradation in soft drinks—both as to the rate of degradation (and the subsequent loss of sweetness) and to the confirmed identification of the major degradation products—is crucial to establish the safety of the use of APM. Without adequate identification of AMP's significant decomposition products, it is not possible to find, to a reasonable certainty, that APM is safe. The data and information submitted by Searle in support of its petition to amend 21 C.F.R. § 172.804 to permit APM use in soft drinks, however, do not demonstrate that APM is safe for use in soft drinks. These data are insufficient to establish safety because the petition lacks comprehensive, reliable and accurate analytical data on APM and the products "adversely affected" by the issuance of the regulation authorizing the use of aspartame ("APM") in soft drinks. As the national trade association representing the soft drink industry in this country, NSDA's member soft drink manufacturers and soft drink franchisers are directly and immediately affected by the issuance of a regulation which authorizes the use of a new sweetener in its products. Approximately seventy-six percent of the nation's 1600 soft drink manufacturers are active members of the Association. These members account for more than ninety percent of the soft drink production in this country. In addition, the vast majority of soft drink franchisers which manufacturer the concentrates and syrups from which soft drinks are made are associate members of the Association.

II. SUMMARY OF BASIS FOR THE OBJECTIONS

[To be added].

OBJECTIONS OF THE NATIONAL SOFT DRINK ASSOCIATION TO THE ISSUANCE BY THE FOOD AND DRUG ADMINISTRATION OF A REGULATION (21 C.F.R. § 172.804) TO AUTHORIZE THE USE OF ASPARTAME IN CARBONATED BEVERAGES AND CARBONATED BEVERAGE BASES

In the Federal Register of July 8, 1983 (48 Fed. Reg. 31376), the Food and Drug Administration ("FDA") issued a regulation amending section 172.804 of its regulations, 21 C.F.R. § 172.804, to authorize the use of aspartame in carbonated beverages and carbonated beverage bases (collectively referred to as "soft drinks"). This action was taken in response to a food additive petition (FAP 2A3661) filed on October 15, 1982 by the Searle Research and Development Division of the G.D. Searle Co. ("Searle").

In these objections, NSDA demonstrates that there exist genuine and substantial issues of fact material to FDA's amendment of its regulations to permit aspartame use in soft drinks. Specifically, Searle has not met its burdens under section 409 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 348 ("FDC Act") to demonstrate that aspartame is safe and functional for use in soft drinks. NSDA therefore objects to the Commissioner's order amending 21 C.F.R. § 172.804 and requests that a hearing as provided under section 409(f) of the FDC Act, 21 U.S.C. § 348(f) be convened.

NSDA is a party that is, within the meaning of section 409(f)(1) of the FDC Act, 21 U.S.C. § 348(f)(1), methyl ester (PM) and beta-aspartame (beta-APM).[1] (Searle FAP at 13) Only in the cases of APM and DKP did Searle use high pressure liquid chromotography (HPLC). For the other four known principal breakdown products, Searle used thin-layer chromotography (TLC).

HPLC is a far superior analytical method relative to TLC (cites) and numerous HPLC methods exist for the detection and quantification of amino acids (cites. Searle's choice of TLC over HPLC adversely affected the quality and type of analytical data generated on APM and its decomposition products in soft drinks. The unfortunate and inexplicable choice[2] of an inferior analytical technique, when superior and recognized methods are available, has resulted in inadequate characterization of APM's decomposition products.

HPLC is a practicable, well-accepted analytical method[3] which is commonly-employed by FDA. When the safety and suitability for use of a food additive such as APM with an acknowledged degradation problem (and anticipated high consumption) is under evaluation, HPLC is clearly the analytical method of choice.

TLC, on the other hand, produces good qualitative results, but is, at best, only semi-quantitative, since the quantification used is based on visual comparisons of spot sizes and intensities. (cite) Indeed, Searle itself has acknowledged the inadequacy of the analytical method that it chose, when it described, in the petition, the quantity of degradation products identified using TLC as "estimates." (cite)

The inappropriateness of using TLC as a principal analytical method is compounded by the fact that the values of APM degradation products being measured are close to the limits of detection of the method (cite).[4] Thus, the values purportedly obtained by the TLC method cannot be considered to be very precise. Finally, an important decomposition product of APM, aspartic acid (AA) cannot be detected at all using TLC.

In short, for reasons which are not apparent, the petitioner chose to use a semi-quantitative analytical method to analyze for numerous major APM breakdown products close to the limits of detection, when that method is not the best method available. The quality of the analytical data presented are, therefore, substantially inferior to those which could have reasonably been obtained.

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[1] The importance of comprehensive and reliable analyses of APM's decomposition products is demonstrated by the fact that based on the chemical structure of APM, one would not expect PM or beta-APM to be degradation products. Indeed, initially Searle did not look for either one. Other unexpected decomposition products of unproven safety could, of course, also be present when APM degrades.

[2] The availability of HPLC to detect and quantify APM's decomposition products is demonstrated by, among other things, a paper presented by three representatives of Searle. (LeVon, Mazur and Ripper, "Aspartame (APM) as a Sweetener In Carbonated Soft Drinks") (Appendix). In that paper, Searle stated that HPLC was currently used to detect APM, DKP and AP and PHE. Nevertheless, the petition does not contain HPLC-generated data for AP or PHE.

[3] Section 171.1(c) of the agency's regulations, 21 C.F.R. § 171.1(c), requires that an analytical method for detection of a food additive and substances formed in or on food because of its use be practicable and one which "can be applied with consistent results by any properly equipped and trained laboratory personnel. HPLC is clearly such a method.

[4] FN w/examples.

(b) The Searle Analyses for APM Decomposition Products are Deficient.

Aside from its choice of TLC over HPLC, the analyses conducted by the petitioner to identify and quantify the breakdown products of APM in soft drinks are plagued by numerous significant deficiencies which result in clear and unmistakeable inadequacies in the detection and quantification of the major decomposition products of APM in soft drinks. In the face of these deficiencies, Searle has not reasonably identified substances formed in soft drinks because of the use of APM, as required under section 409(c)(5)(A) of the FDC Act, 21 U.S.C. § 348(c)(5)(A). The safety of this use of APM cannot be said to have been shown to a reasonable certainty in the face of these inadequacies.

There are at least six significant deficiencies in the HPLC analyses undertaken by Searle to identify and quantify APM and DKP in soft drinks:

(a) The standards for use of HPLC to detect APM and DKP were prepared in buffered aqueous solutions. A far better technique would have been to prepare the standards using beverage matrices. The use of beverage matrices would have reduced the danger of interfering compounds coeluting with the compound of interest.

(b) Searle does not appear to have submitted to FDA to HPLC chromatograms of the blanks (unsweetened beverages); without these chromatograms, the results obtained in sweetened beverages cannot be evaluated.

(c) The chromatograms of the beverages which were submitted by Searle contain peaks which can cause difficulties with quantification. For example, the DKP in the root beer chromatograms is badly overlapped by another peak.

(d) No recovery data for DKP were presented and the precision of the DKP concentrations was only determined for standard solutions.

(e) The purity of the initial APM was not established, although it can contain at least five percent impurities, as calculated from the zero time values in Searle's studies.

(f) Searle analyzed only single bottles at any given time and temperature. This aspect of the study design fails to account for anticipated bottle-to-bottle variations. Single bottle analytical data cannot, under any circumstances, amount to a comprehensive and reliable characterization of the decomposition products of an additive with a well-known instability problem.

Likewise, the TLC analyses are deficient (these deficiencies are in addition to the inherent limitations of the TLC method):

(a) Standards for the TLC analyses were prepared in distilled water. As in the case of the HPLC analyses, the better technique would have been to prepare them in beverage matrices.

(b) Searle did not submit (and apparently did not attempt) any recovery or precision data for its TLC analyses.

(c) In the TLC analyses, only single aliquots of single bottles were analyzed at any given time and temperature, thus rendering the putative quantitative results inherently unreliable.

(d) Measurable levels of beta-APM and PM may have existed in the starting material, but were not quantified at the beginning of the analyses (presumably because they were unexpected decomposition products). Moreover, it is unclear from Searle's data how the spots on the TLC plates were identified. If, as appears to be the case, identification was based solely on the comparison of Rf values, the identifications can only be called tentative. Confirmation of the identifications by spectroscopic methods should have been undertaken. The failure to confirm these identifications undermines many of the major assumptions made by Searle throughout its analytical studies.

Collectively, the extensive deficiencies in the stability studies conducted by Searle to demonstrate that APM and its degradation products are safe in soft drinks intended to be sold in the United States, render those studies inadequate and unreliable. It is not possible on the basis of these studies to conclude that the petitioner has demonstrated that, notwithstanding its inherent instability, APM is safe for use in soft drinks. The failure of proof by Searle is even more evident, as is shown in the following section of these objections, when one considers the extent to which the decomposition products of APM in soft drinks are not known or identified.

(c) APM Decomposes Extensively in Soft Drinks Under Moderate Conditions, But Searle's Data Fail to Identify Adequately the Decomposition Products.

Notwithstanding the multiple and serious deficiencies in the stability studies conducted on APM in soft drinks, one conclusion does emerge: under moderate conditions, extensive decomposition of APM may occur in soft drinks. Moreover, a substantial portion of the decomposition products are not known. APM cannot be considered to be shown to be safe for use in soft drinks when the results of its known decomposition phenomenon—marked breakdown in liquid beverages—are not well identified.

For example, in the Searle studies, a cola beverage was kept at 30°C (86°F) for 40 weeks. (cite) In analyses conducted at that time, only fifty (50) percent (weight basis) of the original starting material was found.[5] Even if one accepts one of Searle's main assumptions about APM decomposition in soft drinks—that is, that aspartic acid (AA) is formed in amounts equal to the PHE and PM (mole basis) and that methanol is formed in amounts equal to the DKP, AP and PHE (mole basis) (cite)—the percent recovery of the original material is only increased to sixty-four (64) percent.[6] Thus, even when viewed most favorably, the analyses fail to account for over one-third of the original material.

This startling deficiency in the stability studies is further demonstrated by this table, also drawn from Searle data of beverages stored at 30°C (86°F), which illustrates the material balances obtained: [7]

* * * * *

The inability to account for as much as thirty-nine (39) percent of APM's decomposition products is significant. With such a high unknown factor, judgments about the safety of APM in soft drinks cannot be made confidently. Possible explanations for, and speculation about, the material balance discrepancies abound: secondary reactions may be occurring (possibly with the flavor components in the beverages); additional, but unidentified decomposition products may exist (as occurred in the case of Pm and beta-APM); or the inaccuracy and inadequacies of the analytical methods may account for the gaps in the data. No explanation for the discrepencies in material balances—that is, for the high percentage of unknown material—can, however, be supported on the basis of the data submitted by Searle. The significance of the unknown decomposition products simply cannot be determined in the absence of complete, careful and reliable analyses—analyses which are not currently available because the petitioner failed to conduct or submit them.[8]

2. Searle Has Not Characterized The Decomposition Products of APM in Soft Drinks Under Temperature Conditions To Which The Beverages Are Likely To Be Exposed In the United States.

A suitable assessment of the stability of APM in soft drinks can be conducted. Such an assessment would necessarily involve the use of sample beverages in a variety of flavors and varying pH, and, most importantly, involve exposure of the beverages to temperature conditions which approximate those which are reasonably expected to occur in practice (or under conditions which permit reasonable projections to be made to actual conditions).[9] Unless the sample APM-sweetened beverages are exposed to realistic temperature conditions, the temperature-sensitive degradation characteristics of APM, and in particular its potentially significant decomposition products, cannot be known. The data submitted by Searle are not derived from appropriate test conditions. Judgments about the extent of APM instability and its degradation products in soft drinks under actual conditions of use cannot, therefore, be inferred from the limited laboratory data.

To assess APM's instability in soft drinks, Searle exposed bottles of ready-to-drink beverages in four flavors (cola, root beer, lemon-lime and orange) to consistent temperatures of 55°, 40, 30, 20 and 5°C.[10] According to Searle's petition, "[I]n each flavor a loss of APM occurred with the rate of degradation directly related to the storage temperature for the carbonated beverages. The rate of APM loss from beverages was pH dependent." Moreover, Searle noted that "as the temperature increases, the rate of degradation becomes more pronounced." [11] Some of the effects on APM

[5] This figure is derived as follows from Searle data: 13 percent AOM, 21 percent DKP, 3 percent AP, 8 percent PHE, and 5 percent PM.

[6] The increase comes from 10 percent AA and 4 percent methanol.

[7] A material balance accounts for the quality of the starting material, the quantity of identified decomposition products (or by-products, reaction products etc.) and the quantity of unknown material. Because of the inadequacies in the analyses documented in section — above, the figures in this table may be inaccurate. Nevertheless, the discrepancies in the material balance raise the possibility of significant unknown decomposition products.

[8] A tempting, but unsatisfactory, resolution of the material balance discrepancy is to assume that the safety of the decomposition products were determined in the chronic studies in laboratory animals which Searle conducted. This putative resolution does not hold, however, because these degradation products would not have undergone testing, since the APM in the feeding regimen was in freshly prepared doses.

[9] The use of exaggerated, but realistic, test conditions is a routine facet of testing to establish the safety of food additives. For example, pursuant to FDA guidelines, extraction testing to detect and quantify migrants from packaging materials is required to be conducted under temperatures and for time periods which are known to exceed actual conditions of use.

[10] Similar, but equally limited studies were conducted using carbonated beverage bases (syrups).

[11] In the preamble to the regulation authorizing APM use in soft drinks, FDA itself acknowledged this phenomenon: "At temperatures above 30°C (86°F) the stability drops off markedly." 48 *Fed. Reg.* at 31377. As shown below, soft drinks are frequently exposed to temperatures well in excess of 30°C (86°F).

degradation in soft drinks are illustrated in a table in the Searle petition.[12] In that table, for example, after 20 weeks at 30°C (86°F), a beverage with a pH between 2.5 and 3.0, contained less than 40 percent of the original amount of APM. For beverages with similar pH, but kept at 40°C (104°F) for 20 weeks, less than ten percent of the original APM remained. Less pronounced degradation is seen at higher pH and/or at lower temperatures.

Although these stability tests shown significant degradation of APM at consistent temperatures over relatively short time periods, they shed virtually no light on the probable degradation rate and products for soft drinks exposed to a variety of temperatures—including temperatures higher than any used in Searle's studies—during storage, handling, sale and use, temperatures which are known to occur and to which soft drinks are known to be exposed. Without stability studies conducted under such conditions, APM cannot be said to be appropriately stable in soft drinks, nor can its degradation products be considered to be adequately identified (assuming that analytical techniques were used which would yield complete and reliable results) nor can it be considered to have been shown to be safe.

The range of temperature conditions to which soft drinks are exposed during the summer months in the southern United States[13] is illustrated by a study conducted by the Coca-Cola Company's Corporate Packaging Department in 1976 and submitted to the Consumer Product Safety Commission.[14] That study shows that during the summer months, soft drinks are often exposed to relatively high temperatures for certain time periods in the course of distribution from the bottling plant to the consumer. High temperatures do, of course, routinely occur in much of the United States, including the southern regions; conditions of storage and distribution for soft drinks can elevate these temperatures significantly.

In summary, the study assessed: (1) warehouse temperatures in Marietta, Georgia and Wichita Falls, Texas; (2) route truck temperatures in Wichita Falls; (3) full sun and outside ambient temperatures in Wichita Falls;[15] and (4) parked car temperatures in Atlanta, Georgia and Wichita Falls. Each of these test environments is known to occur in practice and the tests were performed under actual, as opposed to laboratory, conditions.

Several significant conclusions can be drawn from this study. First, in those situations where the bottled beverage is heated only by conduction from the surrounding air (shaded location in a warehouse or in an automobile trunk parked indoors) the ratio of product temperature to the temperature of the surrounding air would be 0.92 to 0.94. In enclosed environments exposed to sunlight, however, ratios much greater than one would be expected. For example, a ratio of product temperature to air temperature of 1.45 was found for a test car parked in full sunlight. In other situations where sunlight was a direct heating factor (e.g., open air service station promotions or open bay delivery trucks) typical ratios were 1.10 to 1.15.

The effects of these ratios on product temperature are demonstrated by using summer temperatures for Phoenix, Arizona, where the average daily high in July is 40°C (104°F). During July in Phoenix, a soft drink in full sunlight could reach a temperature of 49°C (120°F) (104° x 1.15). The same product in a car parked in full sunlight could reach 66°C (151°F) (104°F x 1.45)[16]; soft drinks in a warehouse with an ambient temperature of 110° could reach temperatures of 38°C (101°F) to 39°C (103°F) (0.92-0.94 x. 110°F).

Overall, the study, considered together with representative historical temperature data (Appendix ——) show that soft drinks will frequently be exposed to temperatures of 32°C (90°F) to 49°C (120°F). In some cases product temperatures as high as 66°C (151°F) (especially in the southwestern United States) can be reached.

The effects of these high product temperatures on APM degradation and the formation of degradation products, and the effects of temperature variation (for example, soft drinks displayed at a service station may reach temperatures of 49°C (120°F) for most of the afternoon, drop in temperature overnight, and heat up again during the following day) cannot be determined from the data submitted by Searle to the FDA.

What those data do suggest, however, is that significant APM degradation at high temperatures occurs within a short period of time. For example, in Searle's stability tests, an orange beverage held at 40 °C (104 °F) (average daily high for Phoenix during July) for eight weeks, contained only fifty (50) percent of the original amount of APM. A cola beverage held under the same conditions contained only forty (40) percent of the original APM amount. And beverages exposed to higher temperatures degrade even more rapidly. And, of course, because of the temperature elevation ratios, product temperatures could easily be much higher during actual conditions than the stable temperatures used in the Searle laboratory studies.

Thus, it is known that APM will degrade rapidly at high temperatures, including temperatures to which soft drinks are known to be exposed intermittently during the summer. What is now known, although the FDC Act requires the proponent of use to demonstrate it, is what effects of degradation occur by virtue of exposure to these temperatures. More specifically, to demonstrate that APM is safe for use in soft drinks, the petitioner must reasonably identify what degradation products are formed under those conditions. Ultimately, of course, the safety of the major degradation products must be determined. Under the FDC Act, the data needed to make that determination—reliable and competent data—must be provided by the petitioner.

Objection Two: Searle has not demonstrated that APM use in soft drinks will not adulterate the beverages under Section 402(a)(3) of the FDC Act.

SUMMARY OF BASIS FOR OBJECTION

As discussed above, it is well established that the petitioner for issuance of a regulation authorizing the use of a food additive bears the burden of proving, through reliable and competent data, each element of the criteria set forth in section 409 of the FDC Act, 21 U.S.C. § 348, for issuance of a food additive regulation. The present record does not contain data which demonstrate that the use of APM in soft drinks will not result in the adulteration of the beverages under section 402(a)(3) of the FDC Act, 21 U.S.C. § 342(a)(3), which provides that a food is adulterated if it contains, in whole or in part, ". . . a decomposed substance or if it is otherwise unfit for food." Indeed, the present record strongly suggests that the rapid degradation of APM in soft drinks and the consequent loss of sweetness may well result, under certain actual time and temperature conditions, in products which would be adulterated under section 402. Without data which demonstrate that APM-sweetened beverages will not be adulterated under section 402(a)(3), Searle has not met its burden of proof under section 409(c)(3)(B) of the FDC Act, 21 U.S.C. § 348(c)(3)(B).

FACTUAL BASIS FOR OBJECTION TWO

The marked and rapid decomposition of APM in soft drinks under temperatures known to prevail is apparent from data in the present record and discussed above in these objections. Those data show that it is reasonable to expect APM to decompose in soft drinks sufficiently rapidly under current handling and distribution procedures to adversely affect product quality and taste.[17]

It is well-established under section 402(a)(3), that a food which contains a decomposed substance (i.e., the decomposition products of APM which, Searle's data show, can readily exceed the quantity of APM itself in a short time)—especially where the decomposition has adversely affected product quality or made the product unpalatable—is adulterated and subject to seizure. (cites). It is quite clear, for example, that FDA would consider beverages which had lost substantial sweetness because of APM decomposition and which were therefore not palatable, to be adulterated under section 402(a)(3). The record is devoid, however, of evidence which demonstrate that APM used to sweeten soft drinks will not, under reasonably anticipated conditions of use, in fact cause the products to be adulterated. Without such evidence Searle has not met the burden imposed under section 409(c)(3)(B).

[This objection will be expanded.]

Objection three: Searle has not demonstrated that APM is functional for use in soft drinks under temperature conditions likely to prevail in the United States.

SUMMARY OF BASIS FOR OBJECTION

In addition to data intended to assess the stability of APM in soft drinks, Searle's petition for use of APM in soft drinks contains data intended to show that APM is functional in the beverages, i.e., that it achieves and retains the intended technical effect

[12] Searle FAP at 14, Fig. 3.

[13] High summer temperatures are by no means limited to the southern states. During the period July 10 to July 24, 1983, for example, St. Louis, Missouri experienced 14 consecutive days of temperatures over 90°F, and 10 days of temperatures of 95°F or greater. During the same period, Louisville, Kentucky experienced similar temperatures.

[14] Study cite. A full description of this study is contained in Appendix ——.

[15] Full sun exposure occurs, for example, when a service station runs a promotion in which cases of the beverages are stacked in front of the station in full view of passing motorists and therefore often in direct sunlight.

[16] This temperature exceeds by 11°C (20°F) the highest temperature used in Searle's stability studies. In those studies, after less than four weeks, beverages stored at 55°C (131°F) contained less than twenty (20) percent of the original amount of APM. (Searle FAP at ??)

[17] FDA acknowledges this distinct possibility when it states its "belief" that changes in these procedures will avoid the problem. Section 409(c)(3)(B) does not contemplate that a "belief" in unspecified, but fundamental, changes in industry practice are adequate to assure that widespread use of a food additive will not adulterate the food.

(sweetening) under the conditions of use reasonably anticipated to occur. Searle has not demonstrated that APM is functional in soft drinks because its data show a significant loss of sweetness at temperatures to which soft drinks are known to be exposed and within the range of time periods between bottling and projected consumption. The functionality of an additive cannot be considered to have been demonstrated if significant loss of its intended technical effect (because of temperature and pH dependent degradation) may occur under reasonably anticipated conditions of handling, storage and use.

FACTUAL BASIS FOR OBJECTION THREE

To evaluate the functionality of APM, Searle conducted "sensory evaluation" tests which used consumer taste panels to assess "perceived sweetness" (cola, beverages only) and "overall liking" (or "acceptance") (all flavors) over time periods up to 52 weeks and at three temperatures: 5°C (41°F), 20°C (68°F) and 30°C (86°F). Beverages sweetened with APM only (5, 20 and 30°C) and APM with saccharin (20°C) were tested; beverages sweetened with sucrose (——°C) and saccharin (——°C) were used as references. The beverages were rated at different time periods by the panelists.[18]

Although no temperature used in Searle's sensory evaluation tests approached the actual product temperatures which soft drinks will reach (see section —— above), significant loss of sweetening and overall liking occurred for beverages sweetened with APM only within extraordinarily short time periods. For example, APM-sweetened cola beverages stored at 30°C (86°F) received an overall liking score of less than 20 on a 0–100 scale after only 20 weeks (after 20 weeks the product was apparently unpalatable, since Searle did not present sensory evaluation data beyond this time). For an orange beverage, overall likeness after 20 weeks at 30°C (86°F) approached 5 (on a nine point hedonic scale), the "neither like nor dislike" or mean rating. Again, sensory evaluations were apparently not conducted beyond 20 weeks.

Searle's characterization of the results of the sensory evaluation tests avoids the clear implication of those tests: That APM has not been shown to retain sufficient sweetness at temperatures which are known to occur for APM-sweetened beverages to retain an acceptable "overall liking" rating. Instead, Searle emphasizes an interesting, but legally irrelevant finding: That APM sweetened beverages tested after holding at relatively low temperatures were preferred to beverages sweetened with alternative sweeteners. This characterization misses the statutory purpose for which the studies were undertaken, that is, to demonstrate that APM is a functional sweetener in soft drinks.

Of particular importance is the fact that Searle's sensory evaluation tests do not explore the effects on either sweetness or overall likness of APM-sweetened beverages exposed, either consistently or intermittently, to the higher temperatures which prevail in much of the United States. What is the effect on these two measures, for example, of product temperatures of 100 to 120°F? Is the degradation greatly accelerated and the overall liking therefore diminished in even shorter time periods? Will APM-sweetened beverages stored in warehouses and carried on open route trucks or stored in warehouses and displayed in open air service station promotions in the southern states be acceptable when the consumer attempts to consume them several weeks later? Is APM a functional sweetner for soft drinks if APM-sweetened beverages in certain parts of the country would, during the summer months, have to be treated as if they were perishable commodities? [19]

[To be expanded with age distribution data.]

Ojection No. Four: G.D. Searle and Company Has Not Demonstrated To A Reasonable Certainty That The Use of Aspartame In Soft Drinks, Without Quantitative Limitation, Will Not Adversely Affect Human Health As A Result Of The Changes Such Use Is Likely To Cause In Brain Chemistry And Function Under Certain Reasonably Anticipated Conditions Of Use.

SUMMARY OF BASIS FOR OBJECTION

In its July 8 Federal Register notice, FDA acknowleded receiving a comment expressing concern about the effect on plasma and brain phenylalanine (PHE) and tyrosine (TYR) levels when aspartame is fed in combination with a carbohydrate. 48 Fed. Reg. at 31379. The comment included data demonstrating that in both rats and humans the feeding of a carbohydrate with aspartame significantly enhances aspartame's positive effect on the ratio of PHE and TYR to other large neutral amino acids (LNAA) in the blood. The data submitted with the comment also demonstrate that brain PHE and TYR levels in the rat are significantly increased by the aspartame/carbohydrate combination.

The concern of the commenter, Dr. Richard J. Wurtman, Professor of Neuroendocrine Regulation at the Massachusetts Institute of Technlogy, was that increased brain levels of PHE and TYR are likely to affect the synthesis of certain neurotransmitters—substances vital to the regulation of brain function—and that changes in the levels of neurotransmitters could in turn cause adverse physiological effects (by, for example, modifying the function of the autonomic nervous system) and/or behavioral effects.

FDA responded to Dr. Wurtman's comments by stating that it ". . . believes that the comment's conclusion regarding potential phenylalanine induced changes in neurotransmitter function appear to be unwarranted extrapolations . . ." (48 Fed. Reg. at 31379; emphasis added) and by concluding that ". . . the data supplied with this comment do not provide support for its hypothesis that the ingestion of aspartame and carbohydrate will alter the brain levels of neurotransmitters and thereby produce behavioral modifications." 48 Fed. Reg. at 31380. FDA cited as support for its conclusion several studies submitted by Searle; FDA did not discuss, however, much of the data submitted by Dr. Wurtman (including those demonstrating significantly elevated brain levels of PHE and TYR), and it apparently overlooked the significance of aspartame's demonstrated blocking effect on glucose-induced elevation of brain serotonin levels.

In light of the allocation of the burden of proof and the nature of the safety standard in food additive proceedings (discussed above), FDA's handling of Dr. Wurtman's concerns was unusual. The tone of the July 8 notice suggested that the burden was on Dr. Wurtman to demonstrate that aspartame is harmful and that, absent affirmative demonstration of harm (which obviously is lacking at this point), aspartame must be approved. To the contrary, however, the burden is on Searle to prove to a reasonable certainty that no harm to human health will result from aspartame. Thus, the question for FDA in evaluating Dr. Wurtman's concern is whether, in the minds of competent scientists, the questions posed by Dr. Wurtman and his data are sufficiently significant from a safety standpoint that they should be more thoroughly addressed by Searle in order to provide the statutorily required "reasonable certainty" that no harm will result from aspartame's use.

We object to the approval of aspartame for unrestricted use in soft drinks (which could be as high as 550 mg/liter, or higher) on the ground that Searle has not made the required showing. This objection is supported by the following points, which are discussed further below and supported by the accompanying affidavits: (1) available evidence demonstrates that the consumption of aspartame/carbohydrate combinations by rats in amounts comparable to those likely to be encountered by humans under certain reasonable anticipated conditions of use elevates plasma ratios of PHE and TYR significantly and brain PHE and TYR levels by factors of 3.0 and 3.5, respectively; (2) available evidence from human studies demonstrates that consumption of aspartame/carbohydrate combinations in amounts likely to be encountered under certain reasonable anticipated conditions of use elevates human plasma levels of PHE significantly beyond the normal range; (3) there are sound scientific reasons to believe that human brain levels of PHE and TYR will respond to aspartame consumption in a manner similar to rats; (4) there are sound scientific reasons to believe that increased brain levels of PHE and TYR could affect the synthesis of neurotransmitters and in turn various physiological functions and/or behavior; for example, TYR is a known precursor of the catecholamine neurotransmitters, and tryosine levels have been shown to affect several bodily functions controlled by the autonomic nervous system (including regulation of blood pressure); and (5) the demonstrated ability of aspartame to inhibit the glucose-induced release of serotonim has the potential to affect important serotonin-mediated behaviors, such as satiety, food choice, and sleep.

Despite the potential effects of aspartame/carbohydrate combinations, the present record is devoid of readily obtainable evidence that could resolve whether

[18] Fn. stating rating periods.

[19] In the preamble to the APM regulation, FDA dismissed summarily the concern about the functionality of APM in soft drinks at temperatures above 30°C (86°F): "The agency believes, however, that storage at these times and temperatures can be avoided by attention to handling and distribution." (48 *Fed. Reg.* at 31377). This summary resolution of the functionality issued is inconsistent with the FDC Act for two reasons. First, it is based on the agency's "belief" and not on any objective evidence. The Act requires the agency to resolve material issues based on facts, not on beliefs. Moreover, the facts—actual temperature conditions to which the beverages are exposed and actual beverage temperatures—suggest that degradation and consequent loss of sweetness and overall liking (and hence functionality) may occur within even shorter periods than the agency appeared to find acceptable.

Second, the purported resolution of the functionality issue by *assuming* that significant loss of sweetness "can be avoided by attention to handling and distribution" is an assumption unsupported by any evidence in the present record (none is cited by the agency). In all likelihood, the agency's "resolution" is entirely impracticable. To *assume* that fundamental changes in handling and distribution will occur to avoid an acknowledged functionality problem turns the FDC Act on its head.

the effects are in fact likely to occur. As will be demonstrated, the data cited by FDA in its July 8 notice are not sufficient to resolve the issue. It would be possible, however, to perform within approximately six months studies in rats that would resolve conclusively whether levels of aspartame and carbohydrate corresponding to those likely to be consumed by humans would affect the synthesis of neurotransmitters and in turn cause detectible physiological and behavioral effects. It also would be possible to perform additional short-term studies in humans to determine whether aspartame/carbohydrate combinations have observable effects on physiological parameters (such as blood pressure) or behavior.

For these reasons, Searle has not met its burden of demonstrating to a reasonable certainty that the unlimited use of aspartame, especially in combination with carbohydrates, will not adversely affect human health. The questions posed by Dr. Wurtman are significant because of the seriousness of the potential effects (e.g., changes in blood pressure) and because of aspartame's anticipated widespread use—use that includes consumption by potentially vulnerable sub-groups, such as children, pregnant women, and hypertensives. Dr. Wurtman's concerns are shared by other distinguished scientists expert in this field (affidavits attached). It is Searle's legal burden to submit data sufficient to resolve the concerns.

FACTUAL INFORMATION SUPPORTING OBJECTION FOUR

1. FDA has underestimated the amount of aspartame that can be consumed through its use in soft drinks because the agency has focused on adult users (assumed to average 60 kilograms in weight). FDA relied upon an intake value of 34 mg/kg/day in assessing the possible risks of aspartame, describing that level as the ". . . highest obtained from any estimate of potential consumption and exceed[ing] the 99th percentile consumption (25 mg/kg) for all age groups . . . " 48 Fed. Reg. at 31377. For a 30 kg child, however, it would not be unusual for that level to be achieved or, in terms of the effect on plasma PHE levels, even exceeded. For example, if a 30 kg child consumed on a warm day after exercise approximately two-thirds of a two-liter bottle of soft drink sweetened solely with aspartame, that child would be consuming approximately 700 mg of aspartame, or approximately 23 mg/kg. This alone roughly equals what FDA considered the 99th percentile consumption level. If during the day this child consumed other aspartame-sweetened products, the exposure level could quickly approximately FDA's so called "loading dose" of 34 mg/kg. 48 Fed. Reg. at 31377. In addition, however, data derived from rats and humans demonstrate that concurrent consumption of a modest amount of carbohydrate (approximately 3 grams per kg, or, for a 30 kg child, perhaps several cookies) approximately doubles the effect of the aspartame on the ratio of plasma PHE to other large neutral amino acids (LNAA) (Wurtman affidavit). Thus, in terms of effect on the PHE/LNAA ratio in the blood, the above-described concurrent consumption of aspartame and a carbohydrate is equivalent to an aspartame dose of as much as 50 to 60 mg/kg.

2. Aspartame has been tested in rats to determine the effect of aspartame and aspartame/carbohydrate combinations on the plasma ratios and brain levels of various amino acids (Wurtman affidavit). In rats fed 200 mg/kg aspartame, the plasma PHE/LNAA ratio increased to 0.185 from 0.110 in the controls, and the brain PHE level increased from 52 n-moles/g in the controls to 110 in the treated animals. When the same amount of aspartame was fed with 3 g/kg glucose, however, the plasma PHE/LNAA ratio increased sharply again to 0.240, while the brain PHE level increased to 143 n-moles/g. In addition, there was a 3.5-fold increase in brain TYR levels.

3. Aspartame and aspartame/carbohydrate combinations have also been tested in humans by Searle and Dr. Wurtman (cite to Searle petition and Wurtman affidavit). An aspartame dose of 34 mg/kg significantly elevated the plasma PHE/LNAA ratio, an effect that is almost doubled by the addition of 30 g of carbohydrate (equivalent to 4 or 5 cookies).

4. It is not posssible to measure in vivo human brain levels of amino acids resulting from consumption of aspartame or subsequent effects on neurotransmitter synthesis. There are sound theoretical reasons, however, for considering the rat to be an appropriate model for assessing possible human effects (Wurtman affidavit). Moreover, there is empirical evidence to support the use of the rat as a model for evaluating possible effects of aspartame on human brain chemistry (Wurtman affidavit).

5. There is scientific evidence suggesting that increases in brain PHE and TYR levels on the order seen in the rat studies can effect synthesis of neurotransmitters, which themselves can effect important physiological functions and potentially behavior. [Wurtman affidavit should catalogue this evidence.] Readily available tests could determine whether aspartame has such neurotransmitter effects in rats or effects the rat's physiological functions or behavior. [Wurtman affidavit should describe tests.]

6. Aspartame has been demonstrated to inhibit the carbohydrate-induced-synthesis of the neurotransmitter serotonin (Wurtman affidavit). Serotonin blunts the sensation of craving carbohydrates and thus is part of the body's feedback system that helps limit consumption of carbohydrate to appropriate levels. Its inhibition by aspartame could lead to the anomalous result of a diet product causing increased consumption of carbohydrates.

EXHIBIT 2

MEMORANDUM

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
May 19, 1981.

To: The Commissioner through the Acting Deputy Commissioner.
From: Acting Associate Commissioner for Health Affairs.
Subject: Aspartame.

Attached is an agenda for Thursday's 3:00 p.m. meeting on aspartame. We plan to present a scientific briefing on the safety issues and, therefore, the staff scientists involved will be present also. I have asked Joe Levitt, Office of General Counsel, as team leader, to coordinate the discussion. We also need to discuss our timetable for issuance of a final decision.

The first and primary agenda item relates to the brain tumor issue. This was the point on which the Public Board of Inquiry concluded that safety had not been shown. A first draft "final decision" or this issue is attached.

As mentioned in our last meeting; the team is not unanimous in its recommendations. The draft disagrees with the Board and concludes that safety has been shown on this issue. Those not in agreement, principally the statisticians, have prepared their views separately (Tabs A, B, and C) so as to give you a balanced picture.[1]

The major issue discussed at the hearing was the background rate for spontaneous brain tumors in the specific strain of rat used by Searle. The team is in the general agreement that the Board adopted too low a figure. This issue is discussed in detail in Section B of the attached draft.

The major issues of disagreement among the team members are as follows:

1. *Power (or Sensitivity) of the Studies:*

Searle has complied with the old Bureau of Foods standard of 40 animals per sex per group, applicable in the early 1970's when the studies were conducted. The current standard is 50 animals, although studies with 40 per group are considered "very useful" (Bureau of Foods testimony) for "cyclic review" purposes. Cyclic review is the process by which the Bureau of Foods re-evaluates substances on the GRAS list, usually based on older studies. The threshold question, then, is whether 40 animals per group are sufficient for the aspartame studies.

Assuming that 40 animals will be deemed sufficient in this case, the team is in agreement that if the data, raise a suspicion of carcinogenicity, additional studies of considerably larger power will be necessary. The disagreement here is whether the data raise that suspicion.

The Board did not need to reach this issue, but at one point noted that one study (E-70) should have included more animals.

2. *Dose Response in Females, Study E-33/34:*

In the major rat study (E-33/34) a statistically significant dose response was found for the females using the Cox (P=.04) and Breslow (P=.02) tests. Both take into account time of death of the test animals, and the Breslow test gives extra weight to early occurring tumors. However, the significance of these findings is heavily dependent on a medulloblastoma found in a high dose female at 12 weeks, which the Bureau and Searle argue was not aspartame related. By deleting the medulloblastoma, the statistical results change dramatically (P=.15 for the Cox test and P=.13 for the Breslow test). The biological scientists agree with Searle and the Bureau that this tumor may not have been caused by aspartame, and, therefore do not consider these findings to be of biological significance. The statisticians disagree. Both positions are detailed in the attached materials.

The Board also discussed dose response in this study, but in a slightly different fashion.

3. *Types of Statistical Analyses Used:*

Searle used certain statistical tests to analyze the data, and the Bureau of Foods different tests. Dr. Dubey has applied additional tests, not employed by either party, which he believes give a more appropriate interpretation of the data (see Tab B). For example, one test called the significant risk analysis is especially important to Dr. Dubey's position. We will, therefore, need to

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[1] As additional background material, enclosed is a summary of the legal and scientific framework for approval of a food additive petition (Tab D), and summaries of the evidence in the Cyclamate and Red No. 2 decisions, for comparison purposes (Tab E). The Board's Decision, the Cyclamate Decision, and a historical chronolgy on aspartame were attached to my previous memorandum dated April 24, 1981.

decide which statistical tests are to be employed. While deviating from the tests used by the parties creates certain legal and policy problems, these are not unresolvable. The Board did not discuss any of these statistical techniques.

4. *Conduct of the Studies:*

The conduct of all three rat studies has been criticized by Dr. Olney. Some of the staff scientists believe the studies were adequately conducted, while others tend to agree with Dr. Olney that one or more of the studies was severely flawed. Again, the different positions are documented.[2]

I anticipate that discussion of these issues will take up most of Thursday's meeting.

The second agenda item is a status report on the other safety issues raised, involving increased levels of phenylalanine and aspartic acid consumption. In general, we anticipate agreeing with the Board that safety has been shown on these issues, although parts of the Board's decision will need to be corrected. Materials on these issues are contained at Tabs G and H.

The final agenda item is the status conference scheduled in federal court on Wednesday, May 27, when the Agency will be called upon to project a date when the final aspartame decision will be made. We will be prepared to discuss this timetable with you at Thursday's meeting.

ALLAN B. DUNCAN
(For Stuart L. Nightingale, M.D.).

AGENDA

I. Brain Tumor Issue:
A. General Overview—Mr. Levitt.
B. Background Spontaneous Rate—Dr. Jackson; Dr. Cameron.
C. Review of Aspartame Studies:
1. Power—Dr. Condon.
2. Dose Response—Study E-33/34—Dr. Condon.
3. Statistical Analyses—Dr. Dubey.
4. Conduct of the Studies—Dr. Dubey.
II. Brain Damage Issues:
A. Phenylalanine—Dr. Gryder.
B. Aspartic Acid-Glutamic Acid—Dr. Rosloff.
III. Timetable for Final Decision.

APPENDICES

TAB A—Comments on Brain Tumor Issue—Dr. Condon..
TAB B—Comments on Brain Tumor Issue—Dr. Dubey.
TAB C—Comments on Brain Tumor Issue—Dr. Park.
TAB D—Legal and Scientific Framework.
TAB E—Cyclamate Evidence; Red No. 2 Evidence.
TAB F—Mr. Turner's Appeal.
TAB G—Brain Damage (Phenylalamine).
TAB H—Focal Brain Lesions (Aspartic Acid).

Mr. METZENBAUM. Mr. President, I now send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator is reminded that the pending business is the committee amendment which must be disposed of before the amendment of the Senator from Ohio is considered.

Mr. HATCH. Mr. President, if the Senator will withhold, I will get the committee amendment passed, and then we can take up his amendment.

Mr. President, the committee adopted an amendment changing the term of the bill from 3 years to 2. Therefore, I move the committee amendment be adopted.

The PRESIDING OFFICER. If there is no further debate on the committee amendment, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President. I rise in support of S. 484, the Saccharin Study and Labeling Act and urge its passage without further amendment. This bill would extend for an additional period of 2 years the original saccharin moratorium that was enacted in 1978 and later extended.

This extension would prohibit the Secretary of Health and Human Services from restricting the sale or distribution of saccharin solely on the basis of research available to the Secretary on the date of the original enactment of this moratorium. The original moratorium legislation provided for continued research as to any causal relationship between saccharin consumption and human cancer. This bill would maintain this requirement of continued research.

Dr. Frank Young, Commissioner of the Food and Drug Administration, in his testimony last month before the Labor and Human Resources Committee stated that a link between saccharin consumption and human cancer has not yet been proven, despite years of intensive research. The research to date indicates that saccharin, when consumed in high doses, may cause bladder cancer in rats, but not in mice. Since there has never been definitive scientific proof that saccharin causes cancer in humans, further research efforts as outlined by officials of the Food and Drug Administration should continue. In the meantime, the millions of Americans, including diabetics, who rely on saccharin as a sugar substitute should not be deprived of its availability.

The amendment which I understand the Senator from Ohio, Mr. METZENBAUM, will propose would require the manufacturers of diet soft drinks to include on their label how much aspartame each serving contains. Aspartame, or its commercial name "NutraSweet," is a chemical combination of two naturally occurring amino acids found in foods that we eat daily. In 1980, the FDA approved aspartame for certain purposes after subjecting it to years of study. There has never been any evidence that aspartame causes cancer. When it was approved, the Commissioner of the FDA at the time, Dr. Arthur Hayes, noted:

> Few compounds have withstood such detailed testing and repeated, close scrutiny, and the process through which aspartame has gone should provide the public with additional confidence of its safety".

Unfortunately, aspartame cannot be used as a sweetener in cooking because it loses its sweetness when heated. Therefore, it cannot be a complete saccharin substitute.

Currently, the Food and Drug Administration has sufficient statutory authority to require the labeling suggested by my distinguished colleague from Ohio. If the FDA, based on their continued research and expertise, determines that such label requirements are necessary, then Congress should defer to the Agency's judgment. Otherwise, mandating the quantitative labeling of a product which has proven to be safe would be one more unnecessary Federal burden placed on the private sector.

Mr. GRASSLEY. Mr. President, I am a cosponsor of this bill, S. 484, the Saccharin Study and Labeling Act, and I intend to vote for the bill as it was reported from the Committee on Labor and Human Resources of which I am a member.

With respect to the continuation of the moratorium on the ban on saccharin, which this bill provides, it is clear that this moratorium should be continued. As is clear from the testimony the committee received at our hearing on April 2, 1985, the jury is still out on saccharin. No clear verdict emerges from the considerable research effort which has been directed to finding out whether this sweetener does indeed cause cancer in humans when consumed in normal amounts.

Although it is clear that we should satisfy ourselves that there is no health hazard from use of saccharin, we also do not want to rush forward to ban this product on the basis of inconclusive evidence. We have had enough experience with hasty judgments, based on flimsy evidence, about products on which many people depend, both consumers and producers.

It is appropriate, therefore, that we extend this moratorium until the Food and Drug Administration can demonstrate conclusively that this product causes cancer. In any case, the Food and Drug Administration does have the authority to withdraw saccharin from the market at any time if research findings indicate conclusively that it is dangerous to human health.

With respect to aspartame labeling, which is also at issue here today, it seems to me to be premature to require this since the burden of testimony at the April 2 hearing was that

[2] The Board refused to hear evidence on the conduct of the studies. For that reason, Mr. Turner has appealed for a new hearing. That issue is addressed in Tab F.

aspartame is safe at normal consumption levels. Dr. Lewis Stegnick, an expert from the University of Iowa, testified on April 2 that:

> In conclusion, based on our research, I concur with the findings of the FDA and regulatory authorities around the world that aspartame is safe at expected levels of consumption.

Therefore, I will support the bill as it was reported from the committee and will not support the amendment offered here today with respect to aspartame labeling.

Mr. NUNN. Mr. President, today we are considering the continued availability of saccharin, one of the two nonnutritive sweeteners on the market today. Saccharin has undergone more scrutiny and scientific research than any other substance in the food supply. Since 1977, when the FDA proposed to ban saccharin, the Congress intervened on three occasions and provided a moratorium on such action by the FDA.

Saccharin is a sweetener that has been used worldwide for more than 80 years. Recently, many significant new studies have expanded our understanding of the safety issues surrounding saccharin and its appropriate use as a food additive. Last year the largest study ever conducted on saccharin was completed. The expert panel which evaluated the scientific findings along with other current studies concluded that "the present exposure of humans to saccharin through its use as a food additive presents an insignificant cancer risk." It is my understanding that the many studies on human groups consuming large quantities of saccharin, such as diabetics, have never shown a correlation between human cancer and saccharin consumption. The only problems to have ever surfaced occurred when male rats were force fed the equivalent of several hundred cans of diet soda containing saccharin per day.

In addition to considering the absence of a relationship between saccharin consumption and human cancer, we must also consider the tremendous benefit that saccharin affords diabetics and others who for health reasons should not consume sugar. Diabetes is the No. 3 cause of death by disease in the United States and the No. 1 cause of new cases of blindness in adults over 20. People with diabetes are at high risk from heart disease, stroke, kidney failure, and severe nerve damage.

Unlike previous congressional consideration of the saccharin situation, we have a new sweetener on the market now, named aspartame. Consumer acceptance of this product in diet beverages and table top sweetener use has been rapid. Aspartame, however, is not a substitute for saccharin as it cannot be used in cooking, or baking, or in heat processed foods. Also, saccharin is the only approved low-calorie sweetener for many cosmetic and pharmaceutical products.

Americans should have a variety of sweeteners available to them. The Congress needs to extend the moratorium on saccharin and proceed with a comprehensive evaluation of food safety, labeling, and all other scientific aspects of the American food supply. I hope you will join me in voting for this legislation which would extend the moratorium on saccharin.

Mrs. HAWKINS. Mr. President, I am a cosponsor of S. 484, the Saccharin Study and Labeling Act, and I plan to vote for its passage today. I also plan to vote against the amendment offered by the distinguished Senator from Ohio, Senator METZENBAUM, regarding quantitative labeling of aspartame. Since I am a strong supporter of the consumer's right to know about the products they are consuming and an original cosponsor, with Senator METZENBAUM of the Dietary Information Act of 1985, I want to explain my reasoning for voting against this amendment.

Mr. President, I believe that quantitative labeling of products and additives is extremely useful to consumers with certain dietary restrictions. In the case of sodium and fat content, the correct labeling of products may make a major difference in the health of an individual who suffers from high blood pressure or a heart condition. But this quantitative labeling is useful because countless studies and reports have documented the link between sodium and fat intake and certain cardiovascular conditions. Quantitative labeling of aspartame or NutraSweet would not be useful because so far, there has been no medical or scientific studies demonstrating a health risk associated with consumption of aspartame in any quantity. Therefore, what difference will it make to a health conscious consumer whether there is 50 milligrams of NutraSweet or 500 milligrams of NutraSweet in the product?

I realize that some scientists and organizations have expressed concern about the validity of the testing procedures used to gain FDA approval of aspartame. While I do not feel that they have presented enough evidence to justify removing the product from the market pending these tests, I do agree that the concerns that they have raised regarding the long-term effects on the health of children justifies requiring additional tests to be done on this product. The Senate Labor and Human Resources Committee report accompaning S. 484 directs the Food and Drug Administration to carry out further testing of that product. If the additional testing of aspartame indicates a health risk associated with consumption of aspartame in certain quantities, then my views regarding quantitative labeling of aspartame would change. But until medical and scientific evidence indicates such a health risk, then I believe quantitative labeling of aspartame would be of little of no value to the consumer.

Mr. D'AMATO. Mr. President, I rise today on behalf of S. 484, introduced by my good friend, the junior Senator from Utah and the distinguished chairman of the Labor and Human Resources Committee. I commend the Senator from Utah for his introduction of this legislation to extend for 2 years the moratorium on the ban of saccharin.

As we all are aware, Americans have come to rely on low-calorie sweeteners to control their diets. Of the nearly 70 million people who use sugar substitutes, about 50 million depend on saccharin. We should not delay or impede the access of saccharin to these people, a good portion of whom are diabetic.

The main reasons for this extension are simple. There is no evidence that the use of saccharin has an adverse effect on our Nation's health. Saccharin is one of the most tested food substances. Because of its 80 years of use without being linked to cancer, it has passed the all important test of time. Twenty human studies on saccharin support its safety. In fact, the absence of saccharin would be harmful to millions who must avoid sugar to avoid medical problems associated with being diabetic or overweight. Test after test has shown that saccharin does not cause cancer in animals other than rats or at sites other than the bladder. I am not aware of any study which shows an association between saccharin intake and bladder cancer in humans. One study indicated that saccharin caused bladder tumors in rats when applied in 3 percent doses. This would equal 750 cans of diet soda consumed on a daily bases for a human lifetime.

Another important reason to keep saccharin on the market is lack of another complete sugar substitute. Although aspartame is used as the sugar substitute, its use is not as universal as saccharin's. Unlike saccharin, aspartame cannot be used in most cooking or baking because of sweetener loss. A gradual sweetening loss also occurs when aspartame is used in liquids. Although the FDA supports its use, many scientists continue to fear the health effects of aspartame.

Cyclamates, which are being reconsidered to be let back on the market, are not a complete sugar substitute either. Its sweetner intensity is too low, and for many instances would require its use in combination with other substitute sweeteners. Also, its effects are still suspect. Some experts fear that it may cause chromosome breakage and could cause testicle atrophy. Even if the ban on cyclamates was re-

versed, the product could not be available until late this year at the earliest.

The ideal low-calorie sweetener which could meet the growing consumer demand for a greater variety of reduced calorie products does not exist. Neither saccharin, aspartame, nor any other sweetener is perfect on all accounts. The answer for meeting this demand seems to be a multiplicity of sweeteners, each allowed to find its most effective role in the marketplace. The net result of a variety of sweeteners will be better-tasting products that have adequate shelf life, extended safety margins, lower production costs for industry, and more product choices for the consumer.

Because of the use of other sweeteners is limited, it is only reasonable to continue to allow saccharin on the market. Saccharin is the least expensive sugar substitute available. It is important to millions of people dependent on saccharin that its availability not be disrupted.

The public outcry in 1977 when the FDA first decided to ban saccharin should not be forgotten. The use of saccharin was important to the public in 1977 and it continues to be important today.

The current moratorium ended last month. I support the continuation of studies on saccharin, but we must let the millions of Americans who depend on saccharin for their restricted diets know that they will continue to be able to use saccharin until at least May of 1987 or until another all purpose sugar substitute is found. I support passage of S. 484.

Thank you, Mr. President.

AMENDMENT NO. 60

(Purpose: To provide that any soft drink which contains aspartame shall be considered to be misbranded unless the label or labeling of such product states the total number of milligrams of aspartame contained in such serving of such soft drink)

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Ohio.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 60.

Mr. METZENBAUM. 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 reads as follows:

At the end of the bill, add the following:

SEC. 2. (a) Section 403 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new paragraph:

"(q) If it is a soft drink which contains aspartame, unless its label or labeling states the total number of milligrams of aspartame contained in each serving of such soft drink.".

(b) The provisions of section 403(q) of the Federal Food, Drug, and Cosmetic Act (as amended by subsection (a) of this section) shall take effect no later than eighteen months after the date of enactment of this Act.

Mr. METZENBAUM. Mr. President, I wish to point out to my colleague from Utah, in case he missed it earlier, at one point we talked about there being a 6-month lag period for the soft drink companies to comply. We made that 18 months in the amendment.

Mr. President, I reserve the balance of my time.

Mr. HATCH. Mr. President, I must oppose the amendment by the Senator from Ohio for several reasons. First, this bill addresses saccharin. It is one sentence long and in its present form it is uncontroversial. If it passes the Senate "as is," it will be taken up immediately in the House, where favorable consideration is expected. At least that is what the House leadership has indicated to me. If it is amended to include aspartame labeling, the House leadership has informed us it will be derailed over there.

Now, I heard the distinguished Senator from Ohio and I was interested in his comments on that point. But, be that as it may, I still would have to oppose the amendment.

Second, this issue, which the Senator would have us believe is so simple, is actually complex and uncertain.

As an example, in his "Dear Colleague" addressed to this amendment, the Senator states that labeling is advised, among other reasons, because "a four-year-old weighing 30 pounds would hit that limit (the acceptable daily intake of aspartame) at three cans of diet soda." Yet FDA has furnished us with actual consumption data showing that a 2- to 5-year-old child at the 99th percentile of aspartame consumption ingested scarcely one-third of the acceptable daily intake, for the period July–September of 1984. Now I am not sure what these different statements imply, if indeed both are correct, but I do know that we are not well equipped to resolve them in this bill.

And this is my point: We have set up the Food and Drug Administration, and a careful set of procedures for the examination and resolution of these sorts of issues, for obtaining public comment, for obtaining outside scientific review, for the conduct of surveys and the weighing of implications. The Food and Drug Administration has the authority to require quantitative aspartame labeling right now. But it has never been petitioned to do so.

At FDA is where this issue should be resolved, not in this bill. FDA is the body that can reasonably determine whether there is an actual, as opposed to a speculative, need for quantity data. FDA is the body that can determine what usage patterns are, what the acceptable daily intake is, how it should be disclosed, and so forth. And I note here that the Senator rightly observes, "It will take some time to figure out," how to effectively put the ADI data on the can, if at all. He is not proposing that now, but what good does it do the consumer to know how much is in the can unless he knows what standard to measure it against?

No, we make a real mistake if we preempt FDA's consideration of the issue by adopting this amendment. And FDA has testified it would seriously and promptly address any request for quantitative labeling. That is the process we have set up and we should follow it. The hearing record is absolutely empty of any evidence of a substantiated public health crisis that would compel us to disregard the administrative process.

Finally, I would briefly like to make three other points which we dwell on at more length in the committee report:

First, because 99th percentile usage levels of aspartame remain well below the ADI, consumers do not need to monitor precisely their levels of the sweetner. For those who for one reason or another have a particular interest, such as researchers, content information is freely available from the manufacturers.

Second, the hypothesis that persons in the general population may be subject to a yet unidentified sensitivity to aspartame is so far unsupported by any published scientific data. The Centers for Disease Control studied some 600 consumer complaints in which aspartame was a potential factor, attempting to find some pattern. The conclusion: "We found, in summary, that no scientific constellation of symptoms clearly related to aspartame consumption was clearly identified."

While the committee report directs FDA to see that followup studies are done to try to determine if an unknown sensitivity exists, it remains only an unverified possibility and does not justify an act of Congress at this time.

Third, the hypothesis that aspartame may alter brain chemistry in such a way as to alter mood, cause headaches, et cetera, has been considered by FDA and numerous foreign agencies which have approved aspartame, and has not been confirmed in studies completed to date. Further studies are to begin soon, but the hypothesis is still speculative at this point and does not give us any reason to preempt FDA on the labeling issue.

Finally, let us recognize that this is not a label or no label question. Soft drink cans are currently required to declare in their labeling that they contain aspartame. Thus those who cannot metabolize aspartame's common amino acids, and those who desire not to consume it for whatever

reason, are perfectly able to avoid it completely. This is the labeling step that makes some sense, and we are already doing it.

I am as sympathetic to disclosure of important information to the consumer as anyone.

In fact, I think we will hold hearings on labeling in general, not on a product-by-product basis but in general, later in the year. I think that will please the distinguished Senator from Ohio.

But we could literally wrap a can or box in a long list of unpronounceable ingredients and quantities which would benefit no one.

It is for exactly this reason that FDA should be the forum where the quantity issue is initially judged, openly and with the benefit of continuing scientific input.

I would also like to address three points made by the Senator from Ohio in his remarks.

First, the Common Cause charges of irregularities in the approval of aspartame have been raised again today, as they have in several fora in the past. They have not held up under scrutiny.

The bottom line is this: the studies supporting aspartame's approval have been examined and reexamined. More than enough sound, valid studies exist to demonstrate aspartame's safety. FDA's approval procedure has also been thoroughly reviewed on a number of occasions, and the agency, both in briefings for my office and Senator METZENBAUM'S and publicly, has given good, credible reasons why the decisions were made which are now being portrayed as unusual or improper. This substance has been under review for 10 years, and at our hearings on the bill no one suggested that it be taken off the market.

Further, the acceptable daily intake for a substance is based on an evaluation of studies in animals and when available, in humans as well. In the case of aspartame, both extensive animal testing and human clinical studies were used to calculate the ADI. The ADI is a conservative upper limit on the amount of a substance that can safely be consumed on a chronic or lifetime basis. It is not unusual nor unsafe for a person to consume more than the ADI on occasion.

The ADI for aspartame set by FDA and reevaluated and reaffirmed several times is 50 milligrams per kilogram of body weight. This ADI is based on a broad array of data, including clinical studies in which human volunteers received, with no ill effect, up to 200 mg./kg./day of aspartame, which is equivalent to approximately 5 pounds of sugar per day.

FDA estimated that if aspartame replaced all the sugar and saccharin in the diet, the 99th percentile of projected consumption of aspartame would be 34 mg./kg./day. Aspartame is judged to be safe because this estimate of maximum daily intake, 34 mg./kg./day, is substantially below the acceptable daily intake of 50 mg./kg./day. Indeed, the actual consumption figures themselves are even lower.

Finally, I would like to make a couple of comments concerning this draft National Soft Drink Association document. The Senator continues to make a mountain out of this molehill. The draft was placed in context both in the hearing and in the markup on this bill. Far from being a source of suspicion about either the safety of aspartame or the good faith motives of the association, it is instead a confirmation of both.

The soft drink manufacturers have had experience with having a sweetener in wide use pulled from the market, with all the fear, adverse publicity, and expense such an event generates, the cyclamate case in the late sixties.

It was also clear to them that if aspartame were approved in soft drinks, public demand would quickly lead to its widespread use in the industry.

Thus, from a basic concern for the safety of their customers, and to avoid the expense and mistrust generated by a later FDA mandated withdrawal, the industry had every reason to critically scrutinize this new sweetener and to satisfy itself there were no weaknesses in its record. This it did.

As an important aid in its examination of both the pros and cons of aspartame licensing in soft drinks, the National Soft Drink Association commissioned from an outside law firm a memo focusing on possible objections to licensing. This memo, because of the shortness of time allowed for comment on the licensing, was cast as a formal objection on the part of NSDA.

The association consciously investigated each of the points in the document and satisfied itself that FDA and Searle had good and valid answers to them before supporting the licensing of aspartame.

The NSDA Board of Directors never adopted these positions and the document was never filed. It remained simply an aid to discussion and analysis.

It's no different from memos which any of our staffs might submit to us as an option, options we find without merit and do not act on. Saying this draft document shows NSDA's secret intent is like obtaining a copy of one of these rejected internal Senate staff memos and claiming it represents the Members' real thoughts on the issue.

In conclusion I want to make clear just what we are being asked to do in this amendment. We are asked to require the labeling of the quantity of aspartame present—and only aspartame—because it might cause side effects through some as-yet-unknown and unidentified sensitivity. Let me quote the testimony of Dr. Wurtman, the originator of this suggestion, to demonstrate how speculative it is:

> If aspartame does produce side-effects involving the brain, and if these side-effects result from the sweetner's phenylalanine content, then their production almost certainly requires that large amounts of aspartame—probably several grams—be consumed.

Thus it is claimed that consumers would need to know how much their intake is on a can-by-can basis.

Dr. Wurtman elsewhere in his testimony forthrightly admits that there is "an absence of positive evidence that aspartame produces deleterious effects." Thus what we have here is one "if" stacked on another "if". It reminds me of the old line:

> If we had some ham, we could have some ham and eggs, if we had some eggs.

If we are going to let this kind of compounded speculation stampede us into requiring quantitative aspartame labeling, where will we stop? This type of reasoning would as well justify us in requiring quantitative labeling of every possible ingredient because it might—you never can tell—produce a side effect in someone. I really do not think this approach serves the consumer well or reflects well upon our own deliberative abilities. It may be that FDA, after obtaining and reviewing the data it feels relevant, taking public comments, and weighing the matter under the laws as they exist, would require quantitative labeling of aspartame. Fine and good.

It may very well be that they may not require labeling of aspartame. If they do not, it will be for good and sufficient reasons. Thus far, they have not. But it is FDA that ought to be petitioned on issues like this, not Congress.

For these reasons I must oppose this amendment and ask my colleagues to oppose it as well.

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

Mr. MITCHELL. Mr. President, I rise today in opposition to Senator METZENBAUM'S amendment to S. 484. That amendment would require quantitative labeling of aspartame, or NutraSweet, on soft drink containers.

I am not opposed to quantitative labeling in principle. But because this is an extremely complex and controversial issue, I believe it deserves a more complete hearing before the Senate Committee on Labor and Human Resources before it is brought before the full Senate for a vote. I am also concerned that this amendment may jeopardize the passage of the saccharin legislation which is supported by a majority of both Houses of Congress.

Serious questions about the safety of aspartame use remain unanswered. It is generally acknowledged that the FDA's initial testing of aspartame was

inadequate; in 1980 an inhouse Scientific Board of Inquiry at the FDA issued a split decision on the question of aspartame approval.

The Centers for Disease Control [CDC] in Atlanta has been conducting a study of consumer complaints associated with the consumption of aspartame. The CDC concluded that the consumer complaints did not provide enough cause for removing NutraSweet from the market, but they did suggest further studies. I support this recommendation.

There is evidence that the unlimited use of aspartame may be harmful to certain people under specific conditions. For that reason, I urge Senator HATCH to schedule additional hearings in the Senate Labor and Human Resources Committee on the issue of quantitative labeling of NutraSweet for soft drinks. I also encourage the FDA to continue to test this additive to determine whether individuals are likely to experience side effects from NutraSweet.

I look forward to the results of additional examination of this issue by the Congress, the FDA and the Centers for Disease Control.

● Mr. LEVIN. Mr. President, because there is an opportunity for the FDA to administratively require quantitative labeling of aspartame and this amendment will establish an important precedent without adequate purpose, I will vote against the Metzenbaum amendment.

The Food and Drug Administration is the better forum to first consider whether quantitative labeling is necessary after hearings and public comment. Furthermore, unless American consumers know what the "acceptable daily intake [ADI] of aspartame is, quantitative labeling is not widely useful.

While I am voting against the amendment proposed by Senator METZENBAUM for the above-mentioned reasons, I am open to considering some action similar to this in the future, particularly if the administrative process becomes bogged down or if such process shows that action such as this is needed.●

Mr. METZENBAUM. Mr. President, how much time remains?

The PRESIDING OFFICER. Seventeen minutes, 20 seconds remain to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. METZENBAUM. The Senator from Ohio is not saying, "Do not use aspartame."

I am saying I do not know enough to make that kind of an assertion.

I do know enough to know that serious questions have been raised regarding this product.

Mr. President, I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I have not discussed this matter with the Senator previously, but I have received a letter recently from a person who is well known to me and whose word is impeccable, as far as I am concerned.

This person told me that she had been dieting and she had been using diet drinks with aspartame in it.

She said she found her memory was going. She seemed to be completely losing her memory. When she would meet people whom she knew intimately, she could not recall what their name was, or even who they were.

She could not recall a good bit of that which was going on about her to the extent that she was afraid she was losing her mind and was going to have to go to a mental institution. In due course, someone suggested that it might be this NutraSweet, so she stopped using it and her memory came back and her mind was restored.

Mr. President, that is a story I know to be completely true. This person enclosed some clippings from the New York Times which reported complaints from other people having similar types of experiences.

So, while I am sure that story might not be typical of the use of this product, it is a true story that I know about.

Mr. METZENBAUM. As a matter of fact, Mr. President, I would like to respond to the distinguished Senator from Louisiana that it is not atypical. As a matter of fact, we have received a number of letters from doctors reporting similar developments. We are aware that there are many other reports that have come into the Food and Drug Administration along the same line.

Nobody has conclusive evidence, but there is no question that there have been hundreds of instances of people who have suffered loss of memory, headaches, dizziness, and other neurological symptoms which they feel are related to aspartame. More studies are necessary. We hope to see that they get done.

But on this amendment, I am saying to the Senator openly that there are enough cases of this kind that it certainly seems to this Senator that we are not doing too much if we just say, "Tell the people at least how much is in the can."

Mr. LONG. Mr. President, if the Senator will yield further.

Mr. METZENBAUM. I certainly do yield.

Mr. LONG. The revelations about smoking and cancer came only after people had been smoking a long time. The Senator from Louisiana gained the impression that a young person starting smoking had no immediate indication of cancer connected with it. It was only when such a person had been smoking about 20 years that he began to come down with lung cancer, heart disease, and various other health problems resulting from smoking. No one can predict what this drug is going to do to people over a period of time.

There it is out on the market and people are consuming it by the tons. We know from reliable testimony of people who have used the product that there are many situations where people have had their health very adversely affected.

As the Senator indicates, only the good Lord knows what this thing is going to show over a period of time. It may well be that we may see many brain tumors and goodness knows what else associated with the product. I believe the Senator is only trying to say that at least we ought to have records to show what these people are consuming.

Mr. METZENBAUM. That is all. Put it on the can. There are a thousand-and-one other things on the can. We give them 18 months to modify the can. I cannot see any reason for opposition to this amendment. If I were coming in here and proposing that they not be permitted to use it, I could understand a battle on that. I am not saying that. I am just saying tell the people how much is in the can. What is so terrible about that and why so much lobbying is taking place against it is beyond my comprehension.

Mr. LONG. Mr. President, I appreciate the Senator's argument. The Senator has an amendment?

Mr. METZENBAUM. I do have an amendment.

Mr. LONG. I shall vote for the Senator's amendment. I think he is right.

Mr. METZENBAUM. Mr. President, I am very grateful to the Senator.

Mr. President, I say to the Senate that the FDA in 1981 placed a limitation of 20 milligrams of aspartame per kilogram of body weight. But the consumption was increasing so fast that the FDA put it up to 50 milligrams.

I do not know the right answer. I cannot give the answer to that. I know this: when they were originally talking about using aspartame, they were not talking about using it in soft drinks; they were talking about using it in other products, not liquid products of that kind. The amount they were talking about using was a small amount. It took many people by surprise when it was learned that they were going to use it in soft drinks and the consumption was significantly increased by including it in soft drinks.

There is no secret about the fact that many people who are on diets find that it is easier to drink a soft drink—it satisfies their appetite—rather than eat food. And they drink

diet drinks. I cannot tell you how many, but I have been in the presence of people who, at one meal, have taken three or four cans of a soft drink, a diet drink, and what else they consume during the day, I do not know.

I say to my colleagues, Mr. President, we do not have anything to lose, the soft drink industry does not have anything to lose. But there is a chance that there is very much to be gained if we adopt this amendment. I sincerely hope that we do so, but my guess is that the lobbyists have done their job and done it well.

Mr. NICKLES. Will the Senator yield for a couple of quick questions?

Mr. METZENBAUM. Absolutely.

Mr. NICKLES. Am I correct in saying that the Senator's amendment basically would require labeling for NutraSweet and aspartame?

Mr. METZENBAUM. That is correct.

Mr. NICKLES. And it would require what, the number of milligrams per can or bottle, whatever?

Mr. METZENBAUM. That is correct, Mr. President. As a matter of fact, it does not require the labeling, because they are already doing the labeling. During my remarks, I indicated that they not only indicate that aspartame is in the product, they indicate who makes the product and they indicate if you want to find out information about it, you can call a number, 1-800 and so on, and find out the facts. We called that number and were unable to find the facts.

Mr. NICKLES. How many milligrams of aspartame are in, say, a 12-ounce can?

Mr. METZENBAUM. About 180 to 200, I am informed by my staff.

Mr. NICKLES. Has there been any concrete evidence whatsoever that this causes health hazards in any way, shape, or form, to humans?

Mr. METZENBAUM. As I tried to indicate in responding to the distinguished Senator from Florida, there is no conclusive evidence that aspartame does indeed produce a health hazard. But I am advised that a Dr. Keith Conners at Childrens Hospital in the District of Columbia has performed studies which indicate that aspartame had indeed affected a child who was under his observation. From the New York Times, I read this to the Senator.

> Dr. Conners is worried about aspartame's effects on certain highly sensitive individuals. He has studied two young children who suffer extreme agitation following doses of aspartame equivalent to the amount found in a six-ounce serving of Kool-Aid sweetened with NutraSweet. One of the children becomes so agitated he has to be restrained, Dr. Conners said. The other, who is sensitive to sugar, becomes even more aggressive when given aspartame, he said.

I also want to point out that of the six FDA scientists who were advising the Commissioner on final approval, three of those scientists believed that aspartame should not be approved.

I have here another article from the Washington Post the staff has just handed me, dated April 24, 1985:

> Other recent scientific evidence suggests a link between the development of nonmalignant skin lesions and the consumption of aspartame. Research also suggests headaches and perhaps even high blood pressure can result from combining aspartame with certain medications.
>
> One study published in the Annals of Internal Medicine described how a 22-year-old woman who drank daily 36 to 44 ounces of an aspartame-sweetened diet drink developed skin lesions on her thighs. Controlled tests over a period of weeks documented that the woman's lesions disappeared and reappeared with the use of aspartame. Two other reports published earlier this year in the American Journal of Psychiatry and the British journal Lancet document behavioral changes among aspartame users.

What I am saying is that I cannot come here and say to my colleagues, "Don't use aspartame." I can say there is enough evidence that I think we ought to have concern about it, and I am positive that there is nothing to be lost and an awful lot to be gained by indicating the amount of aspartame that is contained in a can or bottle.

Mr. NICKLES. I appreciate my good friend from Ohio answering my question.

As a consumer and as a person who drinks some of these diet colas, I heard Senator LONG mention that he had a friend who lost a memory. I think some people have lost their memory after drinking a variety of things. I do not know whether it was diet colas or whatever.

With respect to the Senator's labeling amendment, I am concerned that by saying it has x number of milligrams of aspartame, I do not know that that means anything to hardly anybody. If there is no conclusive proof that 200, 400, 600, or 1,000 milligrams of aspartame per day would do any damage whatsoever, I do not know what good it would do to have that labeling requirement.

I appreciate the Senator's response.

Mr. METZENBAUM. In this instance, an ounce of prevention is worth a pound of cure.

Mr. NICKLES. Mr. President, I have listened very carefully to the Senator from Ohio. The position he is taking in proposing this amendment is somewhat perplexing.

First, as many times as the saccharin bill has come up in the Senate, we have talked in this body about the need for a new artificial sweetener that did not have the health problems that had been projected scientifically with respect to cyclamate and saccharin. The potential of these food additives to cause cancer in laboratory animals is well known and documented. Obviously, it would be of great benefit to those in the population who need alternatives to sugar, such as diabetics who physically cannot tolerate sugar as well as individuals who must restrict their caloric intake and those for whom the threat of dental care suggests an alternative may be in order. For science to have developed such an alternative sweetener would certainly be welcome in this body as well as in the public that we all serve.

Now, after a chance discovery some 18 years ago and a period of testing and regulatory scrutiny that stretches back over the last 17 years, such a sweetener is available. While aspartame does not completely replace saccharin in those uses for which extreme heat over long periods is required, it provides a welcome alternative in many sweetening applications. It would seem to me more appropriate to welcome and encourage this salutory development rather than, as the Senator from Ohio attempts to do, raise questions about aspartame by suggesting a need for labeling on the basis of extremely tenuous or nonexistent evidence. We will not encourage scientists and industry to act responsively in meeting these public needs if we ourselves do not act responsibly.

The second curious aspect of this amendment is that there appears to be a pronounced lack of solid, scientific evidence in the record for the action the Senator wishes the Senate to take. In the recent hearing on the saccharin bill, a single scientist expressed a theory for danger of aspartame, which apparently is a distinctly minority view. The record shows that another scientist testified in disagreement with this theory and in fact cited scientific evidence that would prove the theory incorrect.

Most significant, however, is the fact that both of these scientists agreed that at current levels of consumption, there is no danger to the public from aspartame. The FDA has rejected these and other allegations and has at least twice pronounced aspartame safe and so testified in the hearings.

Despite this lack of evidence in the record, we are asked to require by law the labeling of the amount of aspartame in soft drinks. If the Senate has already thoroughly reviewed the need for labeling and required the marking of foodstuffs in general for the large quantity of actually or potentially troublesome food additives, the amendment might be understandable. However, the Senate should not single out a product in this fashion for a pejorative labeling requirement based only on the assertion of a single scientist's theory that it is dangerous. We are being asked to ignore the evidence of record that aspartame is safe in quantities far above the amounts that will be consumed by the public. We are being asked to ignore the experi-

ence in Canada where aspartame has been authorized as an ingredient in soft drinks for the last 4 years and no problems have arisen with its use by the population there. We are being asked to ignore the fact that the FDA and the similar agencies of 40 other countries and health organizations have approved aspartame after specifically rejecting the theories on which this amendment is based.

There is a third difficulty with this amendment. It is my understanding that the Senator from Utah has indicated in the course of the markup of the bill and thereafter a willingness to conduct hearing on the labeling of foods. Presumably such a hearing would include testimony on a number of food ingredients so that we might have in our deliberations the benefit of a record that places the desirability of labeling aspartame in some reasonable perspective. I further understand that the Senator from Florida, who has a well known interest in labeling legislation, does not feel that this amendment is desirable and is confident that such hearing on the broader concerns of labeling can be held in this Congress. Thus, it is peculiar that the Senator from Ohio feels that we should act in haste now, particularly since the Senator has indicated that he would be willing to toll the effectiveness of his amendment for upwards of 1 year.

Mr. President, the adoption of this amendment will do a disservice to science in my judgment as well as a disservice to a product that has evidenced few if any real problems after 15 years of exacting scrutiny. We will not encourage discipline in either science on our regulatory agencies by legislating on such an incomplete and faulty record.

Mr. METZENBAUM. Mr. President, my time has expired, and I am prepared to vote, if the Senator from Utah is ready to do so.

Mr. HATCH. We are prepared to vote on this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment. On this queston the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Dakota [Mr. ANDREWS] and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

I also announce that the Senator from North Carolina [Mr. EAST] is absent due to illness.

Mr. CRANSTON. I announce that the Senator from Nebraska [Mr. EXON] is absent due to illness.

I further announce that the Senator from Mississippi [Mr. STENNIS] is necessarily absent.

The PRESIDING OFFICER (Mr. GRAMM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 27, nays 68, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—27

Burdick	Hart	Melcher
Byrd	Hatfield	Metzenbaum
Chafee	Johnston	Moynihan
Chiles	Kennedy	Pell
Cranston	Kerry	Proxmire
Dodd	Lautenberg	Rockefeller
Eagleton	Long	Sarbanes
Glenn	Mathias	Simon
Harkin	Matsunaga	Specter

NAYS—68

Abdnor	Goldwater	Mitchell
Armstrong	Gore	Murkowski
Baucus	Gorton	Nickles
Bentsen	Gramm	Nunn
Biden	Grassley	Packwood
Bingaman	Hatch	Pressler
Boren	Hawkins	Pryor
Boschwitz	Hecht	Quayle
Bradley	Heflin	Riegle
Bumpers	Heinz	Roth
Cochran	Helms	Rudman
Cohen	Hollings	Sasser
D'Amato	Humphrey	Simpson
Danforth	Inouye	Stafford
DeConcini	Kassebaum	Stevens
Denton	Kasten	Symms
Dixon	Laxalt	Thurmond
Dole	Leahy	Trible
Domenici	Levin	Wallop
Durenberger	Lugar	Warner
Evans	Mattingly	Wilson
Ford	McClure	Zorinsky
Garn	McConnell	

NOT VOTING—5

Andrews	Exon	Weicker
East	Stennis	

So the amendment (No. 60) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 45 minutes and 16 seconds remaining.

Mr. HATCH. Mr. President, I am prepared to yield back the remainder of my time.

Is there any desire to have a rollcall vote on this?

The PRESIDING OFFICER. The Senator yields back the remainder of his time.

Mr. METZENBAUM. I do not think I have any more time, do I?

The PRESIDING OFFICER. The Senator from Ohio has no more time.

Mr. HATCH. I move the bill.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays, but before doing so I wish to say that I have indicated to some I was not going to ask for the yeas and nays, and I had indicated previously I was not going to ask for the yeas and nays.

The PRESIDING OFFICER. If the Senator will suspend, will the Senate be in order? Will Members clear the well?

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays, but before doing so I wish to explain my position.

I indicated to a number of Members that I was not going to ask for the yeas and nays and Senator HATCH was not going to ask for the yeas and nays. Some Members may have left.

I thereafter learned that a number of Members did indeed want to vote on the proposal as amended.

So on their behalf, I am asking for the yeas and nays.

I then was told by some Members on the majority side that they may want to vote tomorrow on the issue. I believe that there will probably be 100 percent vote in favor.

If that be the inclination of the leadership, the Senator from Ohio has no objection whatsoever.

But I do 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 bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

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

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, as far as we know on this side everyone is still around. It would be my hope we could dispose of this this evening if we could do it.

Mr. BYRD. Yes.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Dakota [Mr. ANDREWS] and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

I also announce that the Senator from North Carolina [Mr. EAST] is absent due to illness.

Mr. CRANSTON. I announce that the Senator from Mississippi [Mr. STENNIS] is necessarily absent.

I also announce that the Senator from Nebraska [Mr. EXON] is absent because of illness.

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

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—94

Abdnor	Gore	Melcher
Armstrong	Gorton	Metzenbaum
Baucus	Gramm	Mitchell
Bentsen	Grassley	Moynihan
Biden	Harkin	Murkowski
Bingaman	Hart	Nickles
Boren	Hatch	Nunn
Boschwitz	Hatfield	Packwood
Bradley	Hawkins	Pell
Bumpers	Hecht	Pressler
Burdick	Heflin	Pryor
Byrd	Heinz	Quayle
Chafee	Helms	Riegle
Chiles	Hollings	Rockefeller
Cochran	Humphrey	Roth
Cohen	Inouye	Rudman
Cranston	Johnston	Sarbanes
D'Amato	Kassebaum	Sasser
Danforth	Kasten	Simon
DeConcini	Kennedy	Simpson
Denton	Kerry	Specter
Dixon	Lautenberg	Stafford
Dodd	Laxalt	Stevens
Dole	Leahy	Symms
Domenici	Levin	Thurmond
Durenberger	Long	Trible
Eagleton	Lugar	Wallop
Evans	Mathias	Warner
Ford	Matsunaga	Wilson
Garn	Mattingly	Zorinsky
Glenn	McClure	
Goldwater	McConnell	

NAYS—1

Proxmire

NOT VOTING—5

Andrews	Exon	Weicker
East	Stennis	

So the bill (S. 484), as amended, was passed as follows:

S. 484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Saccharin Study and Labeling Act (21 U.S.C. 348 nt.) is amended by striking out "During the period beginning on the date of enactment of this Act and ending twenty-four months after the date of enactment of the Saccharin Study and Labeling Act Amendment of 1983" and inserting in lieu thereof "During the period ending May 1, 1987".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business not to extend beyond 7 o'clock with statements therein limited to 5 minutes each.

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

BIRTHDAY GREETINGS TO SENATOR PETE DOMENICI

Mr. DOLE. Mr. President, since the middle of January the Senate Republican leadership has been working doggedly to find a way to reduce the Federal deficit. And for more than a week now, my colleagues and I have spent the better part of our working days either in meetings or on the Senate floor, striving toward the same goal.

So it is a special pleasure for me today to have the opportunity to celebrate the addition of a number, the marking of another year in the life of Senator PETE DOMENICI.

PETE might say that he already has a surplus of years. But for those of us fortunate enough to work closely with him, and for me especially, as someone who has relied on PETE's many talents and skills, his birthday surplus could not be too big.

PETE is one of the most dedicated and hard working Members of the Senate. And I know, more clearly than ever, just how monumental his job as Budget Committee chairman is.

Despite the enormity of his task, however, PETE has always maintained his sense of humor, and his perspective on family and friends.

I thank PETE for all his help and wish him health and happiness in the coming year.

MESSAGES FROM THE HOUSE

At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 597. An act to amend subtitle II of title 46, United States Code, "Shipping", making technical and conforming changes, and for other purposes.

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

H.R. 664. An act to amend the Panama Canal Act of 1979 with respect to the payment of interest on the investment of the United States.

At 3:32 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 joint resolutions, each without amendment:

S.J. Res. 53. Joint resolution to authorize and request the President to designate the month of June 1985 as "Youth Suicide Prevention Month";

S.J. Res. 60. Joint resolution to designate the week of May 12, 1985, through May 18, 1985, as "Senior Center Week";

S.J. Res. 64. Joint resolution to designate the week beginning May 5, 1985, as "National Correctional Officers Week";

S.J. Res. 65. Joint resolution designating the month of November 1985 as "National Alzheimer's Disease Month";

S.J. Res. 83. Joint resolution to designate the week beginning on May 5, 1985, as "National Asthma and Allergy Awareness Week";

S.J. Res. 94. Joint resolution to designate the week beginning May 12, 1985, as "National Digestive Diseases Awareness Week"; and

S.J. Res. 128. Joint resolution to designate May 7, 1985, as "Vietnam Veterans Recognition Day".

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 5:36 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 resolution:

S. 597. An act to amend subtitle II of title 46, United States Code, "Shipping", making technical and conforming changes, and for other purposes; and

S.J. Res. 128. Joint resolution to designate May 7, 1985, as "Vietnam Veterans Recognition Day".

The enrolled bill and joint resolution were subsequently signed by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 664. An act to amend the Panama Canal Act of 1979 with respect to the payment of interest on the investment of the United States; to the Committee on Armed Services.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, May 7, 1985, she had presented to the President of the United States the following enrolled bill and joint resolution:

S. 597. An act to amend subtitle II of title 46, United States Code, "Shipping", and making technical and conforming changes, and for other purposes; and

S.J. Res. 128. Joint resolution to designate May 7, 1985, as "Vietnam Veterans Recognition Day".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1065. A communication from the General Counsel of the Department of Defense transmitting, pursuant to law, a request for the authorization of certain construction at Fort Drum, New York; to the Committee on Armed Services.

EC-1066. A communication from the Assistant Secretary of the Army (Installations and Logistics) transmitting, pursuant to law, notice of the conversion of the commissary shelf stocking function at Dugway Proving Ground, Utah to performance by contract; to the Committee on Armed Services.

EC-1067. A communication from the Secretary of Health and Human Services transmitting a draft of proposed legislation to amend the Social Security Act to make certain program and fiscal improvements in the program of aid to families to dependent children; to the Committee on Finance.

EC-1068. A communication from the Assistant Secretary of State (Legislative and

Intergovernmental Affairs) transmitting, pursuant to law, the text of the International Labor Organization recommendation concerning employment policy; to the Committee on Foreign Relations.

EC-1069. A communication from the Acting Secretary of State transmitting, pursuant to law, a report on the situation in El Salvador; to the Committee on Foreign Relations.

EC-1070. A communication from the Inspector General of the Department of Health and Human Services transmitting, pursuant to law, notice of a matching program; to the Committee on Governmental Affairs.

EC-1071. A communication from the Executive Secretary of the National Mediation Board transmitting, pursuant to law, the annual report of the Board under the Government in the Sunshine Act for calendar year 1984; to the Committee on Governmental Affairs.

EC-1072. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice transmitting, pursuant to law, copies of orders granting defector status to certain aliens under section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-1073. A communication from the Secretary of Education transmitting a draft of proposed legislation to amend titles VI and VII of the Education for Economic Security Act in order to clarify certain of their provisions and to improve the operation of the Excellence in Education programs and Magnet School programs they authorize, and for other purposes; to the Committee on Labor and Human Resources.

EC-1074. A communication from the Under Secretary of State (Security Assistance, Science, and Technology) transmitting, pursuant to law, notice of the implementation of the FY 1985 Peacekeeping Operations programs and the necessity for a revision to the allocation of funds allocated for the Caribbean Peacekeeping Force; to the Committee on Appropriations.

EC-1075. A communication from the Executive Associate Director for Budget, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report stating that the appropriation to the Department of Justice for the United States attorneys and marshals for fiscal year 1985 has been reapportioned on a basis indicating a need for a supplemental estimate of appropriation; to the Committee on Appropriations.

EC-1076. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation to amend title 10, United States Code, to revise and standardize the provisions of law relating to the distribution, appointment and assignment of flag and general officers of the Army, Navy, Air Force, and Marine Corps; to the Committee on Armed Services.

EC-1077. A communication from the Secretary of Energy transmitting a draft of proposed legislation to provide for distribution to the States of certain amounts resulting from enforcement of the Emergency Petroleum Allocation Act of 1973, and for other purposes; to the Committee on Energy and Natural Resources.

EC-1078. A communication from the Acting General Counsel of the Department of Energy transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-1079. A communication from the Acting General Counsel of the Department of the Treasury transmitting a draft of proposed legislation to amend sections 5315 and 5316 of title 5, United States Code, to change the position of Chief Counsel for the Internal Revenue Service, Department of the Treasury, from Level V to Level IV of the Executive Schedule; to the Committee on Finance.

EC-1080. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to May 2, 1985, to the Committee on Foreign Relations.

EC-1081. A communication from the Acting General Counsel of the Treasury transmitting a draft of proposed legislation to raise the maximum annual uniform allowance for uniformed employees of the Federal Law Enforcement Training Center, Department of the Treasury; to the Committee on Governmental Affairs.

EC-1082. A communication from the Acting General Counsel of the Treasury transmitting a draft of proposed legislation to raise the authorized pay level of the Treasury of the United States to Executive Level IV; to the Committee on Governmental Affairs.

EC-1083. A communication from the Attorney General of U.S., transmitting, pursuant to law, notice that the U.S. will not appeal a decision of the U.S. Court of Appeals holding that the felony penalty provisions of the Migratory Bird Treaty Act are unconstitutional; to the Committee on the Judiciary.

EC-1084. A communication from the Secretary of Health and Human Services transmitting a draft of proposed legislation to extend various health service authorities: to the Committee on Labor and Human Resources.

EC-1085. A communication from the Chairman of the Railroad Retirement Board transmitting, pursuant to law, the 16th actuarial valuation of the railroad retirement system; to the Committee on Labor and Human Resources.

EC-1086. A communication from the Director of the Office of Management and Budget transmitting a draft of proposed legislation to increase the dollar threshold for publicizing procurement notices in the Commerce Business Daily; to the Committee on Small Business.

EC-1087. A communication from the Acting Secretary of the Air Force transmitting, pursuant to law, a report indicating that the unit cost of the MX Missile has increased by 50 percent in fiscal year 1985; to the Committee on Armed Services.

EC-1088. A communication from the Chairman of the Federal Home Loan Bank Board transmitting, pursuant to law; the Annual Report of the Depository Institutions Deregulation Committee; to the Committee on Banking, Housing, and Urban Affairs.

EC-1089. A communication from the Secretary of Transportation transmitting, pursuant to law, the annual report on Highway Safety Improvement Programs; to the Committee on Commerce, Science, and Transportation.

EC-1090. A communication from the Secretary of Transportation transmitting, pursuant to law, a report entitled "The Transport of Methanol by Pipeline"; to the Committee on Commerce, Science, and Transportation.

EC-1091. A communication from the Under Secretary of Labor transmitting, pursuant to law, a report on the expenditure and need for Worker Adjustment Assistance Training Funds under the Trade Act; to the Committee on Finance.

EC-1092. A communication from the District of Columbia Auditor transmitting, pursuant to law, a report on the payment of unemployment claims to public school cafeteria employees; to the Committee on Governmental Affairs.

EC-1093. A communication from the Director of the Information Security Oversight Office of GSA transmitting, pursuant to law, the annual report on the Government's information security program for 1984; to the Committee on Governmental Affairs.

EC-1094. A communication from the District of Columbia Auditor transmitting, pursuant to law, a report on HFA Executive Director American Express Charges; to the Committee on Governmental Affairs.

EC-1095. A communication from the Acting Administrator of GSA transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1096. A communication from the Acting Assistant Attorney General transmitting, pursuant to law, the Department of Justice's 1984 Freedom of Information Act report; to the Committee on the Judiciary.

EC-1097 A communication from the Secretary of the Interstate Commerce Commission transmitting, pursuant to law, notice of the decision to extend the time for acting on the appeal in Newell Recycling Co., Inc. v. Norfolk Southern Corp., et al.; to the Committee on Commerce, Science, and Transportation.

EC-1098. A communication from the Assistant Secretary of State transmitting, pursuant to law, notice of a determination by the President to furnish up to $300,000 worth of military assistance to Haiti; to the Committee on Foreign Relations.

EC-1099. A communication from the Administrator of the Veterans Administration transmitting a draft of proposed legislation to require formal advertising for certain VA contracts if the amount exceeds $25,000; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works, with amendments:

S. 709: A bill to amend the Public Buildings Act of 1959 and for other purposes (Rept. No. 99-42).

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment:

H.R. 14: A bill to designate the Federal Building and U.S. Courthouse in Ashland, KY, as the "Carl D. Perkins Federal Building and U.S. Courthouse".

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

H.R. 47: A bill to provide for the minting of coins in commemoration of the centennial of the Statue of Liberty.

By Mr. GOLDWATER: from the Committee on Armed Services, without amendment:

S. Res. 156: An original resolution waving section 303(a) of the Congressional Budget

Act of 1974 with respect to the consideration of S. 1029.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

Peter C. Myers, of Missouri, to be an Assistant Secretary of Agriculture; and

Robert L. Thompson, of Indiana, to be an Assistant Secretary of Agriculture.

(The above nominations were reported from the Committee on Agriculture, Nutrition, and Forestry with the recommendations that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. GOLDWATER, from the Committee on Armed Services:

Mr. GOLDWATER. Mr. President, from the Committee on Armed Services, I report favorably the attached listings on nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

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

(The nominations ordered to lie on the Secretary's desk appeared in the RECORD of April 29, 1985, at the end of the Senate proceedings.)

ROUTINE MILITARY NOMINATIONS WHICH HAVE BEEN PENDING WITH THE SENATE ARMED SERVICES COMMITTEE THE REQUIRED LENGTH OF TIME AND TO WHICH NO OBJECTIONS HAVE BEEN RAISED—MAY 7, 1985

*1. Lt. Gen. John B. Blount, U.S. Army, (age 56) to be placed on the retired list; and Maj. Gen. Thomas F. Healy, U.S. Army, to be lieutenant general. (Ref. #235)

*2. Lt. Gen. Howard F. Stone, U.S. Army, (age 53) to be placed on the retired list; and Maj. Gen. Howard G. Crowell, Jr., U.S. Army, to be lieutenant general. (Ref. #236)

*3. Col. Frank Torres, Jr., U.S. Army Natinal Guard, to be brigadier general. (Ref. #237)

*4. Lt. Gen. Charles G. Cooper, U.S. Marine Corps, (age 57) to be placed on the retired list. (Ref. #238)

*5. Lt. Gen. William R. Maloney, U.S. Marine Corps, (age 55) to be placed on the retired list. (Ref. #239)

*6. Lt. Gen. Bernard E. Trainor, U.S. Marine Corps, (age 56), to be placed on the retired list. (Ref. #240)

*7. Lt. Gen. George B. Crist, U.S. Marine Corps, to be reassigned. (Ref. #241)

*8. Maj. Gen. Ernest C. Cheatham, Jr., U.S. Marine Corps, to be lieutenant general. (Ref. #245)

*9. Maj. Gen. Thomas R. Morgan, U.S. Marine Corps, to be lieutenant general. (Ref. #246)

*10. Maj. Gen. Joseph J. Went, U.S. Marine Corps, to be lieutenant general. (Ref. #247)

*11. Brig. Gen. Constantine Sangalis, U.S. Marine Corps, to be major general. (Ref. #248)

*12. Col. George R. Omrod, U.S. Marine Corps Reserve, to be brigadier general. (Ref. #249)

**13. In the Air National Guard there are 30 promotions to the grade of lieutenant colonel (list begins with James H. Applegate, Jr.). (Ref. #250)

**14. In the Air Force Reserve there are 51 promotions to the grade of colonel (list begins with John H. Barnhart). (Ref. #251)

*15. Vice Admiral John M. Poindexter, U.S. Navy, to be reassigned. (Ref. #256)

Total 96.

By Mr. PACKWOOD, from the Committee on Finance:

John F. W. Rogers, of New York, to be an Assistant Secretary of the Treasury;

Margaret DeBardeleben Tutwiler, of Alabama, to be an Assistant Secretary of the Treasury; and

Samuel B. Sterrett, of Maryland, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

(The above nominations were reported from the Committee on Finance with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. LUGAR, from the Committee on Foreign Relations:

Vernon A. Walters, of Florida, to be the Representatives of the United States to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary and the Representative of the United States in the Security Council of the United Nations.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Vernon A. Walters.

Post: Permanent Representative to the United Nations.

Nominated: February 8, 1985.

Contributions, amount, date, donee.

1. Self.

National Right to Life Committee, January 26, 1985, $200.

Republican Majority Fund, January 18, 1984, $150.

Helms for Senate, March 12, 1984, $200.

National Right to Life Committee, March 26, 1984, $100.

National Congressional Club, April 19, 1984, $75.

National Right to Life Committee, August 3, 1984, $100.

Helms for Senate, September 10, 1984, $100.

Republican Majority Fund, September 7, 1984, $100.

Helms for Senate, November 19, 1984, $100.

Arlington County Republican Committee, February 14, 1983, $25.

National Right to Life Committee, March 25, 1983, $250.

Republican Majority Fund, June 13, 1983, $100.

Arlington County Republican Committee, August 2, 1983, $100.

Jesse Helms for United States Senate, August 3, 1983, $40.

Helms for Senate, November 2, 1983, $100.

National Right to Life Committee, March 3, 1982, $100.

McNamara for Congress, May 27, 1982, $150.

Reid Moore Congressional Committee, August 29, 1982, $150.

National Right to Life—Political Action Committee, September 27, 1982, $100.

McNamara for Congress, October 1, 1982, $100.

National Right to Life Committee, December 7, 1982, $150.

Total contributions 1981–85, $2310.

2. Spouse: None.

3. Children and spouses names: None.

4. Parents names: None.

5. Grandparents names: None.

6. Brothers and spouses names: Vincent and Sheri Walters: None.

7. Sisters and spouses names: Laureen and Franco Masini: None.

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. ROTH:

S. 1081. A bill to amend the Social Security Act to make certain program and fiscal improvements in the program of aid to families with dependent children, and for other purposes; to the Committee on Finance.

By Mr. COCHRAN (for himself, Mr. STENNIS, Mr. BUMPERS, and Mr. PRYOR):

S. 1082. A bill granting the consent of Congress to the Arkansas-Mississippi Great River Bridge Construction Compact; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. ZORINSKY, Mr. EXON, and Mr. SASSER):

S. 1083. A bill to provide price and income protection to family farmers through the management of the supply of the 1986 through 1999 crops of certain agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GOLDWATER:

S. 1084. A bill to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KASTEN:

S. 1085. A bill to amend the Internal Revenue Code of 1954 and titles 5 and 44 of the United States Code, to provide further incentives for small businesses, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO:

S. 1086. A bill to require disclosure by the Secretary of the Army, acting through the Chief of Engineers, of certain information relating to petroleum products transported on vessels to State taxing agencies requesting such information, and for other purposes; to the Committee on Environment and Public Works.

S. 1087. A bill to amend title 18, United States Code, to prevent evasion of State taxes on gasoline; to the Committee on the Judiciary.

By Mr. QUAYLE (for himself and Mr. TRIBLE):

S. 1088. A bill to require the Secretary of the Treasury to issue a certain percentage of Treasury obligations in the form of obligations indexed for inflation; to the Com-

mittee on Banking, Housing, and Urban Affairs.

By Mr. CHAFEE:

S. 1089. A bill to suspend temporarily the duty of stuffed dolls and toy figures; to the Committee on Finance.

By Mr. HELMS (for himself, Mr. EAST and Mr. DENTON):

S. 1090. A bill to amend section 1464 of title 18, United States Code, relating to broadcasting obscene language, and for other purposes; to the Committee on the Judiciary.

By Mr. CHAFEE:

S. 1091. A bill to amend title X of the Public Health Service Act to provide for contraceptive development and evaluation; to the Committee on Labor and Human Resources.

By Mr. GARN (by request):

S. 1092. A bill to authorize appropriations for the United States Mint for fiscal year 1986 and 1987; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MATHIAS (for himself, Mr. THURMOND, Mr. BIDEN, Mr. DOLE, Mr. DECONCINI, Mr. HEFLIN, Mr. DENTON, and Mr. SPECTER):

S. 1093. A bill to amend the patent law to restore the term of the patent grant in the case of certain products for the time of the regulatory review period preventing the marketing of the product claimed in a patent; to the Committee on the Judiciary.

By Mr. GARN (by request):

S. 1094. A bill to authorize printing of the back side of United States paper money of the denomination of $1 by a method other than the intaglio process; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOLE (for himself, Mr. ANDREWS, Mr. BOSCHWITZ, Mr. BURDICK, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. EAGLETON, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. LEAHY, Mr. LUGAR, Mr. MOYNIHAN, Mr. NUNN, Mr. PRYOR, Mr. STAFFORD, Mr. STENNIS, Mr. WILSON, and Mr. ZORINSKY):

S.J. Res. 133. Joint resolution to designate May 25, 1985, as "National Holstein Day"; 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. GOLDWATER, from the Committee on Armed Services:

S. Res. 156. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1029; to the Committee on the Budget.

By Mr. EVANS (for himself, Mr. QUAYLE, and Mr. MATTINGLY):

S. Res. 157. Resolution to establish a temporary select committee to study the Congressional budget process, including proposals for a two-year budget and other aspects of the Congressional budget process; to the Committee on Rules and Administration.

By Mr. HEINZ (for himself, Mr. GLENN, Mr. PACKWOOD, Mr. PRYOR, Mr. CHILES, Mr. GORTON, Mr. BENTSEN, Mr. ROTH, Mr. WALLOP, Mr. METZENBAUM, Mr. DOMENICI, Mr. CRANSTON, Mr. GRASSLEY, Mr. PROXMIRE, Mr. ANDREWS, Mr. DODD, Mr. BRADLEY, Mr. BURDICK, Mr. MELCHER, Mr. SIMON, Mr. DENTON, Mr. JOHNSTON, Mrs. HAWKINS, Mr. PRESSLER, Mr. COCHRAN, Mr. LUGAR, Mr. HARKIN, and Mr. SARBANES):

S. Con. Res. 47. Concurrent resolution observing the 20th anniversary of the enactment of the Older Americans Act of 1965; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 1081. A bill to amend the Social Security Act to make certain program and fiscal improvements in the program of aid to families with dependent children, and for other purposes; to the Committee on Finance.

SOCIAL WELFARE AMENDMENTS

● Mr. ROTH. Mr. President, I am pleased to introduce today the administration's proposals to amend the Social Security Act to make several program and fiscal improvements in the Aid to Families with Dependent Children Program. This legislation carries out the AFDC recommendations included in the President's budget for fiscal year 1986.

Since the beginning of my career, I have introduced several bills and consistently supported the concept of assisting AFDC recipients to become self-reliant by involving them in work activities. All Americans want to work, support their families, and be self-sufficient. Welfare recipients feel this need as strongly as anyone, and we here in Congress have a responsibility to help welfare recipients achieve this self-sufficiency.

That is why I am particularly excited about this bill, which includes an innovative approach to assisting AFDC applicants and recipients in obtaining employment. For the first time, all States will be required to establish some type of work activity for AFDC applicants and recipients. Participants will gain a sense of dignity, self-worth and confidence that welfare dependency can never provide. Furthermore, the proposal gives States the flexibility they need to design work programs which meet their local needs and constraints and provide the maximum help to their AFDC population.

Under this innovative alternative to the existing work incentive program, AFDC applicants must look for a job while their applications are pending. If they are unsuccessful in finding a job, they would be required to either continue looking for work or participate in some type of work activity while receiving their AFDC grant.

To support State efforts in this area, the bill would authorize $145 million in Federal funds for fiscal year 1986. Additional money, as necessary, can be provided in future years as States expand their efforts.

I am well aware of the budget deficit problem that we all are wrestling with at this time. This proposal will result in a net savings of $52 million in fiscal year 1986. The bulk of these welfare savings will not be derived from cuts in welfare benefits, but rather result from the success of individuals becoming self-sufficient.

The bill includes three other provisions to target AFDC benefits and improve administration.

Employable parents or caretakers will have their needs excluded from the AFDC assistance unit when the youngest child reaches age 16. This proposal allows assistance to be phased out gradually, when the caretaker is sufficiently free from child care responsibilities in order to pursue employment opportunities.

The bill also requires, with certain exceptions, that minor caretaker relatives live with their parents in order to receive AFDC assistance. The intent of this provision, which complements legislation enacted by Congress last year, is to ensure that parents exert influence over their minor children and that AFDC is not used to provide minors with economic independence.

Finally, the bill would provide fixed amounts to each State for AFDC administrative costs based on their 1984 administrative expenditures, and adjusted by the GNP deflator. Work program related administrative expenditures would be excluded, and a separate amount would be allocated to States for these costs.

I urge support of these proposals by my colleagues.●

By Mr. COCHRAN (for himself, Mr. STENNIS, Mr. BUMPERS, and Mr. PRYOR):

S. 1082. A bill granting the consent of Congress to the Arkansas-Mississippi Great River Bridge Construction Compact; to the Committee on the Judiciary.

CONSENT OF CONGRESS TO THE ARKANSAS-MISSISSIPPI GREAT RIVER BRIDGE CONSTRUCTION COMPACT

● Mr. COCHRAN. Mr. President, today I am introducing, with my colleagues, Mr. STENNIS, Mr. BUMPERS, and Mr. PRYOR, legislation granting the consent of Congress to the States of Mississippi and Arkansas to enter into the Arkansas-Mississippi Great River Bridge Construction Compact.

This compact is an agreement between the States of Mississippi and Arkansas to cooperate in promoting the construction of a highway bridge or a combined highway-railroad bridge connecting the two States between Rosedale, MS, and McGehee and Dumas, AR.

The compact creates a joint interstate authority, the Arkansas-Mississippi Great River Bridge Authority, to oversee the project. Its membership

shall consist of the Governor of the State of Mississippi, a representative of the Mississippi Highway Department, three Mississippi citizens, and the five members of the Arkansas State Highway Commission.

The authority is specifically empowered to conduct feasibility studies and surveys, seek funding from local, Federal, and private sources, formulate and execute plans and policies, and negotiate contracts for the development of the bridge project.

Mr. President, I urge my colleagues to consider this bill favorably.●

By Mr. HARKIN (for himself, Mr. ZORINSKY, Mr. EXON, and Mr. SASSER):

S. 1083. A bill to provide price and income protection to family farmers through the management of the supply of the 1986 through 1999 crops of certain agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARM POLICY REFORM ACT

Mr. HARKIN. Mr. President, today I am introducing, along with Senators ZORINSKY, EXON, and SASSER, the Farm Policy Reform Act of 1985, which is a populist farm bill which will increase farm income while reducing the cost of farm programs to the Government.

The central feature of the Farm Policy Reform Act of 1985 is a mandatory Supply Management Commodity Program based on strong conservation measures which is subject to a producer referendum every 4 years.

This bill addresses the real problem in agriculture—declining net farm income—by bringing supply in line with demand. With supply and demand in balance, the marketplace will put profitability back into agriculture. At the same time, this bill provides populist reforms that will restore consistency to the Nation's farm policy while potentially eliminating subsidy payments altogether.

The Farm Policy Reform Act addresses the farm debt crisis by allowing troubled Farmers Home Administration borrowers to restructure their repayment schedules if they can project a positive cash-flow and resume full payments by the fifth year of the program.

The credit provisions of the bill would also reorient FmHA loan programs to family size farms, expand the Limited Resource Loan Program, and revise the appeals process for FmHA.

A new Intermediate Credit Program for commercial exports would be funded by the bill. The bill would also substantially increase U.S. commitment to the Public Law 480—Food for Peace Program, as well as domestic food assistance programs.

The Populist Farm Program embodied in the Farm Policy Reform Act of 1985 will meet farmers' immediate need for fair prices and a decent profit, and in the long run will stem the erosion of both our national resources and our export markets.

I ask unanimous consent that a section-by-section summary of the Farm Policy Reform Act of 1985 and the text of the bill be printed in the RECORD.

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

S. 1083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Farm Policy Reform Act of 1985".

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TITLE I—AGRICULTURAL COMMODITY SUPPLY MANAGEMENT

AGRICULTURAL COMMODITY SUPPLY MANAGEMENT

SEC. 101. Effective only for the 1986 through 1999 crops, title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended to read as follows:

"TITLE V—AGRICULTURAL COMMODITY SUPPLY MANAGEMENT

"DEFINITIONS

"SEC. 501. As used in this title:

"(1) The term 'acreage allotment percentage' means a percentage obtained by dividing $200,000 by the projected annual income of a producer during a calendar year in which a commodity will be harvested, except that such percentage may not exceed 100 per centum.

"(2) The term 'commodity' means wheat, corn, grain sorghums, barley, oats, rye, upland cotton, rice, and soybeans.

"(3) The term 'eligible crop acres' means the number of acres a producer may cultivate for the production of a commodity during a crop year determined under section 506(b)(2).

"(4) The term 'normal crop acres' means the number of acres cultivated for the production of a commodity, or reduced, setaside, or diverted under a program administered by the Secretary, during any of the four preceding crop years.

"(5) The term 'program period' means the—

"(A) 1986 through 1989 crop years;

"(B) 1990 through 1993 crop years;

"(C) 1994 through 1997 crop years; and

"(D) 1998 and 1999 crop years.

"(6) The term 'reserve' means the farmers disaster reserve established under section 510.

"REFERENDUM

"SEC. 502. (a) No later than August 1, 1985 (or as soon as practicable after the date of enactment of the Farm Policy Reform Act of 1985), August 1, 1989, August 1, 1993, and August 1, 1997, in order to determine whether the program established by this title shall be implemented during the succeeding program period, the Secretary shall conduct a referendum among producers who, during a representative period (as determined by the Secretary), have been engaged in the production of a commodity for commercial use.

"(b) If the program established by this title is approved by at least one-half of the eligible producers voting in a referendum, the Secretary shall implement such program during the succeeding program period.

"(c) If such program is not approved by at least one-half of the eligible producers voting in a referendum, during the succeeding program period, in lieu of such program, the Secretary shall provide such loans, purchases, payments, and other assistance to producers of commodities as the Secretary considers appropriate.

"LOAN RATES

"SEC. 503. (a) The Secretary shall make available to producers loans and purchases for each crop of a commodity produced during a program period at such level, not less than the minimum support level for a commodity established under subsection (b), as the Secretary determines taking into consideration the actual cost of production of the commodity throughout the United States.

"(b) The minimum support level for a commodity during a crop year established under this subsection shall equal a specified per centum of the parity price of the commodity as provided in the following table:

"The minimum support level for a commodity during the:	Shall equal the following per centum of the parity price of the commodity:
1986 crop year	70 per centum
1987 crop year	72 per centum
1988 crop year	74 per centum
1989 crop year	76 per centum
1990 crop year	78 per centum
1991 crop year	80 per centum
1992 crop year	82 per centum
1993 crop year	84 per centum
1994 crop year	86 per centum
1995 crop year	88 per centum
1996 through 1999 crop years	90 per centum.

"(c) The term of a loan made under this section shall be thirty-six months.

"NATIONAL MARKETING QUOTAS

"SEC. 504. (a) The Secretary shall proclaim a national marketing quota for each commodity for each marketing year of the 1986 through 1999 crops of commodities. The proclamation shall be made as soon as practicable during each calendar year preceding the year in which the marketing year for the crop begins.

"(b) The amount of the national marketing quota for a commodity for a marketing year shall be an amount of the commodity (less imports) that the Secretary estimates will be utilized during the marketing year to meet (1) domestic demand, (2) export demand, (3) food aid requirements, and (4) carryover requirements.

"(c) The Secretary may revise the national marketing quota first proclaimed for any marketing year for the purpose of determining national acreage allotments under section 505 if the Secretary determines it necessary based on the latest information. The Secretary shall proclaim such revised national production requirement as soon as it is made.

"(d) If the Secretary determines that domestic carryover stocks of a commodity are excessive or an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the national marketing quota by the amount the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

"NATIONAL ACREAGE ALLOTMENTS

"SEC. 505. (a) The Secretary shall proclaim a national acreage allotment for each commodity for each of the 1986 through 1999 crop years.

"(b) The amount of the national acreage allotment for any crop of a commodity shall be the number of acres which the Secretary determines on the basis of the projected national yield and expected underplantings (acreage other than acreage not harvested because of program incentives) of farm acreage allotments will produce an amount of the commodity equal to the national marketing quota for the commodity for the marketing year for such crop.

"FARM ACREAGE ALLOTMENTS

"SEC. 506. (a) The national acreage allotment for a commodity shall be apportioned by the Secretary among farms, through local committees, in accordance with this section.

"(b)(1) To be eligible to receive a farm acreage allotment for a commodity for any crop year, a producer must complete and submit to the Secretary an application which contains—

"(A) the eligible crop acres of the producer, as determined under paragraph (2);

"(B) the projected annual income of the producer during the calendar year in which such commodity will be harvested, as determined under paragraph (3); and

"(C) the number of any bonus acres the producer requests to be awarded under subsection (f) for the production of each commodity during the crop year.

"(2)(A) Except as provided in subparagraphs (B), (C), and (D), the eligible crop acres of a producer shall equal the number of acres a producer requests to cultivate for the production of commodities during a crop year.

"(B) The total number of eligible crop acres of a producer during a crop year may not exceed the product obtained by multiplying—

"(i) the normal crop acres of the producer; by

"(ii) 85 per centum.

"(C) If a producer earns less than 50 per centum of the taxable income of the producer from farming operations, the total number of eligible crop acres of the producer during a crop year shall, after application of subparagraph (B), be reduced by an additional 10 per centum of the total number of acres determined under subparagraph (B).

"(D) For purposes of subparagraph (B)(i), if a producer places acreage in the conservation reserve program established under section 16B of the Soil Conservation and Domestic Allotment Act, such acreage shall be added to the normal crop acres of the producer.

"(3) For purposes of this title, income shall—

"(A) include all farm and nonfarm income from whatever source;

"(B) be determined jointly for married couples; and

"(C) be determined separately for unmarried individuals living on a farm who—

"(i) are related by blood or marriage;

"(ii) are actively involved in the farming operation; and

"(iii) earn more than 50 per centum of their taxable income from farming operations.

"(c) The total farm acreage allotment of a producer for all commodities produced during a crop year under this section shall consist of the sum of—

"(1) the base acreage allotment for each commodity determined under subsection (d);

"(2) any supplemental acreage allotment for each commodity determined under subsection (e); and

"(3) any bonus acres for each commodity awarded under subsection (f).

"(d) The base acreage allotment of a producer for a commodity for a crop year shall equal the number of acres obtained by multiplying—

"(1) eligible crop acres of the producer; by

"(2) acreage allotment percentage of the producer.

"(e)(1) The Secretary shall determine the amount of any national supplemental acreage allotment for each commodity for each of the 1986 through 1999 crop years.

"(2) The amount of the national supplemental acreage allotment for a commodity for each crop year shall equal the difference between—

"(A) the amount of the national acreage allotment for such commodity for the crop year determined under section 505; less

"(B) the sum of the base acreage allotments of all producers for such commodity determined under subsection (d).

"(3) The supplemental acreage allotment of a producer for a commodity produced during a crop year shall equal the number of acres obtained by multiplying—

"(A) the difference between the eligible crop acres of the producer for such commodity and the base acreage allotment of the producer for such commodity; and

"(B) the percentage obtained by dividing—

"(i) the amount of the national supplemental acreage allotment for such commodity determined under paragraph (2); by

"(ii) the total of all supplemental acreage requests for such commodity determined under clause (A).

"(f) If the Secretary determines that the total amount of base and supplemental acreage allotments for a commodity for a crop year determined under subsections (d) and

(e) would not produce an amount of the commodity equal to the national marketing quota for the commodity for the crop year determined under section 505, the Secretary shall award to each producer who requested bonus acres under subsection (b)(1)(C), in equal amounts, bonus acres for the production of such commodity which, in the aggregate and in conjunction with such allotments, would result in the production of an amount of such commodity equal to such national marketing quota.

"(g)(1) Except as provided in paragraph (2), a producer may plant one or more commodities (in the producer's discretion) on acreage permitted to be cultivated under a farm acreage allotment issued under this section for a crop year.

"(2) A producer may not increase the amount of acreage used for the production of a commodity during a crop year by more than 20 per centum over the amount of acreage used for the production of such commodity during the preceding crop year.

"(3) In order to permit the Secretary to issue marketing certificates under section 507, a producer shall inform the Secretary of the number of acres the producer will use for the production of each commodity during each crop year.

"(h) If the normal crop acres of a producer becomes available for any reason, such normal crop acres shall revert to the Secretary and be reapportioned by the Secretary to the next operator of the farm.

"MARKETING CERTIFICATES

"SEC. 507. (a) At the time a producer is assigned a farm acreage allotment under section 506 for any crop year, the Secretary shall issue marketing certificates to such producer for each commodity to be produced during such crop year.

"(b) Except as provided in subsections (c) and (d), a marketing certificate issued to a producer for any commodity for any crop year shall authorize such producer to market, barter, or donate an amount of such commodity determined by multiplying—

"(1) the number of acres the producer informed the Secretary the producer will use for the production of such commodity during such crop year under section 506(g)(3); by

"(2) the higher of—

"(A) the county average yield per acre for such commodity; or

"(B) the farm program yield of the producer for such commodity (as provided in section 508).

"(c) The Secretary may adjust the amount of a commodity which may be marketed, bartered, or donated under a marketing certificate to reflect the amount of such commodity which may be used for feed, human consumption, or other purposes on the farm of the producer.

"(d) If the amount of a commodity produced in a crop year exceeds the amount of the commodity which may be marketed, bartered, or donated under a marketing certificate, the surplus amount of such commodity may be—

"(1) used for feed, human consumption, or other purposes on the farm of the producer;

"(2) stored during the current marketing year and marketed under a marketing certificate issued for the subsequent marketing year;

"(3) donated to the Commodity Credit Corporation in order to be made available to provide famine relief and assistance to other foreign countries under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.); or

"(4) sold to the Commodity Credit Corporation, at no more than 50 per centum of the loan level for such commodity determined under section 503, in order to be made available to provide such famine relief and assistance.

"(e) A person may not purchase or otherwise acquire an amount of a commodity from a producer in excess of the amount of the commodity which may be marketed, bartered, or donated by such producer under a marketing certificate.

"FARM PROGRAM YIELDS

"SEC. 508. (a)(1) The farm program yield for each crop of a commodity shall be equal to the sum of—

"(A) the average yield established for the farm for the five most recent crop years, excluding the year in which the yield was the highest and the year in which the yield was the lowest, adjusted by the Secretary to provide a fair and equitable yield; and

"(B) the average amount of such commodity received from the farmers disaster reserve established under section 510 during the three crop years used to determine the average yield for the farm under clause (A).

"(2) If no payment yield for such commodity was established for the farm in the five most recent crop years, the Secretary may determine such yield as the Secretary determines fair and reasonable.

"(b) Notwithstanding subsection (a):

"(1) In the determination of yields, the Secretary shall take into account the actual yields demonstrated by the producer to the satisfaction of the Secretary.

"(2) Neither such yields established for a commodity nor the farm program yield established on the basis of such yields shall be reduced under other provisions of this section.

"(c) If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of—

"(A) historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the base period, or

"(B) if such data are not available, the Secretary's estimate of actual yields for the crop year concerned.

"(d) If national, State, or county program payment yields are established, the total farm program yields shall balance to the national, State or county program payment yields, respectively.

"CONSERVATION OF SET-ASIDE ACREAGE

"SEC. 509. (a) A producer of a commodity shall devote to approved conservation uses all acreage of the producer which the producer is required to set-aside under section 506.

"(b) The Secretary may make such adjustments in the amount of acreage the producer is required to set-aside under section 506 as the Secretary determines necessary to correct for abnormal factors affecting production and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, topography, and such other factors as the Secretary determines appropriate.

"(c)(1) Regulations issued by the Secretary under this section with respect to acreage required to be devoted to conservation uses shall require appropriate measures to protect such acreage against noxious weeds and wind and water erosion.

"(2) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted to hay and grazing if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(d)(1) Any set-aside acreage may be devoted to wildlife food plots or wildlife habitats in conformity with standards established by the Secretary in consultation with wildlife agencies.

"(2) The Secretary may pay such amount as the Secretary considers appropriate of the cost of practices designed to carry out the purposes of paragraph (1).

"(3) The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(e)(1) A producer of a commodity shall execute an agreement with the Secretary which describes the means the producer will use to comply with this section not later than such date as the Secretary may prescribe.

"(2) The Secretary may, by mutual agreement with such producer, terminate or modify any such agreement if the Secretary determines such action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities.

"FARMERS DISASTER RESERVE

"SEC. 510. (a) The Secretary shall establish a farmers disaster reserve for each commodity for the 1986 through 1999 crop years.

"(b)(1) Each producer of a commodity shall contribute to the reserve each crop year a portion of the total amount of each commodity produced in the United States during the crop year.

"(2) The portion of commodities required to be contributed by a producer under paragraph (1) shall be determined by the Secretary on an actuarially sound basis at a level which will enable the Secretary to compensate producers with commodities from the reserve in accordance with this section in the event producers suffer crop losses as the result of natural disasters or other conditions beyond the control of producers.

"(3) To the extent practicable, the Secretary shall store commodities received from a producer under paragraph (1) in warehouses located in the area in which the producer is located.

"(c) The Secretary shall compensate a producer with commodities from the reserve if the Secretary determines that as a result of drought, flood, or other natural disaster, or other condition beyond the control of the producer, the total quantity of a commodity the producer is able to harvest on any farm is less than the quantity determined by multiplying 90 per centum of the quantity of the commodity the producer is authorized to market, barter, or donate under a marketing certificate issued under section 507.

"(d)(1) Except as provided in paragraph (2), the quantity of a commodity a producer is entitled to receive as compensation for a loss sustained during a crop year under subsection (c) shall equal the difference between—

"(A) 90 per centum of the quantity of the commodity the producer is authorized to

market, barter, or donate under a marketing certificate issued under section 507; and

"(B) the actual amount of such commodity produced during such crop year.

"(2) The total value of commodities a producer may receive as compensation for any loss under subsection (c) may not exceed $360,000.

"(e) If the quantity of commodities contained in the reserve is not sufficient to compensate producers with commodities in accordance with this section, the Secretary may use stocks of commodities owned by the Commodity Credit Corporation to maintain the reserve at a level which is sufficient to compensate producers with such commodities in accordance with this section.

"SOIL CONSERVATION

"SEC. 511. (a) Notwithstanding any other provision of law, the Secretary shall require that producers on a farm in any area follow the conservation practices prescribed by the appropriate local soil conservation district for the area.

"(b) In areas in which no soil conservation district exists, the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall determine appropriate conservation practices.

"PENALTIES

"SEC. 512. (a)(1) Except as provided in subsection (b), if a producer fails to comply with any term or condition of the program conducted under this title, the producer shall be ineligible for any farm acreage allotment, loan, purchase, or payment authorized under this title.

"(2) Except as provided in subsection (c), if a producer markets, barters, or donates a commodity without a marketing certificate required under section 507 or markets, barters, or donates an amount of a commodity for commercial use in excess of the amount of the commodity the producer is permitted to market, barter, or donate under such certificate, the Secretary shall—

"(A) assess a fine against such producer in an amount equal to three times the value of the commodities so marketed; or

"(B) increase the number of acres such producer is required to set-aside under section 506 during the suceeding crop year by a number of acres which, if planted, would result in the production of a quantity sufficient to satisfy the fine referred to in clause (A).

"(3) If a person purchases or otherwise acquires an amount of a commodity from a producer in excess of the amount of the commodity which may be marketed, bartered, or donated by such producer under a marketing certificate issued under section 507, the Secretary shall assess a fine against such person in an amount equal to three times the value of the commodities so purchased or acquired.

"(b)(1) If a producer fails to comply fully with the terms and conditions of the program conducted under this section and the Secretary believes the failure should not preclude the making of a farm acreage allotment, or loans, purchases, or payments to the producer, the Secretary may make an allotment or loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the failure of the producer.

"(2) The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

"REGULATIONS

"SEC. 513. The Secretary may issue such regulations as the Secretary determines necessary to carry out this title.

"COMMODITY CREDIT CORPORATION

"SEC. 514. The Secretary shall carry out the program authorized by this title through the Commodity Credit Corporation.

"PAYMENTS

"SEC. 515. (a) The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this title.

"(b) The Secretary shall provide for the sharing of payments made under this title for any farm among the producers on the farm on a fair and equitable basis.".

EXTENSION OF WOOL AND MOHAIR PROGRAM

SEC. 102. Section 703 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by striking out "1985" each place it appears in subsections (a) and (b) and inserting in lieu thereof "1990".

SUSPENSION OF PERMANENT PROGRAM

SEC. 103. (a)(1) Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1986, through May 31, 2000.

(2) Sections 331, 332, 333, 334, 335, 336, 338, 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331-1336, 1338, 1339, 1379b, and 1379c) shall not be applicable to the 1986 through 1999 crops of wheat.

(3) The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1986 through 1999.

(4) Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1986 through 1999 crops of wheat.

(b) Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1986 through 1999 crops of feed grains.

(c)(1) Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342-1346 and 1377) shall not be applicable to upland cotton of the 1986 through 1999 crops.

(2) Effective only with respect to the period beginning August 1, 1987, and ending July 31, 2000, the tenth sentence of section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) is amended by striking out all through "110 per centum of the loan rate, and (2)" and inserting in lieu thereof the following: "Notwithstanding any other provision of law, (1) the Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same prices as it sells upland cotton for export, in no event, however, at less than 115 per centum of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, and (2)".

(3) Sections 103(a) and 203 of the Agricultural Act of 1949 (7 U.S.C. 1444(a) and 1446d) shall not be applicable to the 1986 through 1999 crops.

(4) Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) shall be the preliminary allotments for the 2000 crop.

TITLE II—AGRICULTURAL CREDIT

GUARANTEED LOANS

SEC. 201. Section 309(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(h)) is amended by inserting before the period at the end thereof the following: ", except that the total amount of loans guaranteed under this title may not exceed 10 per centum of the total amount of loans made or insured under this title".

LIMITED RESOURCE REAL ESTATE LOANS

SEC. 202. (a) Section 310D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1934) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by designating the first and second sentences of subsection (a) as subsections (a) and (b), respectively; and

(3) by amending subsection (a) (as designated by clause (2) of this subsection) to read as follows:

"(a) The Secretary is authorized to make and insure a limited resource loan for any of the purposes referred to in clauses (1) through (5) of section 303(a) to a farmer or rancher in the United States who, as determined by the county committee—

"(1) is a citizen of the United States;

"(2) meets the requirements of clauses (2) through (4) of section 302;

"(3) is unable to repay loans under this subtitle at the interest rates prescribed under section 307(a)(2);

"(4) needs such limited resource loan—

"(A) in the case of a beginning farmer or rancher, to commence farming or ranching operations;

"(B) in the case of a tenant farmer or rancher, to purchase the first farm or ranch property of the farmer or rancher; or

"(C) in the case of an established farmer or rancher, to maintain an adequate minimum standard of living for the area of the farmer or rancher;

"(5) has demonstrated an ability to maintain adequate records of farming and ranching operations or is willing to participate in an approved record keeping training program; and

"(6)(A) does not have family support (including any inheritance benefits and other future interests) which would enable the farmer or rancher to repay loans under this subtitle at the interest rates prescribed under section 307(a)(2);

"(B) does not need such limited resource loan as the result of excessive payments on nonessential farm or household items (including any homes, buildings, and vehicles of the farmer or rancher); and

"(C) does not have total credit needs from all sources in excess of $400,000.".

(b) Section 310D(c) of such Act (as redesignated by subsection (a)(1) of this section) is amended by striking out "the preceding

sentence" and inserting in lieu thereof "subsection (a)".

FARM RECORD KEEPING TRAINING FOR LIMITED RESOURCE BORROWERS

SEC. 203. The first sentence of section 312(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1942(a)) is amended—

(1) by striking out "and" at the end of clause (10); and

(2) by inserting before the period at the end thereof the following new clause: ", and (12) providing training to limited resource borrowers receiving loans under section 310D or 318 in maintaining records of farming and ranching operations".

LIMITATIONS ON TOTAL INDEBTEDNESS FOR OPERATING LOANS

SEC. 204. Section 313 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943) is amended to read as follows:

"SEC. 313. The Secretary shall make or insure no loan under this subtitle—

"(1) that would cause the total principal indebtedness outstanding at any one time for loans under this subtitle to exceed—

"(A) in the case of a loan other than a loan guaranteed by the Secretary, $200,000, except that no more than 25 per centum of the funds made available to make or insure loans under this subtitle may be used to make or insure loans that would cause the insured indebtedness of a borrower to exceed $100,000;

"(B) in the case of a loan guaranteed by the Secretary, $400,000, except that no more than 25 per centum of the funds made available to guarantee loans under this subtitle may be used to guarantee loans that would cause the combined insured and guaranteed indebtedness of a borrower to exceed $200,000; and

"(C) in the case of a loan made, insured, or guaranteeed, $500,000.

"(2) for the purchasing or leasing of land other than for cash rent, or for carrying on any land leasing or land purchasing program.".

LIMITED RESOURCE OPERATING LOANS

SEC. 205. Subtitle B of the Consolidated Farm and Rural Development Act is amended by inserting after section 317 (7 U.S.C. 1947) the following new section:

"SEC. 318. (a) The Secretary is authorized to make and insure a limited resource loan for any of the purposes referred to in section 312 to a farmer or rancher in the United States who, as determined by the county committee—

"(1) is a citizen of the United States;

"(2) meets the requirements of clauses (2) through (4) of section 311;

"(3) is unable to repay loans under this subtitle at the interest rates prescribed under section 316(a)(1);

"(4) needs such limited resource loan—

"(A) in the case of a beginning farmer or rancher, to commence farming or ranching operations;

"(B) in the case of a tenant farmer or rancher, to purchase the first farm or ranch property of the farmer or rancher; or

"(C) in the case of an established farmer or rancher, to maintain an adequate minimum standard of living for the area of the farmer or rancher;

"(5) has demonstrated an ability to maintain adequate records of farming and ranching operations or is willing to participate in an approved record keeping training program; and

"(6)(A) does not have family support (including any inheritance benefits and other future interests) which would enable the farmer or rancher to repay loans under this subtitle at the interest rates prescribed under section 307(a)(2);

"(B) does not need such limited resource loan as the result of excessive payments on nonessential farm or household items (including any homes, buildings, and vehicles of the farmer or rancher); and

"(C) does not have total credit needs from all sources in excess of $400,000.

"(b) The Secretary is also authorized to make such limited resource loans to any farm cooperative or private domestic corporation or partnership that is controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States if all of its members, stockholders, or partners, as applicable, are citizens of the United States and the entity and all such members, stockholders, or partners meet the requirements of clauses (2) through (6) of subsection (a).".

ELIGIBILITY FOR EMERGENCY LOANS

SEC. 206. (a) The first sentence of section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) by striking out "established farmers, ranchers, or persons engaged in aquaculture, who are citizens of the United States" in clause (1) and inserting in lieu thereof "farmers, ranchers, or persons engaged in acquaculture, who meet the eligibility requirements prescribed in section 302 or 311(a)"; and

(2) by striking out "are citizens of the United States" in clause (2) and inserting in lieu thereof "meet the eligibility requirements prescribed in section 302 or 311(a)".

(b)(1) Section 321 of such Act is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(2) Subsection (c) of section 321 of such Act (as redesignated by paragraph (1)(B) of this subsection) is amended to read as follows:

"(c) For purposes of this subtitle, the term 'acquaculture' means the husbandry of acquatic organisms under a controlled or selected environment.".

WRITTEN CREDIT DECLINATIONS FOR EMERGENCY LOANS

SEC. 207. Section 322(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1962(b)) is amended by striking out ": *Provided,*" and all that follows through the period at the end thereof and inserting in lieu thereof a period.

PURPOSE AND EXTENT OF EMERGENCY LOANS

SEC. 208. Section 323 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1963) is amended to read as follows:

"SEC. 323. Loans may be made or insured to farmers, ranchers, or persons engaged in acquaculture under this subtitle only to compensate such farmers, ranchers, or persons for the actual amount of losses in farming, ranching, or acquaculture operations caused by the disaster.".

EMERGENCY LOAN LIMITATIONS AND REPAYMENT

SEC. 209. (a) Subsections (a) and (b) of section 324 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964 (a) and (b)) are amended to read as follows:

"(a)(1) No loan made or insured under this subtitle may exceed the amount of the actual loss caused by the disaster or $200,000, whichever is less, for each disaster.

"(2) The total principal indebtedness outstanding at any one time for loans made or insured to a borrower under this subtitle may not exceed $400,000.

"(b) The interest rates on loans under this subtitle shall be such rates as are prescribed by the Secretary.".

(b) Section 324 of such Act is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(c) The first sentence of section 324(c) of such Act (as redesignated by subsection (b)(2) of this section) is amended by striking out ": *Provided further,* That for any direct" and all that follows through the period at the end thereof and inserting in lieu thereof a period.

SUBSEQUENT EMERGENCY LOANS

SEC. 210. Section 330 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1971) is repealed.

LOAN MORATORIUM

SEC. 211. (a) Effective only for the 1986 through 1999 crops, section 331A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981a) is amended to read as follows:

"SEC. 331A. (a) For purposes of this section, the term 'circumstances beyond the control of the borrower' includes, but is not limited to—

"(1) a reduction of the income of a borrower occurring after August 4, 1978, as a result of—

"(A) the unemployment, illness, or injury of the borrower;

"(B) the death of a member of the family of the borrower; or

"(C) the occurrence of a natural disaster, crop or livestock disease, insect damage, or adverse conditions in the farm economy (such as high interest rates, declining farm equity, or high cost of production relative to the market price for farm products); and

"(2) the occurrence of unplanned, essential farm and home operating expenses as a result of—

"(A) the illness or injury of the borrower;

"(B) the death of a member of the family of the borrower; or

"(C) the cost of repair, or uninsured loss, of property used to secure a loan made under this title.".

"(b) In addition to any other authority that the Secretary may have to defer principal and forego foreclosure, the Secretary shall, at the request of an eligible borrower described in subsection (c), defer principal and interest (in an amount determined under subsection (d)) on any outstanding loan made, insured, or held by the Secretary under this Act, or under any other law administered by the Farmers Home Administration, and shall forego foreclosure of any such loan, for the period described in subsection (e).

"(c) To be eligible to receive assistance under this section, a borrower of a loan must demonstrate that—

"(1) due to circumstances beyond the control of the borrower, the borrower is temporarily unable to continue making payments of principal and interest due on such loan without unduly impairing the standard of living of the borrower; and

"(2) the borrower is able to project a positive cash flow in accordance with the loan rate schedule established under section 503(b) of the Agricultural Act of 1949 within the five year period beginning on the date of deferral.

"(d) The Secretary shall defer principal and interest on a loan under this section in an amount which the Secretary determines

will permit the borrower of the loan to maintain an adequate minimum standard of living for the area of the borrower.

"(e) The Secretary shall continue to defer principal and interest, and forego foreclosure, in accordance with subsection (b) on a loan made to a borrower until the date on which a positive cash flow can be projected for the borrower in accordance with the loan rate schedule established under section 503(b) of the Agricultural Act of 1949.

"(f) The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period, except that if the security instrument securing such loan is foreclosed such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

"(g) If a borrower conveys property to the Secretary in connection with a loan made under this title, the Secretary shall permit the borrower to redeem the rights of the borrower in the property at any time during the five year period beginning on the date of such conveyance.".

(b) To the extent practicable, the Secretary of Agriculture shall implement the amendment made by subsection (a) of this section no later than sixty days after the date of enactment of this Act.

LOAN DEFAULTS

SEC. 212. Subtitle D of the Consolidated Farm and Rural Development Act is amended by inserting after section 331B (7 U.S.C. 1981b) the following new section:

"SEC. 331C. (a) If a borrower defaults on a loan made or insured under this title, at least one hundred and twenty days before the commencement of any judicial or regulatory action or proceeding to accelerate indebtedness, foreclose, repossess, or otherwise execute upon such loan, the Secretary shall provide to the borrower of such loan by certified mail a written statement described in subsection (b).

"(b) The statement of default on a loan required under subsection (a) shall include a description of—

"(1) each default on such loan committed by the borrower;

"(2) in the case of a monetary default—

"(A) the delinquent amount of principal and interest due on such loan; and

"(B) the amount the Secretary would accept to make such loan current;

"(3) in the case of a nonmonetary default, actions which the borrower may take to remove such default; and

"(4) in the case of acceleration, a statement of the financial implications of acceleration and the right of the borrower under this section to remove the default and prevent acceleration.

"(c) If a borrower believes an error exists in the statement provided under subsection (a), the borrower may appeal the accuracy of such statement to the Secretary.

"(d) If within one hundred and twenty days of the date of issuance of a statement required by subsection (a) a borrower submits the full amount referred to in subsection (b)(2)(B) to remove any monetary default and performs the actions referred to in subsection (b)(3) to remove any nonmonetary default, the Secretary—

"(1) may not initiate any action or proceeding described in subsection (a) with respect to such default; and

"(2) shall reinstate the status the borrower held before such default occurred.".

COUNTY COMMITTEES

SEC. 213. Subsection (a) of section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982(a)) is amended to read as follows:

"(a)(1) A county committee is established in each county or area in which activities are carried out under this title.

"(2) A committee shall consist of—

"(A) three members elected by farm operators residing in the county or area;

"(B) one member who represents the financial community in the county or area, appointed by the three elected members of the committee; and

"(C) one elected official in the county or area, appointed by the three elected members of the committee.

"(3) The term of office of a member of a committee shall be five years, except that the terms of office of the first members of a committee shall be for one-, two-, three-, four-, and five-year periods, respectively, as determined by the Secretary.

"(4) Vacancies on a committee shall be filled in the same manner as original appointment to the committee.

"(5) Members of the committee are removable by the Secretary only for cause.".

PROMPT APPROVAL OF LOANS AND LOAN GUARANTEES

SEC. 214. (a) Subtitle D of the Consolidated Farm and Rural Development Act is amended by inserting after section 333 (7 U.S.C. 1983) the following new section:

"SEC. 333A. (a)(1) The Secretary shall approve or disapprove the application for a loan or loan guarantee made under this title, and notify the applicant of such action, within forty-five days after the Secretary has received a completed application for such loan or guarantee.

"(2) If an application for a loan or loan guarantee under this title is incomplete, the Secretary shall inform the applicant of the reasons such application is incomplete within five days after the Secretary has received such application.

"(3) If an application for a loan or loan guarantee under this title is disapproved by the Secretary, the Secretary shall state the reasons for the disapproval in the notice required under paragraph (1).

"(b) If an application for an insured loan under this title is approved by the Secretary, the Secretary shall provide the loan proceeds to the applicant within five days (or such longer period as the applicant may approve) after the application for the loan is approved by the Secretary, except that, if the Secretary is unable to provide the loan proceeds to the applicant within such five-day period because sufficient funds are not available to the Secretary for such purpose, the Secretary shall provide the loan proceeds to the applicant as soon as practicable (but in no event five days unless the applicant agrees to a longer period) after sufficient funds for that purpose become available to the Secretary.

"(c) If an application for a loan or loan guarantee under this title is disapproved by the Secretary, but such action is subsequently reversed or revised as the result of an appeal within the Department of Agriculture or to the courts of the United States and the application is returned to the Secretary for further consideration, the Secretary shall act on the application and provide the applicant with notice of the action within five days after return of the application to the Secretary.

"(d) If the Secretary fails to comply with subsection (a), (b), or (c) on an application for a loan or loan guarantee that is approved by the Secretary, the Secretary shall—

"(1) for insured loans, reduce the interest payments due on the loan, or

"(2) for loan guarantees, make payments on behalf of the borrower to cover interest due to the lender on the loan,

in an amount calculated by multiplying the outstanding principal of the loan by that part of the annual rate of interest being charged for the loan that bears the same proportion to the full annual rate of interest as the period during which the Secretary was not in compliance with such subsection bears to a full year.

"(e) Upon receipt of an application for a loan or loan guarantee under this title, the Secretary shall inform the applicant of the requirements of this section.".

(b) The amendment made by subsection (a) shall be effective with respect to applications for loans or loan guarantees under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) received by the Secretary of Agriculture after the date of enactment of this Act.

FARM PROGRAM APPEALS

SEC. 215. Subtitle D of the Consolidated Farm and Rural Development Act is amended by inserting after section 333A (as added by section 214(a) of this Act) the following new section:

"SEC. 333B. (a) The Secretary shall provide an applicant for or borrower of a loan or loan guarantee under this title who has been directly and adversely affected by a decision of the Secretary taken under this Act (hereinafter in the section referred to as the 'appellant') with the right to written notice, an opportunity for an informal meeting, and an opportunity for a hearing on the record, with respect to such decision, in accordance with regulations promulgated by the Secretary consistent with this section.

"(b) Within ten days of such adverse decision, the Secretary shall provide the appellant with written notice of the decision, the opportunity for an informal meeting and formal hearing, and the procedure to appeal such decision (including any deadlines for filing appeals).

"(c)(1) An appellant shall have the right to—

"(A) access to the personal file of the appellant maintained by the Secretary, including a reasonable opportunity to inspect and reproduce the file at an office of the Farmers Home Administration located in the area of the appellant; and

"(B) representation by an attorney or nonattorney at an inspection and reproduction of files under clause (A), an informal meeting under subsection (d), and a formal hearing under subsection (e).

"(2) The Secretary may charge an appellant for any reasonable costs incurred in reproducing files under paragraph (1)(A).

"(d)(1) In order to provide an opportunity for parties to reconsider and resolve differences over decisions referred to in subsection (a) and to minimize the need for formal appeals of such decisions, the Secretary shall establish procedures for informal meetings between appellants and officials of the Farmers Home Administration to discuss such decisions.

"(2) In establishing procedures for an informal meeting between an appellant and official concerning a decision of the Secretary, the Secretary shall—

"(A) require the appellant and official to conduct an informal meeting, or to waive

such meeting in accordance with clause (E), before a formal hearing may be conducted under subsection (e) on such decision;

"(B) preserve the rights of the appellant to further review under this section;

"(C) require completion of the informal meeting process (including notice of any reconsidered decision required under clause (F)) within thirty days after notice of the original adverse decision provided to the appellant under subsection (b);

"(D) provide for the direct involvement in the informal meeting of the official who originally made the decision and, if such official is a county supervisor of an office, the district director of the office;

"(E) permit a waiver of the informal meeting if the appellant and official agree that such process would likely not avoid a formal appeal under subsection (e); and

"(F) require the Secretary to provide the appellant with written notice of any reconsidered decision of the Secretary reached after such informal meeting or waiver and, in the case of an adverse reconsidered decision, the reasons therefor.

"(3) If an appellant and official agree to waive an informal meeting under paragraph (2)(E) with respect to a decision of the Secretary, the Secretary shall notify the appellant of the right of the appellant to a formal hearing on the decision under subsection (e).

"(4) For the purpose of an appeal, a reconsidered decision reached by the Secretary under paragraph (2)(E) shall become the record of the Secretary with respect to the original decision made by the Secretary.

"(e)(1) If an informal meeting is conducted or waived under subsection (d) with respect to the decision of the Secretary under this title and the reconsidered decision reached under subsection (d)(2)(E) remains adverse to the appellant, the appellant may request a hearing on such reconsidered decision before an administrative law judge appointed under section 3105 of title 5, United States Code, by filing a complaint with the Secretary within twenty days of notice of such reconsidered decision.

"(2) The Secretary may submit an answer to a complaint filed under paragraph (1).

"(3)(A) A hearing under this subsection shall take place within thirty days of the filing of the complaint of the appellant.

"(B) Such hearing shall be held at a Farmers Home Administration office located in—

"(i) the State in which the appellant resides or in which the farmland of the appellant is located; or

"(ii) an adjacent State if the office in the adjacent State is no more than five hundred miles from the location at which the appellant resides or the farmland of the appellant is located.

"(C) Evidence at such hearing may include the complaint of the appellant, the answer of the Secretary, the notice of any reconsidered decision, and any testimony by any official of the Farmers Home Administration, the appellant, and any relevant expert, except that affidavits by such official, appellant, and expert may be substituted for direct testimony when agreed to by the parties or allowed by the administrative law judge.

"(D) Such hearing shall be tape recorded and a transcript of such hearing shall be made available at cost upon the request of any party to the proceeding.

"(4)(A) The administrative law judge shall decide all questions of fact and law in a proceeding brought under this subsection and shall uphold, reverse, or modify the reconsidered decision of the Secretary.

"(B) The decision of the administrative law judge shall be final unless appealed pursuant to subsection (f).

"(5) Within ten days of the hearing, both parties to the proceeding shall be provided with a copy of the decision of the administrative law judge setting forth all findings of fact and reasons for the decision.

"(6) The Secretary shall report and make available to the public—

"(A) a decision of an administrative law judge reached under this subsection; and

"(B) a description of any subsequent action taken by the Secretary pursuant to subsection (f).

"(f)(1) If a party is aggrieved by the decision of an administrative law judge under subsection (e), such aggrieved party may request a review of the decision within ten days of the issuance of such decision.

"(2) Upon such request, the Secretary shall review the decision of the administrative law judge and make a determination on the record to modify, uphold, or reverse such decision.

"(3) The Secretary shall make such review and determination within twenty days of the request for review.

"(4) Such determination shall be the final administrative determination subject to judicial review.".

DISPOSITION AND LEASING OF FARMLAND

SEC. 216. (a) Section 335 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985) is amended—

(1) by inserting ", other than farmland," after "title" each place it appears in subsection (b) and the first sentence of subsection (c); and

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

"(e)(1) The Secretary shall to the extent practicable dispose or lease farmland administered under this title in the following order of priority:

"(A) Disposal of such farmland to limited resource borrowers who meet the eligibility criteria prescribed in section 310D(a).

"(B) Lease with an option to buy such farmland to such limited resource borrowers.

"(C) Disposal of such farmland to regular borrowers who meet the eligibility criteria prescribed in section 302.

"(D) Lease of such farmland to such limited resource borrowers.

"(E) Lease of such farmland to such regular borrowers.

"(F) Disposal of such farmland to owners or operators of family farms who do not meet the eligibility criteria prescribed in section 302.

"(2)(A) In carrying out paragraph (1)(A), the Secretary shall sell farmland to a qualified limited resource borrower at a price which reflects the average expected income of the borrower from the farmland.

"(B) If two or more qualified limited resource borrowers desire to purchase such farmland, the county committee shall by record vote select the borrower who may obtain such farmland.

"(C) For each of the fiscal years 1985, 1986, and 1987, in addition to any funds required to be expended under section 346(c)(1), not less than 20 per centum of the funds provided to carry out subtitle (A) shall be used to dispose of such farmland to qualified limited resource borrowers in accordance with this subsection.

"(3) In carrying out paragraph (1)(B), the Secretary may not charge an interest rate on a lease or option provided under such paragraph which exceeds the interest rate charged on a similiar loan made or insured to a limited resource borrower under this title.

"(4)(A) In carrying out paragraph (1)(C), the Secretary may not dispose of farmland to a regular borrower who meets the eligibility criteria requirements prescribed in section 302 unless the Secretary—

"(i) has leased such farmland to a limited resource borrower under paragraph (1)(B) for a period of at least five years and is not able to dispose of such farmland to a qualified limited resource borrower under paragraph (1)(A);

"(ii) has provided a lease with an option to buy such farmland to a limited resource borrower under paragraph (1)(B) and the borrower has declined to exercise such option; or

"(iii) is unable to otherwise dispose or lease such property to a qualified limited resource borrower.

"(B) If a borrower cannot obtain sufficient credit elsewhere to finance the purchase of farmland under subparagraph (A), the Secretary shall make or insure a loan to the borrower to finance such purchase.

"(C) The interest rate on a loan made or insured under subparagraph (B) may not exceed the interest rate charged on a similiar loan made or insured under this title, plus 1 per centum per annum.

"(5) In selecting tenants for leases of farmland under paragraph (1), the Secretary shall give special consideration to any previous owner or operator of such farmland who meets the eligibility criteria prescribed in section 302.

"(6) If the Secretary determines that a tract of farmland administered under this title is not suitable for disposition or lease to eligible farm borrowers under subtitle A or B because such tract is larger than is necessary for family farm operations, the Secretary shall subdivide such tract into tracts suitable for family farm operations and dispose or lease such subdivided tracts in accordance with this subsection.

"(7)(A) If a borrower defaults on a loan made or insured under this title and secured with farmland and conveys the farmland to a purchaser who the county committee determines does not meet the eligibility requirements for a loan under this title, such purchaser may not assume any of the terms and conditions of the original loan.

"(B) If a borrower defaults on a loan made or insured under this title and secured with farmland and conveys the farmland to a purchaser who the county committee determines meets the eligibility requirements for a loan under this title, such purchaser may assume any of the terms and conditions of the original loan.

"(C) The Secretary shall take all reasonable steps to assure that borrowers who meet the eligibility requirements for a loan under this title are given the maximum opportunity to purchase farmland described in subparagraph (B), including the refinancing of the original loan.

"(8) The Secretary shall—

"(A) conduct an ongoing search to identify limited resource borrowers and other borrowers who are eligible for the disposition of farmland administered under this title; and

"(B) sell or otherwise transfer such farmland to such borrowers as expeditiously as possible.

"(9) The Secretary shall—

"(A) publicize the availability of suitable farmland available under this title in local newspapers widely circulated in the county in which such farmland is located and in a prominent location at the local office of the Farmers Home Administration which serves such county; and

"(B) notify qualified limited resource borrowers and other borrowers under this title who might be interested in purchasing such farmland of the availability of such farmland.".

(b) The Secretary of Agriculture shall adopt—

(1) interim regulations to implement the amendment made by subsection (a) of this section no later than sixty days after the date of enactment of this Act; and

(2) final regulations to implement such amendment as soon as practicable thereafter.

RELEASE OF NORMAL INCOME SECURITY

SEC. 217. Section 335 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985) (as amended by section 216(a)(2) of this Act) is amended by adding at the end thereof the following new subsection:

"(f)(1) As used in this subsection:

"(A) The term 'normal income security' has the same meaning given such term in section 1962.17(b) of title 7, Code of Federal Regulations (as of January 1, 1984).

"(B) The term 'poverty line' has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(2) The Secretary shall release from normal income security provided for a loan made or insured under this title amounts sufficient—

"(A) to assure that the income of the household of the borrower of such loan exceeds the poverty line by at least 50 per centum; and

"(B) to permit such borrower to pay necessary farm operating expenses incurred in the production, harvesting, or marketing of crops, livestock, poultry, or products, as determined by the Secretary.

"(3) To assist in the determination of necessary farm operating expenses under paragraph (2)(B), the Secretary shall publish a schedule of necessary annual production costs for each State or region.".

LOAN SUMMARY STATEMENTS

SEC. 218. Section 337 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1987) is amended—

(1) by inserting "(a)" after the section designation; and

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

"(b)(1) As used in this subsection, the term 'summary period' means—

"(A) the period beginning on the date of enactment of the Farm Policy Reform Act of 1985 and ending on the date on which the first loan summary statement is issued after such date of enactment; or

"(B) the period beginning on the date of issuance of the preceding loan summary statement and ending on the date of issuance of the current loan summary statement.

"(2) The Secretary shall issue at least annually to each borrower of a loan made or insured under this title a loan summary statement which describes the status during the summary period of each such loan made or insured under this title to such borrower, including a description of—

"(A) the outstanding amount of principal due on each such loan at the beginning of the summary period;

"(B) the interest rate charged on each such loan;

"(C) the amount of payments made on each such loan during the summary period;

"(D) the amount of principal and interest due on each such loan at the end of the summary period;

"(E) the allocation of the total amount of payments made on all such loans by the Secretary between each such loan and between principal and interest due on such loans, including a description of the system used by the Secretary to make such allocation;

"(F) the total outstanding amount of principal and interest due on all such loans at the end of the summary period;

"(G) any delinquency in the repayment of any such loan;

"(H) a schedule of the amount and date of payments due on each such loan; and

"(I) the procedure the borrower may use to obtain more information concerning the status of such loans.".

FAMILY FARM DEFINITION

SEC. 219. Section 343 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991) is amended—

(1) by striking out "and" at the end of clause (5); and

(2) by inserting before the period at the end thereof the following new clause: ", and (7) the term 'family farm' means a farm or ranch which is owned or operated by individuals (or in the case of cooperatives, corporations, and partnerships, by a majority of members, stockholders, or partners) who as determined by the county committee (A) manage such farm, (B) provide the majority of labor on such farm or ranch, and (C) meet such other criteria as are prescribed by the Secretary".

AUTHORIZATION OF LIMITED RESOURCE LOAN AMOUNTS

SEC. 220. (a) Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended—

(1) by striking out subsections (b) and (d); and

(2) by redesignating subsections (c) and (e) and subsections (b) and (c), respectively.

(b) Section 346(c)(1) of such Act (as redesignated by subsection (a)(2) of this section) is amended—

(1) by striking out "20" each place it appears and inserting in lieu thereof "25"; and

(2) by striking out "fiscal year 1984" and inserting in lieu thereof "each fiscal year".

FARM AND HOME PLAN STUDY

SEC. 221. (a) The Secretary of Agriculture shall conduct a study of the appropriateness of the Farm and Home Plan (Form FmHA 431-2) used by the Farmers Home Administration in connection with loans made or insured under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(b) In carrying out such study, if the Secretary finds the plan to be inappropriate, the Secretary shall—

(1) evaluate other available alternative farm plan forms for use in connection with such loans;

(2) evaluate the need to develop a new farm plan form for such use; and

(3) examine the steps which should be taken to improve or replace the current form.

(c) No later than one hundred and twenty days after the date of enactment of this Act, the Secretary shall report the results of the study required under this section to the Committee on Agriculture of the House of Representatives and the Committee on Agriculure, Nutrition, and Forestry of the Senate.

TITLE III—AGRICULTURAL EXPORTS AND IMPORTS

SUBTITLE A—AGRICULTURAL EXPORTS

SALES TO DEVELOPING COUNTRIES FOR FOREIGN CURRENCIES

SEC. 301. (a) Section 101 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701) is amended to read as follows:

"SEC. 101. In order to carry out the policies and accomplish the objectives set forth in section 2 of this Act, the President is authorized to negotiate and carry out agreements with friendly countries to provide for the sale of agricultural commodities—

"(1) for dollars on credit terms;

"(2) in the case of developing countries with a per capita gross national product of $500 or less, for foreign currencies on credit terms at an annual level which, to the extent practicable, is at least the higher of—

"(A) the level of such sales for foreign currencies provided during fiscal year 1985; or

"(B) 500,000 metric tons; or

"(3) in the case of other countries, to the extent that sales for dollars under the terms applicable to such sales are not possible, for foreign currencies on credit terms and on terms which permit conversion to dollars at the exchange rate applicable to the sales agreement.".

(b) Section 103 of such Act (7 U.S.C. 1703) is amended—

(1) by striking out "in dollars or in the types or kinds of currencies which can be converted into dollars" in subsection (k);

(2) by striking out subsection (m);

(3) by redesignating subsections (n) through (q) as subsections (m) through (p) respectively; and

(4) by inserting "pursuant to paragraph (3) of section 101" after "agreement" in subsection (o) (as redesignated by clause (3) of this subsection).

(c) Section 104 of such Act (7 U.S.C. 1704) is amended by inserting "or entered into pursuant to paragraph (2) of section 101," after "January 1, 1972," in the matter preceding subsection (a).

(d) Section 106(a)(2) of such Act (7 U.S.C. 1706(a)(2)) is amended by striking out "and on terms which permit conversion to dollars" and inserting in lieu thereof "pursuant to paragraph (2) or (3) of section 101".

USE OF FOREIGN CURRENCY RECEIPTS FOR DEVELOPMENT ASSISTANCE PROGRAMS

SEC. 302. Section 104(h) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704(h)) is amended by striking out ", at the request of such country," and inserting in lieu thereof "development assistance programs under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2251 et seq.), including".

USE OF PRIVATE TRADE ENTITIES TO EXPAND PRIVATE ECONOMIC ENTERPRISE

SEC. 303. (a) Section 104 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704) is amended—

(1) by striking out "and" at the end of subsection (j);

(2) by inserting "and" after the semicolon at the end of subsection (k); and

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

"(l) For grants to private trade entities for use in the development and execution of projects which will result in the establishment of facilities designed to improve the

storage or marketing of agricultural commodities or which will otherwise stimulate and expand private economic enterprise in a friendly country;".

(b) Section 103(b) of such Act (7 U.S.C. 1703(b)) is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (l)".

INTERMEDIATE CREDIT

SEC. 304. (a) Section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b)) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "In addition, the Corporation may guarantee credits made to finance such sales.";

(2) by inserting ", and no credit may be guaranteed," after "financed" in paragraph (2);

(3) in paragraph (3)—

(A) by striking out "and" at the end of subparagraph (C);

(B) by striking out the period at the end of such paragraph and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(E) otherwise to promote the export sales of agricultural commodities.";

(4) by striking out paragraphs (5), (6), and (7); and

(5) by redesignating paragraphs (8) and (9) as paragraphs (5) and (6), respectively.

(b) To the extent practicable, the Secretary shall carry out section 4(b) of such Act using not less than $500,000,000 for each of the fiscal years 1985 through 1988.

MINIMUM QUANTITY OF AGRICULTURAL COMMODITIES DISTRIBUTED FOR FAMINE RELIEF

SEC. 305. Section 201(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721(b)) is amended by striking out clauses (1) through (3) and inserting in lieu thereof the following new clauses:

"(1) for fiscal year 1985 shall be 2,000,000 metric tons, of which not less than 1,400,000 metric tons shall be distributed through nonprofit voluntary agencies, cooperatives, and the World Food Program;

"(2) for fiscal year 1986 shall be 2,250,000 metric tons, of which not less than 1,575,000 metric tons shall be distributed through nonprofit voluntary agencies, cooperatives, and the World Food Program;

"(3) for fiscal year 1987 shall be 2,500,000 metric tons, of which not less than 1,750,000 metric tons shall be distributed through nonprofit voluntary agencies, cooperatives, and the World Food Programs;

"(4) for fiscal year 1988 shall be 2,750,000 metric tons, or which not less than 1,925,000 metric tons shall be distributed through nonprofit voluntary agencies, cooperatives, and the World Food Program;

"(5) for fiscal year 1989 shall be 3,000,000 metric tons, of which not less than 2,100,000 metric tons shall be distributed through nonprofit voluntary agencies, cooperatives, and the World Food Program; and

"(6) for fiscal year 1990 and each fiscal year thereafter shall be 3,250,000 metric tons, of which not less than 2,275,000 metric tons shall be distributed through nonprofit voluntary agencies, cooperatives, and the World Food Program;".

(b) Section 201 of such Act is amended by adding at the end thereof the following new subsection:

"(c) No less than 60 percent of the minimum tonnage required under subsection (b) shall be in the form of processed and fortified foods.".

MULTIYEAR AGREEMENTS WITH NONPROFIT VOLUNTARY AGENCIES AND COOPERATIVES

SEC. 306. Section 202 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722) is amended by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in paragraph (2) and subject to the availability of appropriated funds and agricultural commodities, the President shall, to the extent practicable, enter into multiyear agreements with nonprofit voluntary agencies, cooperatives, and international organizations to make agricultural commodities available for distribution on a nonemergency basis under this section.

"(2) Paragraph (1) shall not apply to an agreement which the President determines should be limited to a single year because the agreement involves a new program of assistance.

"(3) In carrying out a multiyear agreement entered into under this subsection, a nonprofit voluntary agency, cooperative, and international organization shall not be required to obtain periodic approval from the United States Government in order to continue to conduct an assistance program under such agreement.".

DISASTER RESERVE

SEC. 307. Section 202 of the Agricultural Trade Development and Assistance Act of 1954 (as amended by section 306 of this Act) is amended by adding at the end thereof the following new subsection:

"(d) A nonprofit voluntary agency which enters into an agreement under this title shall maintain an operating reserve of at least 15 percent in order to provide assistance to areas which suffer from chronic drought or other natural disasters.".

PROCESSED PRODUCT AND FORTIFIED GRAIN RESERVE

SEC. 308. Section 202 of the Agricultural Trade Development and Assistance Act of 1954 (as amended by section 307 of this Act) is amended by adding at the end thereof the following new subsection:

"(e) The Secretary of Agriculture shall maintain a reserve containing processed products and fortified grain in order to provide urgent relief to people in other countries in the event of an emergency.".

AUTHORIZATION OF APPROPRIATIONS TO REIMBURSE COMMODITY CREDIT CORPORATION FOR FAMINE RELIEF

SEC. 309. The first sentence of section 204 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724) is amended by striking out "$1,000,000,000" and inserting in lieu thereof "$1,900,000,000".

AUTHORIZATION OF APPROPRIATIONS TO PURCHASE FOREIGN CURRENCIES FOR FAMINE RELIEF

SEC. 310. (a) The second sentence of section 204 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724) is amended by striking out "$7,500,000" and inserting in lieu thereof "$95,000,000".

(b) Section 103(b) of such Act (7 U.S.C. 1703(b)) is amended by inserting ", the second sentence of section 204," after "section 104".

MULTILATERAL AGREEMENTS FOR FAMINE RELIEF

SEC. 311. Title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 207. (a) To the maximum extent practicable, the President shall enter into multilateral agreements with other food exporting nations in order to fulfill the food aid requirements of needy nations.

"(b) To the maximum extent practicable, the President shall include such provisions in such agreements as are necessary to assure that recipient nations become self-sufficient in meeting their food requirements, including a requirement that food exporting nations provide cash and other resources to recipient nations for such purpose.

"(c) The Commodity Credit Corporation may use any surplus stocks of the Corporation to carry out this section and title I of this Act.".

SUBTITLE B—AGRICULTURAL IMPORTS

AGRICULTURAL IMPORTS

SEC. 320. The Secretary of Agriculture shall, to the maximum extent practicable, exercise the authority provided to the Secretary under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) to examine and report to the President with respect to any imported articles which interfere with any program or operation undertaken by the Department of Agriculture or reduce the amount of products processed from agricultural commodities in the United States.

LABELING IMPORTED MEAT

SEC. 321. Section 1(n) of the Federal Meat Inspection Act (21 U.S.C. 601(n)) is amended—

(1) by striking out "or" at the end of paragraph (11);

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end the following new paragraph:

"(13) If it is or was imported and if its labeling fails to bear the words 'imported', 'may have been imported', 'this product contains imported meat', 'this product may contain imported meat', 'this container contains imported meat', or 'this container may contain imported meat', as the case may be, or words to indicate its country of origin.".

(b) The amendments made by this section shall become effective one year after the date of enactment of this Act.

SERVING IMPORTED MEAT

SEC. 322. (a) For purposes of this section:

(1) The term "eating establishment" means any restaurant, cafeteria, lunch counter, lunchroom, soda fountain, food stand, saloon, tavern, bar, lounge, vending machine, or other similar facility (including any such facility located on the premises of any retail or recreational establishment), operated as a commercial enterprise engaged in the business of selling food to the public.

(2) The term "meat food product" shall have the meaning given to such term by section 1(j) of the Federal Meat Inspection Act (21 U.S.C. 601(j)).

(3) The term "Secretary" means the Secretary of Agriculture.

(b) Whoever—

(1) owns or operates an eating establishment;

(2) sells in such eating establishment a significant amount of meat or meat food products imported into the United States, or meat food products that, in the aggregate, contain a significant amount of meat imported into the United States; and

(3) knowingly fails, or knowingly permits any employee or agent to fail, to inform individuals purchasing food from such eating

establishment of the fact that such meat or meat food products are sold therein—

(A) by displaying, in a conspicuous place in or on such eating establishment, a sign indicating such fact; or

(B) by indicating such fact on menus offered, posted, or otherwise made available to such individuals,

shall be issued a warning on the first occasion on which it is discovered that any such failure may have occurred and shall be fined an amount not to exceed $500 for each day on which any such failure occurs after receipt of such warning.

(c) No later than thirty days after the date of enactment of this Act, the Secretary shall issue regulations defining the term "signficant amount", as used in subsection (b)(2).

(d) Except as provided in subsection (c), this section shall become effective one year after the date of enactment of this Act.

TITLE IV—SOIL AND WATER CONSERVATION

Subtitle A—Soil and Water Conservation

TRAINING OF SOIL CONSERVATION SERVICE PERSONNEL

Sec. 401. Section 5 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590e) is amended—

(1) by inserting "(a)" after the section designation; and

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

"(b) The Secretary of Agriculture shall establish and carry out a program to improve, to the maximum extent practicable, the training of officers and employees of the service in carrying out the duties of the service.".

DRY LAND FARMING

Sec. 402. The first sentence of section 7(a) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g(b)) is amended—

(1) by striking out "and" at the end of clause (5); and

(2) by inserting before the period the following:

", and (7) the promotion of energy and water conservation through dry land farming".

LOCAL AND STATE COMMITTEES

Sec. 403. The fifth paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended by adding at the end thereof the following new sentence: "To the maximum extent practicable, the Secretary of Agriculture shall take such actions as are necessary to strengthen the role of local and State committees in carrying out this Act.".

AGRICULTURAL CONSERVATION PROGRAM

Sec. 404. Section 8(d) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(d)) is amended by adding at the end thereof the following new paragraph:

"In order to be eligible to receive a payment or grant of aid made under the agricultural conservation program authorized by sections 7 through 15, 16(a), 16(f), and 17 of this Act and sections 1001 through 1008 and 1010 of the Agricultural Act of 1970 (16 U.S.C. 1501 through 1508 and 1510), a producer must use such payment or grant in accordance with a conservation plan approved by (1) the soil and water conservation district or districts in which the land described in the plan is situated, or (2) in areas where such district or districts does not exist or fails to act on the approval of such plan, the Secretary of Agriculture. In order to receive such approval, such plan must assure that soil loss levels on lands subject to such plan do not exceed the soil loss tolerance levels determined by the Secretary of Agriculture. The Secretary of Agriculture shall provide technical assistance to producers to assist producers in preparing such plans.".

CONSERVATION RESERVE PROGRAM

Sec. 405. The Soil Conservation and Domestic Allotment Act is amended by inserting after section 16A of such Act (16 U.S.C. 590p-1) the following new section:

"CONSERVATION RESERVE PROGRAM

"Sec. 16B. (a) In order to promote soil and water conservation practices on up to thirty million acres of erosion-prone land, the Secretary of Agriculture shall enter into contracts for a term of ten years with producers determined by the Secretary to have control for the contract period of the farms covered by the contract.

"(b) Under the terms of such contract, the producer must agree—

"(1) to establish and maintain for the contract period protective vegetative cover, or other soil-, water-, wildlife-, or forest-conserving uses, on a specifically designated acreage on erosion-prone land on the farm regularly used in the production of crops;

"(2) not to devote such acreage to the production of agricultural commodities; and

"(3) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of this section and to facilitate the practical administration of the conservation reserve program.

"(c)(1) In return for such agreement by the producer, the Secretary shall agree—

"(A) to bear such part of the cost of establishing and maintaining vegetative cover, water storage facilities, or other soil-, water-, wildlife-, or forest-conserving uses, on the designated acreage as the Secretary determines to be necessary to effectuate the purposes of this section, but not to exceed a maximum amount per acre or facility prescribed by the Secretary for the county or area in which the farm is situated; and

"(B) to make an annual payment to the producer for the term of the contract (in an amount determined by the Secretary in accordance with paragraph (2)) upon a determination that the producer has fulfilled the provisions of the contract entitling the producer to such payment.

"(2) The Secretary shall determine the amount of annual payments under paragraph (1)(B) on such basis as the Secretary determines will provide producers with a fair and reasonable return on the land diverted to conservation purposes, taking into consideration—

"(A) the productivity of the diverted land, as determined on the basis of farm program yields established by the Secretary;

"(B) the prevailing rates for cash rentals for similiar land in the same county or area;

"(C) the incentive necessary to obtain contracts covering sufficient acreage for the substantial accomplishment of the purposes of the conservation reserve program;

"(D) the erosiveness of the diverted land;

"(E) the extent to which the diverted land contributes to off-farm pollution of the environment; and

"(F) such other factors as the Secretary considers appropriate.

"(d) The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage designated under an agreement entered into under this section to be devoted to hay and grazing.

"(e) The total amount of payments made to a producer under this section during a year may not exceed $50,000.

"(f) The Secretary shall limit the total acreage placed under contracts under this section in any State, county, or local community, so as not to affect adversely the economy of such State, county, or local community.

"(g) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.".

WATER CONSERVATION PROGRAM

Sec. 406. The Soil Conservation and Domestic Allotment Act (as amended by section 405 of this Act) is further amended by inserting after section 16B of such Act the following new section:

"WATER CONSERVATION PROGRAM

"Sec. 16C. (a) In order to reduce the use of water from underground acquifers to irrigate land, the Secretary of Agriculture may enter into contracts for a term of five years with producers determined by the Secretary to have control for the contract period (and the additional period referred to in subsection (b)(1)) of the farms covered by the contract.

"(b) Under the terms of such contract, the producer must agree—

"(1) during the contract period and an additional period specified in the contract of not less than five years, to not use water from underground acquifers under the farm to irrigate specifically designated acreage on land on the farm regularly used in the production of crops; and

"(2) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of this section and to facilitate the practical administration of the water conservation program.

"(c)(1) In return for such agreement by the producer, the Secretary shall agree to make an annual payment to the producer for the term of the contract (in an amount determined by the Secretary in accordance with paragraph (2)) upon a determination that the producer has fulfilled the provisions of the contract entitling the producer to such payment.

"(2) The amount of an annual payment made under paragraph (2) shall be an amount equal to the product obtained by multiplying 50 per centum by the difference between—

"(A) the productivity of the land under contract without the use of water from underground acquifers under the farm; and

"(B) the productivity of such land with the use of such water.

"(3) The determination of the productivity of land under paragraph (2) shall be based on farm program yields established by the Secretary.

"(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.".

Subtitle B—Highly Erodible Land Conservation

DEFINITIONS

Sec. 410. For purposes of this subtitle:

(1) The term "agricultural commodity" means any agricultural product planted and produced by annual tilling of the soil, including one-trip planters.

(2) The term "highly erodible land" means land that has, or if used to produce an agricultural commodity would have, an excessive rate of erosion, as determined by the Secretary, in relation to—

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(A) the soil loss tolerance level determined by the Secretary; and

(B) factors of the universal soil loss equation and the wind erosion equation used by the Secretary, including climate, soil erodibility, and field slope.

(3) The term "Secretary" means the Secretary of Agriculture.

PROGRAM INELIGIBILITY

SEC. 411. Except as provided in section 412 and notwithstanding any other provision of law, following the date of enactment of this Act, any person who produces an agricultural commodity on highly erodible land shall be ineligible, as to any agricultural commodity produced during that crop year, and the four succeeding crop years, by such person, for—

(1) any type of price support, marketing certificates, income assistance, or production adjustment payments for such commodity made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;

(2) a loan for the construction or purchase of a facility for the storage of such commodity made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h));

(3) crop insurance for such commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(4) a disaster payment for such commodity made under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.); or

(5) a new loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or any other provision of law administered by the Farmers Home Administration.

EXCEPTIONS

SEC. 412. (a) Except as provided in subsection (b), section 411 shall not apply to any of the following:

(1) Any land that was cultivated by a person to produce any of the 1981 through 1985 crops of agricultural commodities.

(2) Any crop of an agricultural commodity planted by a person before the date of enactment of this Act.

(3) Any crop of an agricultural commodity planted by a person during any crop year beginning before the date of enactment of this Act.

(4) Any loan described in section 411 made before the date of enactment of this Act.

(5) Any crop of an agricultural commodity produced using a conservation system that has been approved by—

(A) a soil conservation district, based on technical standards set forth in the Soil Conservation Service technical guide for that soil conservation district; or

(B) in areas where a soil conservation district does not exist or fails to act on the approval of such system, the Secretary.

(b) Clauses (1), (2), and (3) of subsection (a) shall not apply to land which was at any time subject to a contract entered into under section 16B of the Soil Conservation and Domestic Allotment Act (as added by section 405 of this Act).

USE OF AGRICULTURAL STABILIZATION AND CONSERVATION COUNTY COMMITTEES IN ADMINISTRATION

SEC. 413. To ensure compliance with the provisions of this subtitle on the part of those persons participating in the programs described in section 411, as well as fair and equitable treatment in the application of this subtitle, the Secretary shall use the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) in the administration of this subtitle.

APPEAL OF LAND CLASSIFICATION

SEC. 414. The Secretary shall establish, by regulation, an appeal procedure under which a person who produces an agricultural commodity on land classified as highly erodible land may seek review of such classification.

COMPLETION OF SOIL SURVEYS

SEC. 415. (a) The Secretary shall, as soon as is practicable after the date of enactment of this Act, complete soil surveys on those private lands that do not have a soil survey suitable for use in determining whether such lands should be considered highly erodible lands for purposes of this subtitle.

(b) In carrying out subsection (a), the Secretary shall, insofar as possible, concentrate on those localities where significant amounts of highly erodible land are being converted to the production of agricultural commodities.

TITLE V—FOOD ASSISTANCE PROGRAMS

SUBTITLE A—FOOD STAMP PROGRAM

ADJUSTMENT OF THRIFTY FOOD PLAN

SEC. 501. Clause (8) of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)(8)) is amended to read as follows: "(8) on October 1, 1985, and each October 1 thereafter, adjust the cost of such diet to reflect the average cost of the thrifty food plan for the fiscal year beginning on such date, as projected by the Secretary on the basis of the best data available, and round the result to the nearest lower increment for each household size;".

EARNED INCOME DEDUCTION

SEC. 502. The third sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking out "18 per centum" and inserting in lieu thereof "20 per centum".

DEPENDENT CARE AND EXCESS SHELTER DEDUCTIONS

SEC. 503. The fourth sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended—

(1) by striking out "the same as that for the excess shelter expense deduction contained in clause (2) of this subsection," in clause (1) and inserting in lieu thereof "$160";

(2) by striking out ", or (2)" and inserting in lieu thereof "and (2)";

(3) in the proviso of clause (2)—

(A) by striking out "$115" and inserting in lieu thereof "$175"; and

(B) by striking out "$200, $165, $140, and $85" and inserting in lieu thereof "$260, $225, $200, and $145"; and

(4) by striking out ", or (3)" and all that follows through the period and inserting in lieu thereof a period.

CALCULATION OF INCOME

SEC. 504. (a) Section 5(f)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(2)) is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) Household income for all other households shall be calculated either on a prospective basis as provided in paragraph (3)(A) or on a retrospective basis as provided in paragraph (3)(B), as elected by the State agency under regulations prescribed by the Secretary."; and

(2) by striking out subparagraph (C).

(b) The first sentence of section 6(c)(1) such Act (7 U.S.C. 2015(c)(1)) is amended by inserting "that elect to use a system of retrospective accounting in accordance with section 5(f) of this Act" after "State agencies".

SUPPLEMENTATION OF ALLOTMENTS

SEC. 505. The third sentence of section 5(f)(3)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(3)(B)) is amended by inserting "and for supplementing the allotments of households that experience during a month sudden and significant losses of income of more than $100" before the period at the end thereof.

RESOURCE LIMITATIONS

SEC. 506. Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended—

(1) by striking out "$1,500" and "$3,000" in the first sentence and inserting in lieu thereof "$2,250" and "$3,500", respectively; and

(2) by striking out "$4,500" in the second sentence and inserting in lieu thereof "$5,500".

PERSONAL PROPERTY LIMITATIONS

SEC. 507. Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by adding at the end thereof the following new subsection:

"(k)(1) For the purposes of this subsection:

"(A) The term 'civil jurisdiction' means—

"(i) a city with a population of fifty thousand or more people, based on the most recently available estimates of the Bureau of the Census;

"(ii) a town or township in the State of New Jersey, New York, Michigan, or Pennsylvania with a population of fifty thousand or more people, based on the most recently available estimates of the Bureau of the Census, that possesses powers and functions similar to those of cities;

"(iii) a county or parish, except those counties or parishes that contain any civil jurisdiction included in clause (i) or (ii);

"(iv) the balance of a county or parish consisting of a county or parish less any component civil jurisdiction included in clause (i) or (ii); or

"(v) a county equivalent that is a town in the State of Massachusetts, Rhode Island, or Connecticut.

"(B) The term 'high unemployment area' means—

"(i) an area classified as a surplus labor area by the Secretary of Labor; or

"(ii) a civil jurisdiction in which the unadjusted unemployment rate, as determined monthly by the Bureau of Labor Statistics of the Department of Labor, has not been less than 10 per centum during the most recent six-month period for which information is available.

"(2) Notwithstanding subsection (g), if a household is located in a high unemployment area or an area experiencing a high rate of farm foreclosures (as determined by the Secretary), the personal property held by such household that is excluded from the resource limitations imposed for nonliquid assets under subsection (g) shall be included in the resources of such household for purposes of determining the eligibility of the household for participation in the food stamp program unless the household disposes of such property in the manner, and within the period of time (not to exceed four months), prescribed by the Secretary.

"(3) Any coupons issued to a household during the period for which disposal of

property is required under paragraph (2) shall be—

"(A) conditioned on the disposal of the property; and

"(B) considered an overissuance of coupons if—

"(i) at the time of the disposal, the Secretary determines that the coupons would not have been issued if the disposal had occurred at the beginning of the period for which such coupons were issued; or

"(ii) at the end of the authorized disposal period, the property is not disposed of by the household.

"(4) To carry out this subsection, the Secretary shall—

"(A) obtain from the Secretary of Labor information necessary to determine which areas and civil jurisdictions in each State are high unemployment areas;

"(B) determine which areas and civil jurisdictions in each State are experiencing a high rate of farm foreclosures; and

"(C) supply relevant information referred to in clause (A) and (B) to State agencies.".

FOOD STAMP INFORMATION

SEC. 508. Clause (A) of section 11(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(1)(A)) is amended to read as follows: "(A) conduct public information activities reasonably designed to inform low-income households about the availability, eligibility requirements, and benefits of the food stamp program; and".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 509. The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended to read as follows: "To carry out this Act, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1986, and each fiscal year thereafter through the fiscal year ending September 30, 1989.".

SUBTITLE B—CHILD NUTRITION PROGRAMS

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 520. (a) The second sentence of section 13(a)(1) of the National School Lunch Act (42 U.S.C. 1761(a)(1)) is amended—

(1) by inserting ", private nonprofit organizations," after "governments" in clause (B);

(2) by striking out "50 percent" in clause (C) and inserting in lieu thereof "33⅓ percent";

(3) by striking out "and" at the end of clause (D); and

(4) by inserting before the period at the end thereof the following: ", and (F) 'private nonprofit organizations' means organizations (including summer camps) that (i) operate at not more than fifteen sites (or, if a waiver under subsection (i)(2) is granted, at not more than twenty sites); (ii) use self-preparation facilities to prepare meals or obtain meals from a public facility (such as a school district, public hospital, or State university); and (iii) meet the requirements of subsection (i)".

(b) Section 13 of such Act is amended by inserting after subsection (h) the following new subsection:

"(i)(1) A private nonprofit organization shall be eligible to provide services under a program authorized by this section during a year only if the organization—

"(A) operates in an area where a school food authority or the local, municipal, or county government has not indicated by March 1 of such year that such authority or such unit of government will operate such program in such year;

"(B) exercises full control and authority over the operation of such program at all sites under its sponsorship;

"(C) provides ongoing year-round activities for children;

"(D) demonstrates adequate management and fiscal capacity to operate such program; and

"(E) meets applicable State and local health, safety, and sanitation standards.

"(2) The Secretary may waive the limitation of fifteen sites imposed under subsection (a)(1)(F) for participation in the program authorized by this section, and permit a private nonprofit organization to operate up to twenty sites and maintain eligibility to participate in such program, if such organization demonstrates to the satisfaction of the Secretary that a need for such additional sites exists and that such organization has the capability to serve such additional sites.".

SCHOOL BREAKFASTS

SEC. 521. (a) Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) To the extent practicable, the Secretary shall increase by 6 cents the annually adjusted level of payments authorized for each breakfast served under this Act and section 17 of the National School Lunch Act (42 U.S.C. 1766) in order to assist States in improving the nutritional quality of such breakfasts.

"(B) A State or local source may not diminish the amount of funds expended to provide such breakfasts as a result of funds received under this paragraph.".

(b)(1) The Secretary of Agriculture shall review and revise the nutrition requirements for meals served under the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) in order to improve the nutritional quality of such meals, taking into consideration—

(A) the findings of the National Evaluation of School Nutrition Programs; and

(B) the need to provide increased flexibility in meal planning to local school food authorities.

(2) No later than one hundred and eighty days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations to implement the revisions referred to in paragraph (1).

SUBTITLE C—FOOD DISTRIBUTION PROGRAMS

COMMODITY SUPPLEMENTAL FOOD PROGRAM

SEC. 530. Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by striking out "during fiscal years 1982, 1983, 1984, and 1985" and inserting in lieu thereof "during the period beginning October 1, 1985, and ending September 30, 1989".

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

SEC. 531. (a) Section 212 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out "1985" and inserting in lieu thereof "1989".

(b) The first sentence of section 1114(a) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e) is amended by inserting "to eligible recipient agencies for distribution under the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note)," after "food service,".

SUBTITLE D—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 540. This title and the amendments made by this title shall become effective on October 1, 1985.

TITLE VI—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 601. Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

SUMMARY: FARM POLICY REFORM ACT OF 1985

TITLE I. AGRICULTURAL COMMODITY SUPPLY MANAGEMENT

Section 101—Supply Management Program: A producer referendum is mandated on August 1, 1985, 1989, 1993, and 1997 to determine by majority vote if a mandatory supply management program will be in effect for the succeeding four-year period for the commodities wheat, corn, grain sorghums, barley, oats, rye, upland cotton, rice, and soybeans. If the referendum fails, the farm program will be established at the discretion of the Secretary.

If a referendum is approved, each producer will be assigned a normal crop acreage (NCA) equivalent to the average number of acres cultivated, including farm program acres retired, during the four preceding years. Each producer must set aside 15% of his NCA. This determines eligible crop acres. Each producer will submit planting intentions to USDA. If the producer's total farm and nonfarm income is less than $200,000, the producer will receive acreage allotments in accordance with that requested. Producers with gross incomes in excess of $200,000 must request supplemental acreage allotments for each commodity.

The Secretary, after determining a national marketing quota for each commodity, by totaling estimated domestic demand, export demand, food aid requirements, and reserve requirements, will prorate the remaining needed production to all producers requesting supplemental allotments through a formula which requires an increasingly greater set-aside percentage as producer gross income increases. Producers who earn more than 50% of their gross income from nonfarm sources will be required to set aside an additional 10% of their eligible crop acres.

The Secretary may award bonus acres to all producers if the total of all allotment requests does not exceed the national marketing quota.

Nonrecourse loans will be made available for a period of 36 months and the loan rates shall equal 70% of parity for the 1986 crop year and will increase by 2% each year thereafter until 1996. Target price programs are eliminated.

At the time acreage allotments are assigned, the Secretary shall issue marketing certificates for each commodity based on county average yield or proven farm yield, whichever is higher. The certificate may be adjusted by the Secretary to reflect on-farm use. If production exceeds the amount in the marketing certificate, the surplus may be used for on-farm use, applied to the subsequent year's marketing certificate, donated for Title II, P.L. 480 use, or sold to the Commodity Credit Corporation for 50 percent of the loan rate.

Producers must apply approved conservation measures to set-aside acres. The Secretary may permit haying and grazing set-aside acres and may make a payment for land used for wildlife use.

A farmer disaster reserve is created to replace crop insurance. Each producer must contribute a portion of his production, determined on an actuarially sound basis, to the reserve. In the event of a disaster, the producer will receive commodities from the reserve equivalent to 90 percent of his marketing certificate less the amount actually produced. However, the value of commodities received under this program may not exceed $360,000 annually.

Section 102—Wool and Mohair: The National Wool Act of 1954 is extended for five years.

Section 103—Suspension of Permanent Program: Sections of current law which would conflict with this program are suspended.

TITLE II. AGRICULTURAL CREDIT

Section 201—Guaranteed Loans: Limits FmHA guaranteed from operating and farm real estate loans to 10 percent of loans made in those categories.

Section 202—Limited Resource Real Estate Loans: Clarifies authority for FmHA to make limited resource real estate loans.

Section 203—Record Keeping Training: Requires record keeping training for limited resource borrowers.

Section 204—Limits on Operating Loans: Establishes a two-tiered debt ceiling on operating loans. For direct loans, the limit would be $200,000, except that no more than 25 percent of the funds could be used for loans above $100,000. For guaranteed loans, the limit would be $400,000, except that no more than 25 percent of the guarantee authority could be for loans above $200,000. Total FmHA indebtedness could not exceed $500,000 per farmer.

Section 205—Limited Resource Operating Loans: Clarifies authority for FmHA to make limited resource operating loans.

Sections 206-210—Emergency Loans: Reforms the FmHA emergency loan program by redirecting toward family-sized farms. The reforms include limiting loans to family-size farms, limiting loans to farmers who cannot get credit elsewhere, and reducing the individual loan ceiling from $500,000 to $200,000.

Section 211—Loan Deferrals: Expands authority for the deferral of principal and interest for up to 5 years as long as the producer can project a positive cash flow under the support price schedule in Title I.

Section 212—Loan Defaults: Clarifies FmHA Procedures for handling loan defaults.

Section 213—County Committees: Expands FmHA county committees to 5 members of which three must be farmer-elected.

Section 214—Prompt Approval of Loans: Establishes definite time limits for approval of FmHA loans.

Section 215—Farm Program Appeals: Establishes a new procedure for the appeal of FmHA loan applications. The major components include informal meetings to facilitate resolution of disputes at local level, one formal hearing where informal meetings are unsuccessful, and the availability of an administrative law judge at the state level to conduct the formal hearing and provide independent resolution.

Section 216—Disposition and Leasing of Farmland: Clarifies procedures for disposton of farmland held in inventory by FmHA. Limits the leasing or sale of land to farmers who are eligible for FmHA operating or real estate loans, with first priority going to limited resource farmers.

Section 217—Release of Normal Income Security: Provides for minimum standards for the release of income security for family living and operating expenses.

Section 218—Loan Summary Statements: Requires FmHA to provide each borrower with a loan status report to provide farmers with necessary information to better manage their debts.

Section 219—Family Farm Definition: Clarifies definition of a "family farm" specifying that individuals owning farm must provide a majority of the labor.

Section 220—Limited Resource Loan Amounts: Restores the original minimum quota to require that at least 25 percent of FmHA operating and real estate loans go to limited resource borrowers.

Section 221—Farm and Home Plan Study: Provides for a study of the appropriateness of FmHA's "Farm and Home Plan" and proposed substitutes.

TITLE III. AGRICULTURAL EXPORTS AND IMPORTS

Subtitle A

Sections 301-302—Sales for Foreign Currencies: Authorized Title I, P.L. 480 sales for local currencies to developing countries with a per capita GNP of $500 or below.

Section 303—Use of Private Entities: Grants may be made to private entities for projects designed to improve storage and marketing or to stimulate or expand private enterprise in friendly countries.

Section 304—Intermediate Credit: Requires using not less than $500 million annually for an intermediate export credit program.

Section 305—Quantities for Famine Relief: Minimum tonnage under Title II, P.L. 480 is increased from 1.7 to 3.25 million metric tons grain equivalent over a six year period.

Section 306—Multiyear Agreements: Title II, P.L. 480 amended to permit multi-year agreements with nonprofit organizations.

Section 307—Disaster Reserve: Voluntary agencies authorized to maintain an operating reserve of no less than 15 percent of approved levels in drought and disaster prone counties.

Section 308—Processed Product and Fortified Grain Reserve: Processed and fortified foods will be prepositioned in the United States to ensure timely delivery of commodities.

Section 309—Authorization: Title II, P.L. 480 funding increased from $1.0 billion to $1.9 billion.

Section 310—Authorization to Purchase Foreign Currencies: Funding for Title II sponsors to utilize local currencies generated from Title I is increased from $7.5 million to $9.5 million.

Section 311—Multilateral Agreements: Encourages multilateral agreements with other food exporting nations to fulfill food aid requirements of needy nations.

Subtitle B. Agricultural Imports

Section 320—Agricultural Imports: Instructs the Secretary of Agriculture to utilize existing law to the maximum extent practicable to minimize food imports.

Section 321—Labeling Imported Meat: Requires imported meat to be so labeled with words to indicate its country of origin.

Section 322—Serving Imported Meat: Requires that eating establishments inform individuals purchasing food of the fact that such food products are imported.

TITLE IV. SOIL AND WATER CONSERVATION

Subtitle A. Soil and Water Conservation

Section 401—Training of Soil Conservation Personnel: Instructs the Secretary of Agriculture to establish and carry out a training program for soil conservation service employees.

Section 402—Dry Land Farming: Instructs the Secretary of Agriculture to promote energy and water conservation through dry land farming.

Section 403—Local and State Committees: Instructs the Secretary to take the needed actions to strengthen the role of local and state committees.

Section 404—Agricultural Conservation Program: Instructs the Secretary of Agriculture to require all producers to use Agricultural Conservation Program payments, grants and aid in accordance with a conservation plan approved by the local soil and water conservation district.

Section 405—Conservation Reserve Program: Authorizes the Secretary of Agriculture to enter into contracts of 10 years in order to promote soil and water conservation on erosion prone land.

Section 406—Water Conservation Program: Authorizes the Secretary of Agriculture to enter into contracts of 5 years in order to reduce the use of water from underground aquifers to irrigate land.

Subtitle B. Highly Erodible Land Conservation

Sections 410-415: Instructs the Secretary of Agriculture to make any person or producer who plows out new highly erodible land ineligible for agricultural programs for that year. Producers would be ineligible for price supports, loans and guarantees, crop insurance, or disaster payments. Local agricultural stabilization and Conservation County Committees are to be used to administer the program.

TITLE V. FOOD ASSISTANCE PROGRAM

Subtitle A. Food Stamp Program

Section 501—Adjustment of Thrifty Food Plan: Increases the Thrifty Food Plan (TFP) to reflect actual food prices. Bases the food stamp allotment on the projected average cost of the TFP in the coming year. Food stamp recipients would receive a benefit reflecting the tue cost of purchasing the TFP.

Section 502—Earned Income Deduction: Adjusts income deductions to enhance work incentives and better reflect actual excess shelter and dependent care costs.

In order to recognize the taxes and work related expenses and provide a work incentive for food stamp recipients, current law requires that 18 percent of any earned income be disregarded in establishing a recipient household Food Stamp eligibility and benefit level. Prior to amendment in 1981, the disregard for earning was 20 percent.

Section 503—Dependent Care and Excess Shelter Deductions: Separates and raises the maximum dependent care deduction to $160 per month for all child care costs incurred, and the excess shelter deduction to $175 per month.

Section 504—Calculation of Income: Permits uneven proration of family income to be calculated either on a prospective or retrospective basis.

Section 505—Supplementation of Allotments: Permits supplementing the allotments of households that experience an income loss of $100 or more during a given month.

Section 506—Resource Limitations. Increases asset limits and changes the treatment of financial resources to reflect actual availability.

These provisions would raise the liquid asset limit applied to individuals and households to two or more without elderly mem-

bers from $1,500 to $2,250. Similarly, it would raise the limit applied to households of two or more with an elderly member from $3,000 to $3,500. The exempt value of a non-excluded vehicle would be increased from $4,500 to $5,500.

Section 507—Personal Property Limitations: Non-liquid asset requirements would be waived for up to four months in areas of high unemployment and high farm foreclosures.

Section 508—Food Stamp Information: Requires states to provide reasonable program information to potential recipient populations and matches dollar for dollar state expenditures for this purpose.

Section 509—Authorization and Appropriations: Authorizes the appropriations of such sums as necessary for fiscal years ending September 30, 1986 through September 30, 1989.

Subtitle B.—Child Nutrition Program

Section 520—Summer Food Service Program for Children: Permits private nonprofit agencies to sponsor summer food service program and reduces restrictions for participation.

Section 521—School Breakfast: Increases subsidy to school breakfast program by 6¢ per meal.

Subtitle C. Food Distribution Programs

Section 530—Commodity Supplemental Food: Extends for four years the authorization for the Commodity Supplemental Food Program.

Section 531—Temporary Emergency Food Assistance Program: Extends Temporary Emergency Food Assistance Program (TEFPA) through 1989.

Subtitle D. Effective Date

Section 540—Effective Date: Title V shall be effective on October 1, 1985.

(NOTE: This bill does not address the dairy program and in the absence of legislative action, the support price for milk will revert to a minimum support level of 75 percent of parity on October 1, 1985. However, it is the intent of the author to include a dairy program consistent with the commodity provisions of Title I.)

Mr. ZORINSKY. Mr. President, I am pleased to join the distinguished Senator from Iowa [Mr. HARKIN] in introducing the Farm Policy Reform Act of 1985.

This bill is one of several major farm bills that have been introduced—including the Food and Agriculture Act of 1985 (S. 1051), legislation I introduced on May 1. Next Tuesday, the Senate Committee on Agriculture, Nutrition, and Forestry is scheduled to begin markup of the 1985 farm bill.

The 1985 farm bill may prove to be the single most important legislative measure enacted by the 99th Congress. The severity of the agricultural depression requires bold and innovative action. Such action is provided in the Farm Policy Reform Act through mandatory production controls, reform of the Farmers Home Administration credit programs, aggressive export promotion programs, and sensible soil and water resource conservation programs.

As the ranking Democrat on the Senate Agriculture Committee, I want to make certain that every viable option is considered by the committee. For that reason, I introduced S. 1051 and have joined the Senator from Iowa in introducing the Farm Policy Reform Act.

I know that some officials in the administration have expressed serious reservations about mandatory production controls. However, I believe that approach merits serious consideration; it will reduce the cost of farm programs and improve farm income.

I commend the Senator from Iowa for his efforts in drafting the Farm Policy Reform Act. I look forward to working with him in developing the 1985 farm bill.

By Mr. KASTEN:

S. 1085. A bill to amend the Internal Revenue Code of 1954 and titles 5 and 44 of the United States Code, to provide further incentives for small businesses, and for other purposes; to the Committee on Finance.

SMALL BUSINESS INCENTIVES ACT

Mr. KASTEN. Mr. President, today I am introducing the Small Business Incentive Act of 1985. My bill is timely, in that the President of the United States has proclaimed this week of May 5 through May 11, 1985, as small business week. I know of no better way to pay tribute to the thousands of small business men and women across this Nation than to honor them with such a proclamation. America is back to work, and never has the future of our Nation depended so much on those who keep Americans working.

But more work must be done before we can rest. Merely recognizing the heroic efforts of those who have helped make America what it is today is not enough. Small business men and women have provided the foundation for a growing and prosperous America, build on individual initiative, a competitive spirit, and an intense pride in the opportunities that freedom can bring.

If we grow self-satisfied, however, we will stagnate; 100 years from now, we will be judged by what we do, not by what we say. It is up to us now to provide the right incentives to encourage the young to take calculated risks of both their time and energy, and to enable those with a dream to build for the future.

America is truly a land of opportunity for the small business man or woman. America's creative strength lies in the independence of its businesses from unnecessary Government intrusion. America's best resources lie in the independence of its people and their inherent entrepreneuralism.

The bill I introduce today has one purpose only: to keep small business prosperous and growing. My intent is to provide more incentives and fairer treatment of small business men and women, the backbone of our communities, our towns, villages and cities.

As a former businessman myself, I am particularly sensitive to the needs and concerns of small businesses. My bill is expressly tailored to correct the inequities confronting the local druggist, the gas station owner, the family farmer, and the entrepreneur.

The Small Business Incentives Act of 1985 is designed to reduce the regulatory burden on small business, to provide equitable tax treatment for small companies, and to increase the incentives for investing in small business.

REDUCE THE REGULATORY BURDEN ON SMALL BUSINESS

To help the small business man or woman cut down on paperwork and recordkeeping, my bill would require that small business records need only be retained for a total of 3 years. After that time period, a small business would no longer be held responsible for documenting Federal regulations and requirements. On the other hand, records relating to health and medical records, the location of hazardous waste materials, and tax records would be exempt from this statutory 3-year period.

Another similar provision would reauthorize the Paperwork Reduction Act and give new authority to the Office of Information and Regulatory Affairs. It was never Congress' intent under the act to eliminate excessive requirements for information from some agencies and to ignore others.

Presently, most of the independent agencies like the Federal Reserve, the Interstate Commerce Commission, and the Federal Trade Commission have the power to override reductions in paperwork demands made by the act. Small business usually suffers the most from the unwieldly demands of these bureaucracies. My bill would bring these agencies in under the Paperwork Reduction Act.

My bill would also strengthen the Regulatory Flexibility Act. The Regulatory Flexibility Act requires Federal departments and agencies to analyze the impact of proposed regulatory activities on small business, and to provide, whenever possible, less regulatory and paperwork requirements for small firms.

Most Federal agencies have made progress in complying with the law. But two agencies—the Internal Revenue Service and the Department of Defense—that heavily regulate small businesses, have refused to comply. In fact, they have claimed outright exemptions from the provisions of the act. This is unacceptable and must be changed. The wide jurisdictions of these powerful Federal agencies does not justify squeezing the lifeblood out of small business through overregulation.

The IRS—the only Federal agency that directly affects all small business-

es—claims exemption from the Regulatory Flexibility Act on technical omissions in the original bill. The Defense Department, which issues thousands of procurement regulations affecting small business contractors, has historically claimed to be exempt from normal rulemaking procedures, including the Regulatory Flexibility Act. My bill would ensure that regulatory reform within the Federal Government be comprehensive, with no exceptions for the IRS and the DOD. My intent is to relieve as much pressure as possible on small businesses from Federal regulations.

PROVIDE EQUITABLE TAX TREATMENT FOR SMALL BUSINESS

To ensure tax equity, this legislation would reduce unintentional biases against small business in the areas of Social Security taxes, unemployment compensation, and fringe benefits.

Federal laws allow corporations to deduct statutory fringe benefits—those recognized by the Internal Revenue Service—but do not allow similar tax deductions to the owners of unincorporated businesses. In addition to allowing these deductions, the IRS Code provides that employees do not have to report the value of these fringe benefits as taxable income. Thus, employees of corporations—including owner-employees—governments, and nonprofit entities receive fringe benefits tax free.

Although employees of unincorporated businesses also may receive these fringe benefits tax free, the self-employed—partners and proprietors—gas station owner or local druggist are taxed on these benefits because the Tax Code does not treat them as employees. There is no compelling reason why fringe benefits are tax free and unlimited in one case, and taxable or limited in the other. My bill would provide fringe-benefit equity for the self-employed and eliminate this discrimination against the small business man and woman.

My bill would allow a self-employed owner of a small business to deduct for business purposes half of his 1985 Social Security contribution, as compared to the scheduled change in the Tax Code by 1989. Under current law, an owner-employer of a small corporation pays half of the Social Security tax and the business pays the other half. For tax purposes, the business can deduct as an expense the portion it pays.

The self-employed owner of a business, on the other hand, must pay a self-employed tax to Social Security, receiving only a tax credit over 2 percent of his taxable income. Thus, half the corporation contribution is deductible, while the self-employed business owner will receive no similar tax benefit until 1989. This discriminatory tax treatment adversely affects small business men and women up and down Main Street and all across America, and must be corrected now.

Likewise, there is a double standard in unemployment compensation for owner-employees as compared to corporate officers. In some States such as Massachusetts, business owners are not allowed to collect unemployment compensation even though they have paid taxes as an owner who is legally considered to be an employee.

Although Federal or State rules do not explicitly prohibit business owners from collecting, administrative rules in practice often preclude owners from receiving any benefits. Most often, State agencies that regulate benefit payments informally establish rules that make it impossible for a business owner to qualify for benefits. This legislation would ensure that an owner-employee who contributes unemployment taxes is eligible to receive full benefits. It also stops the unfair treatment of a small business owner who is forced to close his business, yet can't collect unemployment compensation like his corporate brothers.

Since 1978, farm employers must pay Federal unemployment compensation taxes when they employ 10 or more individuals for 20 weeks or maintain a payroll of $20,000 in any one quarter. Because of the highly seasonal nature of agricultural work, this requirement presents a special problem for the small farmer.

Most farmers maintain a small year-round crew. At peak times during the season, their work forces may double, triple, or even quadruple. Though hiring larger numbers of workers may not trigger the first threshold provision for paying unemployment compensation taxes, the family farmer frequently will pay wages in excess of $20,000 quarterly. By triggering the second threshold, the farmer ends up paying unemployment compensation taxes for employees who have worked too few weeks to collect.

My bill recognizes that 7 years have passed since Congress authorized the $20,000 limit in quarterly wages as a threshold for unemployment compensation taxes. Since that time, the Nation has undergone a period of high inflation. A provision in my bill would raise the wage-base threshold for payment of unemployment compensation tax to $30,000 to match the rate of inflation since 1978, along with a provision for indexing the threshold for future inflation. This will allow farmers to have some additional breathing space before paying an unemployment tax on seasonal workers.

INCREASE INCENTIVES FOR INVESTING IN SMALL BUSINESS

For new businesses to grow, capital and expansion funds are vital to the health of the compnay. My bill includes a provision to give outside investors an incentive to put their money in a small business enterprise.

Any stock investment up to $100,000 in a small buisness—with a net worth of less than $2 million and with at least 80 percent of the gross receipts within a taxable year attributable to the active conduct or trade of the business—may be written off by the investor. Any taxes on the investment are deferred until the stock is sold. This provides a strong incentive to keep the capital invested in the small business.

In America, every person is free to start a business, and a surprising number take advantage of that opportunity This is reflected in the great number of new firms started every year. For the person starting a business, the decision can represent a major commitment. These new businesses, in turn, provide many benefits to our economy. My bill provides some specific incentives for the entrepreneur in hiring new workers and maintaining adequate cash flow.

The small business sector has been largely responsible for the economy's turnaround and its current level of expansion. To promote continued growth and expansion of small businesses, I have included in my bill a 10-percent tax credit on wages paid by employers employing 20 employees or less.

In addition, a provision in my bill would allow small businesses to expense or write-off up to $10,000 of business property and equipment within the tax year. Present law does not allow full expensing until 1990. I think that's too long to wait to help small business. There is no time like the present to improve cash flow incentives.

Over the past several years we have seen massive fluctuations in the number of people employed in America's basic industries. Through all of this change, one fact remains clear—the ability of small business to generate millions of jobs.

It is equally clear, however, that very little attention has been paid to the needs of small business. According to the National Federation of Independent Business [NFIB], the most important distinction to keep in mind is that small business is labor-intensive as compared to capital-intensive. Most of the costs involved in running a small business are associated with keeping workers on the payroll. In fact, payroll taxes—such as social security and unemployment compensation—represent almost 70 percent of the average small employer's tax burden.

Imagine the potential for job creation if small businesses were provided the proper tools to correct the inequities I have pinpointed in my bill. The Federal Government's role is not to create jobs, but to help small business do what it does best—to put people to work.

As President Reagan recently said to the students at St. John University, "we have lived through the age of big industry and the age of the giant corporation, but I believe that this is the age of the entrepreneur, the age of the individual. That's where American prosperity is coming from now, and that's where it's going to come from in the future."

We must continue to enhance economic opportunities for thousands of new business men and women who will play a major role in America's ongoing success story. In recognition of this important week, I salute the small businesses all across this great land and pledge to you our continued support and perseverance. By designating Small Business Week, the President has honored you for a job well done. Let us remember that it is a job not yet completed. That's a task that we must all shoulder in the days and months ahead.

Mr. President, I ask unanimous consent to include the bill in the RECORD.

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

S. 1085

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 "Small Business Incentives Act".

SEC. 101. UNEMPLOYMENT COMPENSATION FOR EMPLOYEE OWNERS OF BUSINESSES WHICH CLOSE.

(a) IN GENERAL.—Subsection (a) of section 3304 of the Internal Revenue Code of 1954 (relating to approval of State laws) is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by redesignating paragraph (18) as paragraph (19); and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) compensation shall not be denied to any individual solely on the grounds that such individual's unemployment is the result of the closing of a business establishment or other entity in which such individual had an ownership interest; and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 102. DEDUCTION OF SOCIAL SECURITY TAXES PAID ON SELF EMPLOYMENT INCOME.

(a) DEDUCTION AFTER 1985.—Section 124(d)(2) of the Social Security Amendments of 1983 is amended by striking out "1989" and inserting in lieu thereof "1985".

(b) CREDIT BEFORE 1986.—

(1) IN GENERAL.—Paragraph (1) of section 1401(c) of the Internal Revenue Code of 1954 (relating to credit against taxes on self-employment income) is amended by striking out "1990" and inserting in lieu thereof "1986".

(2) CONFORMING AMENDMENT.—The table appearing in section 1401(c)(2) of such Code is amended by striking out the following:

"1986, 1987, 1988, or 1989 ..... 2.0.".

SEC. 103. INDEXING OF THRESHOLD AMOUNT WHICH MUST BE PAID TO AGRICULTURAL WORKERS BEFORE AN EMPLOYER BECOMES SUBJECT TO THE FEDERAL UNEMPLOYMENT TAX ACT.

(a) IN GENERAL.—Paragraph (2) of section 3306(a)(2) of the Internal Revenue Code of 1954 (relating to agricultural labor) is amended—

(1) by inserting "(A)" after "AGRICULTURAL LABOR.—";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii);

(3) by striking out "$20,000 or more" and inserting in lieu thereof "the amount specified in subparagraph (B), or more,"; and

(4) by adding at the end thereof the following new subparagraph:

"(B) The amount specified—

"(i) is $30,000 for calendar year 1986, and

"(ii) for any calendar year thereafter, is an amount equal to the amount specified for the preceding calendar year, increased or decreased by the percentage increase or decrease (rounded to the nearest one-tenth of one percent) in the Consumer Price Index (prepared by the Department of Labor) from the third quarter of the second preceding calendar year to the third quarter of the last preceding calendar year, rounded to the nearest multiple of $100.".

(b) CONFORMING AMENDMENT.—Section 3306(c)(1)(A)(i) of the Internal Revenue Code of 1954 is amended by striking out "$20,000 or more" and inserting in lieu thereof "the amount specified in subsection (a)(2)(B), or more,".

TITLE II—REGULATORY REFORM

SEC. 201. PAPERWORK REDUCTION ACT REAUTHORIZED AND STRENGTHENED.

(a) REAUTHORIZATION.—Section 3520 of title 44, United States Code, is amended to read as follows: "There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this chapter.".

(b) REVIEW BY OFFICE OF INFORMATION AND REGULATORY AFFAIRS STRENGTHENED.—

(1) IN GENERAL.—Subsection (c) of section 3507 of title 44, United States Code, is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 3504(h) of such title is amended by striking out paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(B) Section 3509 of such title is amended by striking out the last sentence.

SEC. 202. THREE-YEAR LIMIT ON RECORD RETENTION.

(a) IN GENERAL.—Notwithstanding any other provision of law, no agency may require, or enforce any law or regulation to the extent such law or regulation requires, that any person maintain, prepare, or produce any record after the expiration of 3 years after the date of the transaction or event which is or is to be the subject of such record.

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to—

(1) records relating to dangerous material,

(2) health and medical records, and

(3) records required under the Internal Revenue Code of 1954 and any regulation promulgated under such Code.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "agency" has the meaning given such term in section 551(1) of title 5, United States Code;

(2) the term "dangerous material" means—

(A) hazardous waste, as defined in section 1004 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903), and

(B) byproduct, source, or special nuclear material, as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014);

(3) the term "person" includes an individual, corporation, partnership, and an association.

SEC. 203. DEPARTMENT OF THE TREASURY AND DEPARTMENT OF DEFENSE SUBJECT TO REGULATORY FLEXIBILITY ACT.

Paragraph (2) of section 601 of title 5, United States Code is amended to read as follows:

"(2) the term 'rule' means—

"(A) any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law, including any rule of general applicability governing Federal grants to State and local governments for which the agency provides an opportunity for notice and public comment, except that the term 'rule' does not include a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances; and

"(B) any rule issued by the Department of Defense and the Department of the Treasury.".

TITLE III—TAX PROVISIONS

SEC. 301. CERTAIN EXCLUSIONS MADE AVAILABLE TO SELF-EMPLOYED INDIVIDUALS.

(a) GROUP-TERM LIFE INSURANCE.—Section 79(e) of the Internal Revenue Code of 1954 (relating to employees) is amended to read as follows:

"(e) SPECIAL RULES FOR EMPLOYEES AND EMPLOYERS.—For purposes of this section—

"(1) EMPLOYEE INCLUDES FORMER EMPLOYEE.—The term 'employee' includes any former employee.

"(2) EMPLOYEE INCLUDES SELF-EMPLOYED INDIVIDUAL.—The term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

"(3) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (2).".

(b) EMPLOYEE DEATH BENEFITS.—Section 101(b)(3) of the Internal Revenue Code of 1954 (relating to treatment of self-employed individuals) is amended to read as follows:

"(3) EMPLOYEE INCLUDES SELF-EMPLOYED INDIVIDUAL.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

"(B) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of subparagraph (A).".

(c) ACCIDENT AND HEALTH BENEFITS.—Section 105(g) of the Internal Revenue Code of 1954 (relating to self-employed individuals not considered employees) is amended to read as follows:

"(g) EMPLOYEE INCLUDES SELF-EMPLOYED INDIVIDUAL.—For purposes of this section—

"(1) IN GENERAL.—The term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

"(2) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (1).".

(d) MEALS AND LODGING.—Section 119 of the Internal Revenue Code of 1954 (relating to meals or lodging furnished for the convenience of the employer) is amended by adding at the end thereof the following new subsection:

"(d) EMPLOYEE INCLUDES SELF-EMPLOYED INDIVIDUAL.—For purposes of this section—

"(1) IN GENERAL.—The term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

"(2) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (1).".

(e) TRANSPORTATION.—Paragraph (2) of section 124(d) of the Internal Revenue Code of 1954 (defining employee) is amended to read as follows:

"(2) EMPLOYEE INCLUDES SELF-EMPLOYED INDIVIDUAL.—

"(A) IN GENERAL.—The term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

"(B) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of subparagraph (A).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 302. CERTAIN UTILIZATION TESTS FOR FRINGE BENEFITS NOT TO APPLY TO SMALL EMPLOYERS.

(a) GROUP-TERM LIFE INSURANCE.—Clause (ii) of section 79(d)(3)(A) of the Internal Revenue Code of 1954 (relating to nondiscriminatory eligibility classification) is amended by inserting "except in the case of an employer with less than 20 employees at all times during the year," before "at least".

(b) GROUP LEGAL SERVICES.—Paragraph (3) of section 120(c) of the Internal Revenue Code of 1954 (relating to contribution limitation) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply in the case of an employer with less than 20 employees at all times during the year.".

(c) EDUCATIONAL ASSISTANCE.—Paragraph (3) of section 127(b) of the Internal Revenue Code of 1954 (relating to principal shareholders and owners) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply in the case of an employer with less than 20 employees at all times during the year.".

(d) DEPENDENT CARE ASSISTANCE.—Paragraph (4) of section 129(d) of the Internal Revenue Code of 1954 (relating to principal shareholders and owners) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply in the case of an employer with less than 20 employees at all times during the year.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1985.

SEC. 303. HEALTH INSURED COSTS OF SELF-EMPLOYED INDIVIDUALS MADE DEDUCTIBLE.

(a) IN GENERAL.—Section 213 of the Internal Revenue Code of 1954 (relating to deduction for medical, dental, etc. expenses) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS OF UNINCORPORATED TRADES OR BUSINESSES.—In the case of an individual who is a self-employed individual (within the meaning of section 401(c)(1)) who owns the entire interest in an unincorporated trade or business—

"(1) there shall be allowable as a deduction for any taxable year an amount equal to the expenses paid during such taxable year for insurance which constitutes medical care for the individual, his spouse, or dependents,

"(2) no other deduction shall be allowable under this chapter with respect to such amount, and

"(3) such amount shall not be taken into account under subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 304. INCREASE IN ELECTION TO EXPENSE CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1954 (relating to dollar limitation) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"If the taxable year begins in:	The applicable amount is:
1983, 1984, or 1985	$5,000
1986 or thereafter	10,000".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 305. CREDIT FOR SMALL BUSINESS EMPLOYERS.

(a) CREDIT FOR INCREASED SMALL BUSINESS EMPLOYMENT.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 42. CREDIT FOR SMALL BUSINESS EMPLOYMENT.

"(a) IN GENERAL.—For purposes of section 38, the amount of the small business employment credit determined under this section for any taxable year shall be an amount equal to 10 percent of the qualified increased employment expenditures of the small business employer for the taxable year.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 305. CREDIT FOR SMALL BUSINESS EMPLOYERS.

(a) CREDIT FOR INCREASED SMALL BUSINESS EMPLOYMENT.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 42. CREDIT FOR SMALL BUSINESS EMPLOYMENT.

"(a) IN GENERAL.— For purposes of section 38, the amount of the small business employment credit determined under this section for any taxable year shall be an amount equal to 10 percent of the qualified increased employment expenditures of the small business employer for the taxable year.

"(b) SMALL BUSINESS EMPLOYER.—For purposes of this section the term 'small business employer' means any taxpayer employing 20 or less employees at any time during the taxable year.

"(c) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the small business employer during the taxable year to qualified employees, over

"(B) the base period wages of such employer.

"(2) DOLLAR LIMITATION AS TO QUALIFIED WAGES TAKEN INTO ACCOUNT.—The amount of any qualified wages taken into account under paragraph (1) for any taxable year with respect to any qualified employee may not exceed 2.5 times the dollar limitation in effect under section 3306(b)(1) for the calendar year with or within which such taxable year ends.

"(3) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means the amount of wages paid to employees during the 12-month period preceding the latter of—

"(i) January 1, 1986, or

"(ii) the date on which the small business employer completes his first calendar year of employment,

which would have been qualified wages paid to qualified employees if this section had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A)—

"(i) subsection (e)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears, and

"(ii) the dollar limitation taken into account under paragraph (2) in computing qualified wages shall be the amount in effect under section 3306(b)(1) for the calendar year with or within which the taxable year for which the amount of the credit under subsection (a) is being computed ends.

"(d) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) REDUCTION FOR CERTAIN FEDERALLY FUNDED PAYMENTS.—For purposes of this section, the wages paid or incurred by any small business employer for any period shall not include the amount of any federally funded payments such employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(e) QUALIFIED EMPLOYEE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified employee' means an individual at least 90 percent of whose services for the small business employer during the taxable year are directly related to the conduct of such employer's trade or business.

"(2) EXCEPTION FOR INDIVIDUALS WITH RESPECT TO WHOM TARGETED JOBS CREDIT IS ALLOWED.—The term 'qualified employee' shall not include an individual any portion of whose wages is taken into account by the small business employer for the taxable year in computing the amount of the targeted jobs credit under section 51(a).

"(3) EXCEPTION FOR INDIVIDUALS PREVIOUSLY EMPLOYED BY THE TAXPAYER OR RELATED TAXPAYERS.—The term 'qualified employee' shall not include an employee of the taxpayer who has previously been employed by the taxpayer (or by a related taxpayer as defined in section 267(b)) unless the Secretary determines that the taxpayer's primary purpose for employing such an employee is not the evasion or avoidance of Federal income tax.

"(f) APPLICATION TO CERTAIN ENTITIES, ETC.—For purposes of this section, under regulations prescribed by the Secretary, rules similar to the rules of subsections (f) and (i) of section 51, section 52, and section 30(f)(3) shall apply.

"(g) PHASEOUT OF CREDIT.—In determining the amount of the credit for a taxable year under subsection (a) with respect to qualified wages paid or incurred for services performed—

"(1) the following percentages shall be substituted for '10 percent' in subsection (a)(1):

"(A) 7.5 percent in the taxable year beginning after December 31, 2006, or

"(B) 5 percent in the next succeeding taxable year,

"(C) 2.5 percent in the second next succeeding taxable year, and

"(D) zero thereafter, and

"(2) the amount determined under subsection (a)(2) shall be reduced by—

"(A) 25 percent in the case of the taxable year described in paragraph (1)(A),

"(B) 50 percent in the next succeeding taxable year,

"(C) 75 percent in the second next succeeding taxable year, and

"(D) 100 percent thereafter.".

(b) ALLOWANCE OF CREDIT.—Section 38(b) of the Internal Revenue Code of 1954 (defining current year business credit) is amended by striking out "plus" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", plus", and by adding at the end thereof the following new paragraph:

"(5) the small business employment credit determined under section 42(a).".

(c) NO DEDUCTION ALLOWED.—Section 280C of the Internal Revenue Code of 1954 (relating to disallowance of deductions for certain expenses for which credits are allowable is amended by adding at the end thereof the following new subsection:

"(c) RULE FOR SMALL BUSINESS EMPLOYMENT CREDITS.—No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit determined under section 42. This subsection shall be applied under a rule similar to the rule of the last sentence of subsection (a).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 is amended by inserting at the end thereof the following new item:

"Sec. 42. Credit for small business employment.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 306. DEDUCTION FOR PURCHASES OF SMALL BUSINESS STOCK.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 223 as section 224 and by inserting after section 222 the following new section:

"SEC. 223. PURCHASES OF SMALL BUSINESS STOCK.

"(a) IN GENERAL.—At the election of an individual, there shall be allowed as a deduction the amount paid or incurred by such individual during the taxable year for the purchase of small business stock.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount allowable to the taxpayer as a deduction under subsection (a) for any taxable year shall not exceed $100,000.

"(2) INCREASE OF EQUITY INTEREST IN THE CORPORATION.—A deduction may be allowed under subsection (a) with respect to the purchase of any share of small business stock of a corporation only if the taxpayer's percentage ownership of such corporation after the purchase of such share is greater than the taxpayer's percentage ownership of such corporation (or a predecessor corporation) on the date of enactment of the Small Business Incentives Act.

"(3) AGGREGATION OF EXPENDITURES.—For purposes of this subsection, any individual and any person related to such individual shall be treated as a single taxpayer.

"(c) SMALL BUSINESS STOCK.—For purposes of this section—

"(1) IN GENERAL.—The term 'small business stock' means any share of common stock of a qualified issuer—

"(A) which is purchased from such qualified issuer or a selling agent of such qualified issuer, and

"(B) the proceeds from the issuance of which are used by the qualified issuer in the active conduct of a trade or business.

"(2) QUALIFIED ISSUER.—

"(A) IN GENERAL.—The term 'qualified issuer' means any corporation which—

"(i) is a qualifying business—

"(I) on the date on which the taxpayer purchases the small business stock of the corporation, or

"(II) within the 1-year period beginning on such date,

"(ii) during the 5 taxable years of the corporation preceding such date, derived more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interest, annuities, and sales and exchanges of stocks or securities,

"(iii) on such date, has a net worth that does not exceed $2,000,000,

"(iv) immediately after receipt of payment for the small business stock issued, will not have a net worth that exceeds $2,000,000, and

"(v) on such date and the 5-year period preceding such date, has no securities outstanding that are—

"(I) registered on a national securities exchange under section 12(b) of the Securities Exchange Act of 1934, or

"(II) registered or required to be registered under section 12(g) of such Act (or which would be required to be so registered except for the exemptions provided in section 12(g)(2) of such Act).

"(B) AGGREGATION.—For purposes of this paragraph—

"(i) the net worth of any person who is related to a corporation shall be included in determining the net worth of such corporation, and

"(ii) any securities of a person related to a corporation shall be treated as the securities of such corporation.

"(3) QUALIFYING BUSINESS.—The term 'qualifying business' means any corporation at least 80 percent of the gross receipts of which for the taxable year are attributable to the active conduct of a trade or business.

"(d) DISPOSITION OF SMALL BUSINESS STOCK.—

"(1) GAIN TREATED AS ORDINARY INCOME.—Notwithstanding any other provision of this title, any gain from the disposition of small business stock shall be recognized and treated as ordinary income to the extent such gain does not exceed the amount of the reduction made to the basis of the taxpayer in such stock by reason of paragraph (2).

"(2) ADJUSTMENT OF BASIS IN STOCK.—

"(A) IN GENERAL.—For purposes of this title, the basis of the taxpayer in any small business stock shall be reduced by the amount of any deduction allowed the taxpayer under subsection (a) with respect to the purchase of such stock.

"(B) ALLOCATION OF BASIS ADJUSTMENT.—If the aggregate amount paid or incurred during the taxable year for the purchase of small business stock exceeds the limitation imposed by subsection (b), the reduction in the basis of such stock required under subparagraph (A) shall be allocated among the shares of such stock in proportion to the respective costs of each share of such stock.

"(e) RECAPTURE OF TAX BENEFIT.—

"(1) IMPOSITION OF ADDITIONAL TAX.—If—

"(A) at any time during the 3 taxable years succeeding the taxable year for which the taxpayer is allowed a deduction under subsection (a) with respect to the purchase of small business stock, the taxpayer disposes of such stock, or

"(B) the corporation issuing such stock—

"(i) fails to conduct a qualifying business before the date that is 1 year after the latest date on which such small business stock was purchased by the taxpayer, or

"(ii) at any time during the 4 taxable years of the taxpayer succeeding the taxable year for which such a deduction was allowed—

"(I) ceases to be a qualifying business, or

"(II) fails to meet the requirements of clause (ii) or (v) of subsection (c)(2)(A),

then there is hereby imposed an additional tax on the income of the taxpayer which shall be in an amount determined with respect to such small business stock.

"(2) AMOUNT OF ADDITIONAL TAX.—

"(A) IN GENERAL.—The amount of the additional tax imposed by paragraph (1) with respect to any small business stock shall be equal to the interest on the excess of—

"(i) the income tax liability of the taxpayer for the taxable year in which the deduction under subsection (a) was allowed with respect to the purchase of such stock (determined without regard to the portion of such deduction attributable to such stock), over

"(ii) the income tax liability of the taxpayer for such taxable year,

at the annual rate established under section 6621 for the period beginning on the date on which the return of the tax imposed by this chapter for such taxable year was required

to be made and ending on the date on which payment of such additional tax is made.

"(B) INCOME TAX LIABILITY.—For purposes of this paragraph, the term 'income tax liability' means the tax imposed by this chapter reduced by any credit allowable against such tax.

"(3) ONLY 1 ADDITIONAL TAX IMPOSED ON ANY SHARE OF STOCK.—No additional tax shall be imposed by paragraph (1) with respect to any share of stock if an additional tax has previously been imposed by paragraph (1) with respect to such share of stock.

"(4) DUE DATE.—The additional tax imposed by paragraph (1) shall become due and payable on the date which is 90 days after the date such tax is imposed.

"(5) ADDITIONAL AMOUNT INCLUDED IN GROSS INCOME.—

"(A) IN GENERAL.—If the corporation issuing small business stock—

"(i) fails to conduct a qualifying business before the date that is 1 year after the latest date on which such stock was purchased by the taxpayer, or

"(ii) at any time during the 4 taxable years of the taxpayer succeeding the taxable year for which a deduction was allowed under subsection (a) with respect to such stock—

"(I) ceases to be a qualifying business, or

"(II) fails to meet the requirements of clause (ii) or (v) of subsection (c)(2)(A),

then the taxpayer shall include in gross income for the taxable year in which the failure or cessation described in clause (i) or (ii) occurs an amount equal to the aggregate reduction made under subsection (d)(2) to the bases of the taxpayer in such stock that is held by the taxpayer at the end of such taxable year.

"(B) ADJUSTMENT TO BASIS.—For purposes of this title, the basis of the taxpayer in any small business stock with respect to which an amount is included in the gross income of the taxpayer by reason of subparagraph (A) shall be increased by such amount.

"(6) STATUTE OF LIMITATIONS.—If an additional tax is imposed under paragraph (1)—

"(A) the statutory period for the assessment of—

"(i) such additional tax, and

"(ii) any deficiency with respect to the tax imposed by this chapter for any taxable year that arises by reason of paragraph (5),

shall not expire before the expiration of 3 years from the date the Secretary is notified (in such manner as the Secretary may by regulations prescribe) of the occurrence which gives rise to the imposition of such additional tax; and

"(B) such additional tax and deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(f) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) AMOUNTS PAID BEFORE RETURN.—Any amount paid—

"(A) after the close of a taxable year and before the date on which the return of the tax imposed by this chapter for such taxable year is required to be made (including any extensions), and

"(B) pursuant to a written contract entered into prior to the close of such taxable year for the purchase of small business stock,

shall be treated as having been paid during such taxable year.

"(2) RELATED PERSONS.—A person is related to another person if—

"(A) a relationship described in section 267(b) exists between such persons, or

"(B) such persons would be treated as a single employer under section 50B(g).

"(3) PURCHASE.—The term 'purchase' does not include any transaction in which small business stock is acquired by a taxpayer in a transaction described in sections 351, 361, or 371(a) to the extent that the basis of the small business stock received by the taxpayer is determined by reference to the basis of the property exchanged.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016 of the Internal Revenue Code of 1954 (relating to adjustments to basis) is amended—

(A) by striking out "and" at the end of paragraph (26),

(B) by striking out the period at the end of paragraph (27) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new paragraph:

"(28) to the extent provided in subsections (d)(2) and (f)(5) of section 223, in the case of stock with respect to the purchase of which a deduction has been allowed under section 223.".

(2) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 223. Purchases of small business stock.
"Sec. 224. Cross references.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases made after the date of enactment of this Act in taxable years ending after such date.

By Mr. D'AMATO:

S. 1086. A bill to require disclosure by the Secretary of the Army, acting through the Chief of Engineers, of certain information relating to petroleum products transported on vessels to State taxing agencies requesting such information, and for other purposes; to the Committee on Environment and Public Works.

S. 1087. A bill to amend title 18, United States Code, to prevent evasion of State taxes on gasoline; to the Committee on the Judiciary.

GASOLINE TAX EVASION

● Mr. D'AMATO. Mr. President, I rise today to introduce two bills designed to crack down on a major problem in New York and throughout the Nation: gasoline tax evasion. Bootlegging—the importation or sale of motor fuel within a State without the payment of appropriate State taxes—costs States huge amounts of revenue. In New York, for example, National Economic Research Associates has estimated that the State will lose between $173.5 million and $245.5 million in 1985 alone as a result of this problem.

This criminal activity creates unfair competition for those establishments which are abiding by the law and paying their fair share of taxes. How can an honest businessman expect to compete with someone who is illegally cutting his costs by avoiding State taxes?

The two bills I am introducing today, the Gas Tax Collection Act and the Anti-Gasoline Bootlegging Act, will provide much needed tools to crack down on this problem. They are similar to bills introduced in the House of Representatives by my good friend, Congressman ADDABBO, and I commend him for his leadership on this issue.

The first bill, the Gas Tax Collection Act, will require the Secretary of the Army, through the Chief of Engineers, to disclose information to the State taxing agencies regarding barge movements of petroleum products in the Nation's rivers and harbors. This disclosure would be limited to the State taxing agencies, and confidentiality would be assured. Once this information is available, the States will be in a position to determine whether proper taxes have been paid on these products.

The second bill, the Anti-Gasoline Bootlegging Act, will make the evasion of taxes on petroleum products a crime under the Racketeer Influenced and Corrupt Organizations [RICO] statute. It provides for fines of not more than $250,000 and/or imprisonment of up to 5 years for the knowing shipment, receipt, possession, sale, distribution, or purchase of contraband gasoline. A fine of up to $250,000 and/or imprisonment could be imposed for falsifying records required by the proposed new chapter or for violating regulations issued by the Secretary of the Treasury pursuant to authority granted by this proposal. Persons selling gasoline in quantitites of more than 100 gallons will be required to maintain records and to issue buyer invoices showing the name and address of the buyer and seller, the type and quantity of gasoline sold, the price per gallon, and the amount of any state tax paid on that sale or any prior sale of the gasoline. Gasoline sold in violation of the provisions of the proposed new chapter would be subject to seizure and forfeiture, as would vehicles used in this type of activity.

Mr. President, I believe this is a commonsense approach to a problem which is hurting State revenues and honest businesses. The Congress has made significant progress in cracking down on other types of criminal activities, such as enactment of the Cigarette Contraband Act, and I believe it is time we addressed the issue of gasoline bootlegging. I urge my colleagues to join me in cosponsoring these bills.●

By Mr. QUAYLE (for himself and Mr. TRIBLE):

S. 1088. A bill to require the Secretary of the Treasury to issue a certain percentage of Treasury obligations in the form of obligations indexed for inflation; to the Committee on Banking, Housing, and Urban Affairs.

INDEXED TREASURY OBLIGATIONS ACT

● Mr. QUAYLE. Mr. President, today Mr. TRIBLE and I are introducing the Price-Indexed Bonds Act of 1985. A similar bill, H.R. 1773, was introduced in the House March 27 by Congressman DAN LUNGREN. The Price-Indexed Bonds Act of 1985 would obligate the Department of the Treasury to issue, within 90 days of enactment, a series of Treasury securities indexed to the consumer price index.

Given the technical nature of this issue I probably should explain the mechanics of price-indexed bonds. To do that let me review briefly how a conventional bond works. If Treasury issues a $1,000 conventional 20-year bond paying 12 percent per year then the investor receives $120 in interest every year until the bond matures, when he also receives the face value of $1,000. With price indexed bonds though, the Government would issue bonds that would promise to adjust the principal value of the bond for inflation periodically, so that the interest paid would equal the product of this underlying inflation adjusted value and the coupon rate. At maturity the full inflation adjusted value would be redeemed. As a result, the investor is guaranteed that he will always receive a fixed real return on his investment. This guarantee reduces the greatest element of risk or uncertainty in a Government bond. Consequently, the investor is willing to receive a much lower interest rate; probably in the range of 2 to 5 percent. So, consider the mechanics if Treasury issued a $1,000 20-year price indexed bond with an interest rate of 3 percent. If inflation was 10 percent during the first year, at the end of the year the underlying value of the bond would be $1,100. The interest payable would equal $1,100 multiplied by the 3-percent interest rate or $33. If the price level trebled over the 20 years the Treasury would redeem $3,000. This does not represent merely deferred payment. Because the risk of inflation associated with uncertain expectations is eliminated from the interest rate the Treasury will actually reduce interest payments over the period—assuming of course that the average rate of inflation over the period is not much higher than the market's expectation.

Price-indexed bonds are an idea that has been supported for years by many prominent economists such as Milton Friedman and Richard Musgrave. Unfortunately, until recently, the efficacy of price-indexed bonds remained a largely academic discussion. Since the inflation risk premium was not a major component of the interest rate the bonds have been of little pecuniary value to the Treasury. There was also no practical experience for the bond. These barriers to implementation have been eliminated. Inflation skyrocketed in the late 1970's and plummeted again in the 1980's. Federal deficits are projected to be 4 percent of GNP into the indefinite future. As a result the investor uncertainty about the rate of future inflation has added as much as 6 percentage points to the real rate of interest. Moreover, in 1981, the British Treasury boldly took the step of issuing in their country price-indexed bonds, very similar to those envisioned in this bill. The recent experience of British price-indexed bonds has supported the propositions of economists and provided the practical experience to demonstrate that the bonds do work.

Mr. President, in the context of the Congress' struggle to find ways to cut Federal spending I am tempted to advocate this bill solely as a means of reducing Federal spending with no offsetting pain. Depending on your assumptions regarding the market determined interest rate on the bonds, what future inflation is going to be, and how many bonds are actually indexed, economists have estimated that price-indexed bonds could save up to $30 billion per year. I will not make such promising claims today, but I will note that almost all projections assume at least several billion dollars in savings. The bottom line is that we can expect that the interest costs associated with price-indexed bonds to be about 20 to 40 percent less than under conventional bonds. Moreover, this savings is practically a free lunch. In fact, most of the savings would come out of the pockets of the richest 10 percent of the country, who are the predominant buyers of Treasury securities. It doesn't cut a single Federal program. It merely allows investors to accept voluntarily a lower interest rate from Treasury in exchange for the Federal Government assuming the risk of future inflation—an event over which they have unique and pervasive control.

Even if price-indexed bonds did not save Treasury billions, as I contend they probably would, there are other salient reasons for this bill.

Price-indexed bonds will be a valuable new financial instrument—of especially great service to and in great demand by the elderly and others looking for a peace to safeguard their real earnings against the ravages of inflation. For the first time, it would provide persons of modest wealth a safe and effective way to hedge against the devastating effects of inflation. The financial markets currently do not provide, at any price, a riskless means of accumulating savings, or hoarding purchasing power, for future consumption. In fact, all current financial instruments force savers to internalize the risk of inflation when many would be willing to pay a price to avoid that risk. An investment instrument that minimized purchasing power risk and thus guaranteed a real rate of return would be ideally suited to many savers. For instance, the young couple saving for their child's education might prefer an inflation proof asset over a more inflation sensitive risk, such as conventional bonds, even if the former paid a lower yield. Likewise, the middle-aged couple usually saves prudently, rather than invests speculatively, for retirement.

Can one doubt that senior citizens whose retirement savings were ravaged by inflation in the 1970's, would not accept a lower yield in return for a guarantee that their savings would not be ravaged by inflation again? Also, any institution that had long-term liabilities that are defined in real terms, such as pension funds or life insurance companies, could reduce the uncertainty in the management of their portfolios by investing in indexed bonds.

In sum, these bonds would be a popular instrument with savers who now invest billions of dollars per year in retirement accounts: whether it is IRA's, mutual funds, life insurance, or pensions; with an emphasis on preserving their savings, rather than speculating for investment profits.

Price-indexed bonds could also maintain the level of financial savings and the flow of funds in times of expected inflation, thus adding to the financial stability and efficiency of the financial markets. You may remember that when inflation expectations skyrocketed in the late 1970's many investors, seeking an inflation hedge, fled the bond and equity markets to invest in real estate and other tangible assets such as art, silver, and gold. These massive movements from intangible to tangible assests reduced the liquidity of the financial markets and drove interest rates even higher. If these investors had the option of purchasing price indexed securities their money would stay as financial assets thus keeping interest rates low and productive investment high.

Price-indexed bonds would eliminate one of the greatest incentives to the Federal Government to increase inflation. With conventional debt the Government actually has a vested interest in encouraging inflation because inflation debases the value of its existing debt thus reducing the need for future tax increases. In effect, the Government expropriated billions of dollars from investors in the sixties and seventies by selling bonds with nominal fixed rates and then debasing the debt by inflating the currency. This is the utmost in moral hazard. Indexing the debt base removes this potential profit and hazard because debt has to be paid back with the same, not cheaper dollars. Thus instead of being disposed toward inflation the Federal Government would at least be only neutral. It

is likely that by just issuing price-indexed bonds investors would see Treasury's stake in low inflation and thus immediately reduce the inflation premium in interest rates.

The price protection of indexed bonds would affect only a small portion of the Nation's financial assets. Bondholders would have considerable inflation sensitive assets, such as stocks, bonds, and wages in their portfolio and are therefore not likely to weaken their resolve, let alone the national resolve, to minimize inflation. Taking away the inflation gains from the government weakens the incentive of what may be the most important constituent of inflation.

It is my contention that under reasonable economic assumptions price indexed bond bills will be less expensive than conventional bonds because they will eliminate the current risk premium of 3 to 6 percent. Current Treasury bonds are yielding about 11.5 percent. Expected inflation over the next 10 years is about 5.5 percent. So these bonds are earning real returns of 6 percentage points, far surpassing the historical yield of about 2 percent. This premium is largely a result of investor's uncertainty of inflation, which is to say, the uncertainty of the real inflation adjusted yield of their assets. Because price indexed bonds are issued in real and not nominal terms they completely eliminate this purchasing power premium.

Mr. President, I admit that this talk of purchasing power premiums and investor uncertainty and the notion that Treasury can sell their bonds for less interest does involve an intellectual exercise. But as I said earlier the British have done us a great service by testing this theory in their own markets. The record shows that the assumptions I have made above hold. What needs to be done now is for the Senate and the Treasury Department to work together to conduct hearings on the efficacy of the bonds. In short, we need to establish that the market for these bonds does exist.●

By Mr. CHAFEE:

S. 1089. A bill to suspend temporarily the duty on stuffed dolls and toy figures; to the Committee on Finance.

SUSPENSION OF DUTY ON STUFFED DOLLS AND TOY FIGURES

Mr. CHAFEE. Mr. President, I am pleased to offer legislation today that would extend for 5 years the existing suspension of duty on stuffed dolls, certain toy figures, and the outer covering or skins of such dolls and figures.

The present duty-free treatment for these items which was enacted in January 1983 is due to expire at the end of 1985. My bill would simply extend the suspension for another 5 years.

Major toy companies in the United States import their line of stuffed dolls, toy figures, and outer skins because there is no significant domestic manufactuer of these items. The outer skins that are imported are then filled and assembled here, providing jobs for U.S. workers.

Since there are no significant domestic manufacturers of these items, no domestic interests would be adversely affected by this bill. In addition, elimination of duty on stuffed dolls, toy figures, and the outer covering of dolls will result in lower consumer prices for children's toys.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

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

S. 1089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That items 912.30, 912.34, and 912.36 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) are each amended by striking out "12/31/85" and inserting in lieu thereof "12/31/90".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after December 31, 1985.

By Mr. CHAFEE:

S. 1091. A bill to amend title X of the Public Health Service Act to provide for contraceptive development and evaluation; to the Committee on Labor and Human Resources.

CONTRACEPTIVE RESEARCH

Mr. CHAFEE. Mr. President, I am pleased to offer legislation today that would provide additional funds, over the next 5 years, to the National Institutes of Health to conduct research on and develop better means of contraception.

The disadvantages inherent in available birth control methods are the primary reason why many millions of American couples have difficulty avoiding unintended pregnancies. Effectiveness, convenience, and freedom from adverse health effects are all lacking in contraceptives on the market today. The result is that over 3 million unplanned pregnancies occur annually.

The most common form of contraception in the U.S. today is sterilization. A total of 11.6 million American women have chosen sterilization, an irreversible procedure, as their means of birth control. This is not a reasonable alternative for those who are the most vulnerable to unwanted pregnancies—the 21 million young women between the ages of 16 and 19, more than half of whom are estimated to have had sexual intercourse. More than 8 million U.S. women use oral contraceptives. The most serious side effect attributed to this method involves the cardiovascular system specifically thromboembolism, stroke, and heart attack. Women at higher risk are those who smoke, have diabetes, or a family history of it, and high blood pressure or hypertension.

Another popular form of contraception is the intrauterine device [IUD]. An estimated 2.3 million women in the United States use this device. The most serious drawback of IUD's is the risk of infection, and with each infection a women's risk of infertility increases.

I am especially concerned about the approximately 1 million teenage women who experience an unplanned pregnancy. Tragically, 29 percent of teenage pregnancies end in abortion.

The Federal Government is the largest single sponsor of reproductive and contraceptive research in the United States. According to Malcolm Potts, president of Family Health International, we spend approximately "the cost of a small order of McDonald's french fries per person per year" on all aspects of reproductive research. I believe this is grossly inadequate.

As recently as 30 years ago, there was no research on contraception. It was not until 1968 that the Center for Population Research was created within the National Institutes of Health. In 1972 funding for the Center was $85 million; in 1983 it was $86 million. Only $8.6 million of these funds are actually used in contraceptive development, the remaining funds are spent on basic research in reproductive sciences. This amount is particularly inadequate when one considers that, according to Mr. Potts, it can cost up to $50 million and take more than 10 years of research to bring a new contraceptive to the market.

In the past, the pharmaceutical industry was largely responsible for the research and development of many currently available contraceptives. Unfortunately, many of these companies do not find this type of product to be worth the time and money involved in obtaining approval by the FDA. Pharmaceutical companies would rather concentrate on developing drugs to treat disease than drugs and devices to prevent pregnancies given the cost and time.

The future of contraceptive research is not bright, despite the need to make it a priority. That is why I am introducing this legislation today. Every child has a right to be wanted. Women and men need safe and effective methods of birth control. A large number of the millions of unwanted pregnancies that occur each year can be prevented with new and improved methods of contraception.

By Mr. HELMS (for himself, Mr. EAST, and Mr. DENTON):

S. 1090. A bill to amend section 1464 of title 18, United States Code, relating to broadcasting obscene language,

and for other purposes; to the Committee on the Judiciary.

CABLE-PORN AND DIAL-A-PORN CONTROL ACT

Mr. HELMS. Mr. President, I am today introducing the Cable-Porn and Dial-a-Porn Control Act, which is similar but not identical to S. 2769 from the 98th Congress. The purpose of this bill is to eliminate the use of cable television and interstate telephone service for the transmission of obscene and otherwise indecent material. The legislation expands existing law to cover areas that have become problems because of new technology.

Mr. President, I was gratified this past October when Congress passed and the President signed into law my amendment to crack down on the pornography trade by organized crime. That amendment, as part of the Comprehensive Crime Control Act of 1984, enlarged the provisions of the Federal racketeering statute, known as RICO, to include "dealing in obscene matter" and the obscenity offenses in chapter 71 of title 18 of the United States Code. This change represents a major step toward stopping the big time porn trade by empowering the Federal Government to seize the profits of the smut peddlers.

But this pornography trafficking legislation is only a single step in the battle to curb the explosion in pornography this Nation has experienced in recent years. Further amendments in current law are needed to deal with innovations in the distribution of pornography, particularly in the areas of cable television and interstate telephone service. That is why I am introducing the Cable-Porn and Dial-a-Porn Control Act today.

Mr. President, we all recognize that the purpose of government is to secure justice for its citizens. We normally think of this as the duty to protect life, liberty, and property, to enforce contracts, to provide assistance to the needy in certain cases, and to promote the common good.

While these are the things usually associated with justice—or more precisely with what is called social justice—there is also the responsibility to secure public morality. Government is obligated, for the protection of young and old alike, to remove as far as may be possible public vice and the cultivation of vice for profit. That is what pornography is, and in order to secure social justice, government must never condone it.

Mr. President, I make these comments because so many people think of social justice only in the distorted terms of redistribution of wealth and extending special legal immunities to particular interest groups. It is worth noting that in the outpouring of media commentary on social justice, there is rarely any mention of the palpable social injustice done by massive and increasing amounts of pornography in society. Frankly, we in Congress make the same mistake when we spend inordinate time enacting all manner of social programs while ignoring a root cause of social malaise such as insidious pornography.

Can we expect to have well adjusted and responsible citizens when the exploitation of sex has become a multibillion dollar industry permeating all the media and thus exposure to pornography is nearly unavoidable? Can we expect to encourage happy and peaceful family life when adultery and fornication and violence are the dominant themes in the popular arts? Can we expect to conquer the social pathologies of venereal disease, adolescent pregnancy, child abuse, homosexuality, and pedophilia when vile and degrading depictions of illicit sex acts are no farther away than the TV set, the telephone, the mail box, and the local movie theater?

Of course not, Mr. President, and I do not think any of us has to look very far to see the victims of the social injustice of widespread pornography. That is why it is imperative for the sake of justice and the moral and physical health of our society that the Government do a better job in restricting the circulation of obscene materials.

The essential problem with pornography is that it degrades the dignity and worth of human beings by presenting a false picture of human sexuality. It portrays sexuality as an end in itself, totally removed from its proper and normal place as a means in marriage for conjugal love and the protection of children. Pornography demeans because it rejects the true meaning of sexuality.

That true meaning is the one reflected in our most ancient cultural tradition—the tradition which binds human sexuality inseparably to marriage and sees its fruit in the family. This is the proper context for sexuality, and when it is removed from such context, injury is invariably done both to the individuals involved and to society at large.

Mr. President, in recent times pornography has been condemned as a particular offense against women. It has been said that pornography is nothing less than the rank exploitation of women and femininity for the illegitimate pleasure of men. I totally agree with this charge.

But, Mr. President, it contains only part of the truth. The whole truth is that pornography not only offends against women, but it also constitutes an offense against men and children and human dignity and common decency as well. In short, it is a scourge to all of society.

Mr. President, the bill I am introducing today accomplishes two major goals. First, it expands section 1464 of title 18 of the United States Code to cover the transmission of obscene, indecent, or profane material on television and cable television in addition to the section's current coverage of such material on radio. Second, it amends section 223 of the Communications Act of 1934 to prohibit the use of interstate telephone service for the transmission of obscene messages and establishes heavy penalties for transmitting such messages for commercial purposes. Let me now explain in detail some of the major problems and how these provisions will help remedy them.

CABLE TELEVISION

Mr. President, it is no secret that the illicit sex industry has in recent years invaded American living rooms through cable television. While some communities have sought to restrict cable-porn, legal restraints on such material have been few and generally ineffective.

For example, my office has received reports that in New York City the vilest type of pornography is exhibited on public access cable channels. Depictions of nudity and sexual intercourse, I am told, are commonplace. Violent rape, explicit homosexual activity, actual violence toward animals, and other degrading scenes have also been shown.

The Federal statute that has been used to restrict the uttering of obscene language by radio communication is section 1464 of title 18 of the United States Code. It has been interpreted to apply to both radio and television, and it states:

> Whoever utters any obscene, indecent, or profane language by means of radio communication shall be fined not more than $10,000 or imprisoned not more than two years, or both.

According to correspondence I received from the Justice Department last year, this statute is not understood to apply to the transmission of obscene material over cable television. The Department has also expressed uncertainty over whether other provisions of title 18 of the United States Code, specifically sections 1462 and 1465 relating to interstate transportation of obscene material, apply as well. Thus, although there are Federal criminal penalties for uttering obscene language by radio transmission, there is serious doubt as to whether this provision can be applied to cable television.

Mr. President, I ask unanimous consent that corrrespondence from the Justice Department, dated May 24, 1984, be printed in the RECORD at this point.

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

U.S. DEPARTMENT OF JUSTICE,
CRIMINAL DIVISION,
Washington, DC, May 24, 1984.

Hon. JESSE HELMS
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: This is in response to your letter of April 26, 1984, to Robert A. McConnell, Assistant Attorney General, Office of Legislative Affairs, concerning the applicability of 18 U.S.C. 1464 to cable television.

Section 1464 provides: "Whoever utters any obscene, indecent, or profane language by means of radio communication shall be fined not more than $10,000 or imprisoned not more than two years or both." This provision was taken from sections 326 and 501 of the Communications Act of 1934 (47 U.S.C. 326, 501). The Communications Act created the Federal Communications Commission and gave it jurisdiction over all forms of "wire communication" and "radio communication." These terms are defined in 47 U.S.C. 153 as follows:

(a) "Wire communication" or "communication by wire" means the transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

(b) "Radio communication" or "communication by radio" means the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

By its terms 18 U.S.C. 1464 is limited to broadcasting by means of "radio communication." It seems clear that a cable-caster which originates programming in its own studio and transmits wholly through a closed cable system would not be covered by 18 U.S.C. 1464. Furthermore, the statute penalizes only one who "utters any obscene, indecent, or profane language." On its face the statute would not cover the transmission of pictures.

The issue of whether the government can regulate under present law the content of communications by means of this relatively new technology is far from clear, and we have undertaken a study of the matter. For instance, the fact that cablecasters receive signals from satellites by way of antennas before transmitting them by cable (or, for that matter, the fact that individual subscribers may now receive signals directly at their homes by means of privately purchased dish antennas) suggests that the "radio communication" definition may apply to this aspect of the industry. It may also be that 18 U.S.C. 1462 or 1465, which prohibit the interstate transportation of obscene material, may apply. Certainly we are in need of a better understanding of the technology of this industry before these questions can be resolved, and, as stated above, we are in the process of acquiring this information.

We shall be pleased to advise you of the results of our study after it has been concluded.

Sincerely,

STEPHEN S. TROTT,
Assistant Attorney General, Criminal Division.

By: VICTORIA TOENSING,
Deputy Assistant Attorney General.

Mr. HELMS. Mr. President, an attempt was made last year in the Cable Communications Policy Act, Public Law 98-549, to cure some of the problems of title 18, United States Code, section 1464 in not covering pornography on cable television. That act added the following new section to the Communications Act of 1934:

SEC. 639. Whoever transmits over any cable system any matter which is obscene or otherwise unprotected by the Constitution of the United States shall be fined not more than $10,000 or imprisoned not more than 2 years, or both.

This provision is fine as far as it goes, but prosecutors with whom my office has been in contact voice concerns over the constitutionality of making criminal the cable casting of matter "otherwise unprotected by the Constitution of the United States." Some believe that there is a vagueness problem here, and this concern is apparently inhibiting the initiation of prosecutions under the new provision.

Mr. President, my bill will render moot any problem in this section of the Communications Act of 1934 by simply expanding the existing criminal law in title 18 prohibiting the transmission of obscene, indecent, or profane material, as well as language, over both broadcast television and cable television.

Mr. President, there is no reason to have one set of laws for broadcasting obscene language and another set for cable-casting obscene materials and no explicit law on broadcasting obscene language or materials over ordinary television. My bill will simply expand title 18, United States Code, section 1464 to cover all these cases with the same penalty.

Further, the bill leaves the maximum prison term of 2 years in place but increases the current maximum fine of $10,000 to $50,000. This new maximum fine of $50,000 will make section 1464 consistent with the fine stipulated in section 223 of the Communications Act of 1934, as amended in 1983, for obscene and harassing telephone calls. It will also reflect the seriousness of Congress to deal with the pornography program, particularly in light of the fact that the fine in section 1464 has not been increased since the section was enacted in 1948.

In addition, my bill adds a new subsection to section 1464 specifically preserving the powers of the States to regulate in this area in a manner not inconsistent with its provisions.

Mr. President, the provisions of my bill amending section 1464 should effectively remove radio, broadcast television, and cable television as a means for the communication of obscene, indecent, or profane materials. These provisions are also meant to include future developments in technology that involve radio or television in any manner, including the use of satellite transmission.

INTERSTATE TELEPHONE SERVICE

Mr. President, late in 1983 Congress passed a new authorization act for the Federal Communications Commission. That legislation amended section 223 of the Communications Act of 1934 which prohibits obscene and harassing telephone calls in interstate communications.

Such amendments were directed at the so-called dial-a-porn situation in which businesses lease telephone services for the purpose of making pornographic messages available for a fee to any caller—local or long distance. Pornographic magazines such as Penthouse and High Society have sponsored this type enterprise, and countless children throughout the country have used it.

In response to such exploitation of children, many public officials and others sought to have the FCC enforce the former section 223. When the FCC failed or was unable to respond under the prior law, Congress passed the 1983 amendments to section 233.

Mr. President, these amendments were made in hopes of clarifying the section's application to the dial-a-porn situation. Unfortunately, the amendments were hastily drafted and passed, and they have made section 233 all but useless in getting rid of the dial-a-porn problem.

The main flaw in the amendment is the "safe-harbor" provision that effectively sanctions commercial telephone pornography and that does not really protect children from this scourge. Subsection (b)(2) provides:

It is a defense to a prosecution under this subsection that the defendant restricted access to the prohibited communication to persons eighteen years of age or older in accordance with procedures which the Commission shall prescribe by regulation.

This provision has proved in practice a gaping loophole in the law and has rendered the statute ineffective in providing sufficient protection for children.

The 1983 amendments have managed to produce the following disastrous effects:

First, for the first time in American history the dissemination of obscenity is legalized and sanctioned. The statute explicitly legalizes the transmission of obscene or indecent remarks to adults who consent to hear the message. To base obscenity law on a consenting adult theory completely contradicts the philosophy of other Federal laws prohibiting the importation, mailing, broadcasting, and interstate transportation of obscene matter. The traditional idea has been that, in order to serve the common good, the chan-

nels of commerce should not be open to breaches of public morality.

Second, even when minors take advantage of a dial-a-porn enterprise, there is a complete defense to the criminal penalties for the provider if he followed the FCC guidelines designed to restrict access for minors. Instead of working to protect the minors, this aspect of current law immunizes the smut peddler. As a practical matter, it is virtually impossible to prevent minors from calling or to distinguish a minor from an adult caller, and the law ought to recognize this reality.

Third, obscene recordings and telephone calls are legalized as long as they are made for noncommercial purposes. Thus, an individual who offers obscene calls as a hobby would be exempt from prosecution in many situations.

The purpose of my bill's amendments to section 233 is to cure these defects. It eliminates the "safe-harbor" provision so that obscene material may not be transmitted by telephone to minors or adults, consenting or unconsenting.

Mr. President, I ask unanimous consent that the full text of this bill be printed in the RECORD at the conclusion of my remarks.

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

S. 1090

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 "Cable-Porn and Dial-a-Porn Control Act".

SEC. 2. (a) Section 1464 of title 18, United States Code, is amended to read as follows:

"§ 1464. Distributing obscene material by radio or television

"(a) Whoever utters any obscene, indecent, or profane language, or distributes any obscene, indecent, or profane material, by means of radio or television, including cable television, shall be fined not more than $50,000 or imprisoned not more than two years, or both.

"(b) As used in this section, the term 'distributes' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire or satellite, or produce or provide such material for distribution.

"(c) Nothing in this section is intended to interfere with or preempt the power of the States, including the political subdivisions thereof, to regulate obscene, indecent, or profane language or material, of any sort, in a manner which is not inconsistent with this section."

(b) The analysis of chapter 71 of title 18, United States Code, is amended by deleting "1464. Broadcasting obscene language." and inserting in lieu thereof "1464. Distributing obscene material by radio or television.".

SEC. 3. (a) Subsection (b) of section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended to read as follows:

"(b)(1) Whoever—

"(A) in the District of Columbia or in interstate or foreign communication, by means or telephone, makes (directly or by recording device) any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent, regardless of whether the maker of such comments placed the call, or

"(B) knowingly permits any telephone facility under such person's control to be used for any purpose prohibited by subparagraph (A),

shall be fined not more than $50,000 or imprisoned not more than six months, or both.

"(2)(A) In addition to the criminal penalties under paragrpah (b)(1), whoever, in the District of Columbia or in interstate or foreign communication, violates paragraph (b)(1)(A) or (b)(1)(B) for commercial purposes shall be subject to a civil fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(B) A fine under this paragraph may be assessed either—

"(i) by a court, pursuant to a civil action by the Commission or any attorney employed by the Commission, who is designated by the Commission for such purpose, or

"(ii) by the Commission, after appropriate administrative proceedings.

"(3)(A) Either the Attorney General or the Commission, or any attorney employed by the Commission who is designated by the Commission for such purpose, may bring suit in a district court of the United States to enjoin any act or practice which allegedly violates paragraph (b)(1), or (b)(2).

"(a)(B) Upon a proper showing that, weighing the equities and considering the likelihood of ultimate success, a preliminary injuction would be in the public interest, and after notice to the defendant, such preliminary injuction may be granted. If a full trial on the merits is not scheduled within such period, not exceedding 20 days, as may be specified by the court after issuance of the preliminary injunction, the injunction shall be dissolved by the court.".

(b) Subparagraph (A) of paragraph (1) of subsection (a) of section 223 of the Communications Act of 1934 is repealed.

(c) Subsection (c) of section 8 of the Federal Communications Commission Authorization Act of 1983 is repealed.

Mr. DENTON. Mr. President, first, I would like to compliment the gentleman from North Carolina, Senator HELMS, for his outstanding leadership in introducing S. 1090, which addresses a very serious problem facing this Nation: the dangerous intrusion of pornography into the American home, via the public channels of communication. This proposed legislation has as its purpose the elimination of the use of cable television and interstate telephone service for the transmission of obscene, indecent, and profane material. It accomplishes two major goals. First, it makes it clear that section 1464 of title 18 of the United States Code includes the transmission of obscene or indecent material on cable television, in addition to the section's current coverage of radio and broadcast television. Second, it amends section 223 of the Communications Act of 1934 to clearly prohibit the use of interstate telephone service for the transmission of obscene messages and establishes heavy penalties for transmitting such messages.

Pornography is a vice that destroys values and contributes to the breakdown of the family. It has a negative effect on all of society—men, women, and children. The sexual exploitation of any human being, especially those who are young and impressionable, or in a vulnerable position, is reprehensible. Many recent studies substantiate the harmful effects of pornographic matter. Studies have shown that even in its mild forms, pornography is harmful because it fosters the mentality which considers the human being not as a person, but as an object which exists to gratify the selfish interest of someone else. According to commentaries, there is a positive correlation between pornography and wife beating, rape, and incest.

When I served as chairman of the Subcommittee on Family and Human Services of the Senate Committee on Labor and Human Resources, I had the opportunity to hear testimony that documented the terrible consequences of widespread and growing breakdown in values. At oversight hearings on broken families, and at a series of hearings on the reauthorization legislation for the Child Abuse Prevention and Treatment and Adoption Reform Act, the evidence was clear that the breakdown in values is a sensitive and complex social problem, one that is a true crisis for our country and for us as individuals, and pornography clearly contributes to it.

In my capacity as a member of the Subcommittee on Juvenile Justice of the Senate Committee on the Judiciary, I heard testimony that indicated that sexually exploited persons are unable to develop healthy affectionate relationships in later life, that they may have sexual dysfunction, and that they become victims in a continuous cycle of abuse.

As a member of the Committee on the Judiciary, I presided over hearings on the subject of organized crime's influence in the pornography industry, and am familiar with the economic motivation behind the sexual exploitation industry, as well as its impact upon society. There are reports which indicate that organized crime dominates distribution of pornography in the United States, and invests those profits in other criminal activities such as loansharking and narcotics. A report issued by the attorney general of the State of California, entitled: "Organized Crime in California 1982-83" states that pornographers with firm links to organized crime have entered the cable television and subscription television industry, and, by early 1984, had become major suppliers of pornographic material to that industry. I ask unanimous consent that a copy of the applicable portions of that report, pages 14 and 15, be placed in the RECORD at the conclusion of my remarks.

In a long line of cases, the U.S. Supreme Court has consistently held that obscene material is not protected by the first amendment. See, for example, *Paris Adult Theatre I* v. *Slaton*, 413 U.S. 49 (1973); *Miller* v. *California*, 413 U.S. at 23-25 (1973); *Kois* v. *Wisconsin*, 408 U.S. 229 (1972); *United States* v. *Reidel*, 402 U.S. at 354 (19—); and *Roth* v. *United States*, 354 U.S. 476 (1957).

Moreover, the U.S. Supreme Court has held that there is a species of speech which, as a matter of constitutional law, is subject to regulation under certain circumstances even though the speech is nonobscene—that is, it does not meet the full "Miller" test. In this regard, see *FCC* v. *Pacifica Foundation*, 438 U.S.C 726 (1976).

Commerce in obscene material is unprotected by any constitutional doctrine of privacy. Cable Television and Dial-It Sex Services are commercial enterprises, operating in the public sphere, using a public means of communication. *Stanley* v. *Georgia*, 394 U.S. 557, does not authorize a commercial purveyor of obscene magazines to use the U.S. mail to send pornography "into the home." Similarly, the Stanley case does not authorize or protect the cable television and Dial-It Sex Services or insulate them from Federal regulation. The U.S. Supreme Court has specfically declined to equate the "privacy" of the home in Stanley, with a "zone" of "privacy" that follows a distributor or a consumer of obscene materials wherever he goes. In this regard, see *Paris Adult Theater I* v. *Slaton*, 413 U.S. 49, at 66-67 (1973); *U.S.* v. *Orito*, 413 U.S. at 141-143; *U.S.* v. *12-200 Foot Reels of Film*, 413 U.S. at 126-129; *U.S.* v. *Thirty-Seven Photographs*, 402 U.S. at 376-377; *U.S.* v. *Reidel*, 402 U.S. at 355.

The crass commercial exploitation of human sexuality by the multibillion-dollar pornography business is an affront to every individual and to every community that strives to maintain a decent society and to protect its citizens and their fundamental freedoms.

Innovations in the methods of distributing pornography, particularly in the areas of cable television and interstate telephone service, make it imperative that Congress act quickly in support of S. 1090.

In view of the seriousness of the factors involved, no amount of institutional "fatigue" justifies abdication of Government supervision over the public channels of communication. See *Miller* v. *California*, 413 U.S. 15, at 29-30 (1973).

The ease with which children may obtain access to pornography via television and the Dial-It Sex Services, is well documented. News articles list story after story of how children as young as 6 years old have been indiscriminantly exposed to pornographic messages and images, against the will of and without the consent of their parents. I ask unanimous consent that a copy of several representative news articles be placed in the RECORD at the conclusion of my remarks.

The U.S. Supreme Court has recognized Government's interest in both the well-being of its youth, and in supporting parents' claim to authority in their own household. See *Ginzburg* v. *New York*, 390 U.S. 629 (1968), and *FCC* v. *Pacifica Foundation*, 438 U.S. 726 (1976). These concerns were underscored by the Ginzburg court, which stated:

> It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.* * * Parents * * * who have this primary responsibility for children's well-being are entitled to the support of laws designed to aid discharge of that responsibility.

This is an important point: Parents are entitled to the support of laws designed to aid discharge of their responsibilities. This thought is echoed by one newspaper editorial, speaking on the subject of Dial-Porn, which observed:

> We believe in a free press, the free exchange of ideas and opinions and every man's right to personal expression, but we do not believe that such freedoms carry with them the license to maim the minds of children.

Effective action must be taken immediately against the offending commercial enterprises. I urge support of S. 1090.

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

ORGANIZED CRIME IN CALIFORNIA 1982-83

(Annual Report to the California Legislature)

ORGANIZED CRIME AND PORNOGRAPHY

East Coast organized crime families currently own and control key national distribution companies and therefore regulate much of the availability of pornographic material for sale in California. By dictating the terms of product distribution, organized crime figures ultimately control many California pornography businesses. With this control and the millions of dollars in profits derived, organized crime is able to further its illegal activities by investing in narcotics trafficking, loansharking, and infiltrating legitimate businesses.

During the 1970s, organized crime engaged in extortion and violence in an effort to gain control over the independent pornographers in California. Now, firmly established in national distribution and involved in almost all aspects of pornography, organized crime exerts strong control over California pornographers. These crime families appear to have recognized the economic benefits of this business and now give greater attention to their pornography interests.

Previously, the Bonanno, Colombo, Gambino, and DeCavalcante organized crime families of the East Coast were active in pornography in California. The Bonanno and Colombo families have lessened their involvement in pornography due to continued deterioration of their organizational structure and strength. The DeCavalcante and Gambino families appear to have consolidated their pornography interests and now dominate the industry throughout the nation.

A key figure who seems to represent the latter two organizations in pornography is Robert DeBernardo, a top member of the DeCavalcante Crime Family of Northern New Jersey. He is the operator of the largest East Coast pornography distribution company, Star Distributor of New York. DeBernardo is a close associate of Ettore Zappi, underboss of the Gambino Crime Family. In 1973 grand jury testimony alleged that Zappi received large amounts of cash from California pornography operators.

Much of the influence of these two crime figures is believed to be exerted on California pornographers through Reuben Sturman of Cleveland, Ohio. Sturman is one of the largest pornography distributors in the nation and maintains a financial interest in numerous pornography businesses in California and throughout the world. Many California pornographers depend on Sturman's vast distribution network and are therefore subject to his influence.

The arrival of home video cassette recorders on the market in 1979 was accompanied by a growing demand for adult videotapes. California pornographers, many linked to organized crime, quickly entered this market by forming companies involved in the manufacturing, production, duplication, distribution, and sale of adult videotapes. The annual gross of the adult videotape industry in the Los Angeles area alone was estimated by Southern California law enforcement authorities to be well over $200 million in 1982 and to have exceeded that figure in 1983.

TRENDS AND PROJECTIONS

Organized crime continues to dominate California pornography operations and is extending its involvement in all aspects of the industry including the growing adult videotape market. Pornographers with firm links to organized crime have also entered the cable and subscription television industry and, by early 1984, had become major suppliers of pornographic material to that industry.

CUT THE PROFITS OF THE KIDPORN TRADE

We believe in a free press, the free exchange of ideas and opinions and every man's right to personal expression, but we do not believe that such freedoms carry with them the license to maim the minds of children.

Congress has been playing around for months with three bills that would give federal authorities the tools they need to go after the producers and purveyors of filth who prey upon children. We don't think they should wait any longer.

During the past week the mother of a young Las Vegas boy found herself frustrated and frightened because local authorities and the phone company are powerless to do anything about companies selling pornographic messages on long-distance telephone lines to anyone who will call up and give them a credit card number to bill.

STIFF FINES SUGGESTED

Senate Bill 1469 passed the Senate July 16, but Sen. Strom Thurmond, R.S.C., wants to add an amendment that would allow federal wiretapping in child pornography cases.

A similar provision is already in a bill approved July 14 by the House Judiciary Subcommittee on Crime.

The bills would raise from 16 to 18 the maximum age of children who are protected, remove the existing requirement that sexually explicit materials depicting children be "obscene" before they are banned and stop production of child pornography, regardless of whether it is commercially disseminated.

Senate Bill 1469 would also fine organizations up to $250,000. Neither existing law nor the House bill provides for the fine, which we think is a good idea. The Senate bill would also require anyone convicted of sexually exploiting children to forfeit the assets used in producing the pornographic material and the profits accumulated from it.

STOP THE FILTH MERCHANTS

We think that last provision is the way to get at the latest scheme of the filth merchants, the long-distance peddling of phone fantasies.

House Resolution 3062 also makes it an offense to reproduce the pornographic materials of children. Authors of the resolution say they want to make it easier to prosecute those who reproduce the materials, but may not have taken the original pictures.

We support these efforts and hope the politicians resist pandering to the weak-kneed who have the gall to suggest that children of any age have the maturity to decide whether or not they want to allow themselves to be used by adult hustlers who have no commitment to anything but their own rapacious desires.

The House members have a special obligation, we think, considering that two of their members have just been censured as men who seduced two children serving as pages in the House.

Taking the profit out of child pornography is a laudable goal. It would effectively kill this lecherous business. It has existed far too long. Period.

[From the Daily News, June 9, 1983]

PORNO PHONE NUMBER HAS 10-YEAR-OLD'S MOM MAD

(By Karen Adams)

A phone number for a pornographic recording service in New York City is circulating among Longview students and, as School Superintendent Grant Hendrickson says, "there's no simple solution" to the problem.

The recordings are offered by High Society, a girlie magazine, to boost sales. They feature messages by women whose pictures appear in the magazine.

"Apparently (the number) is pretty widespread," Hendrickson said. "These things probably spread like wildfire."

Carrie Shupe, a mother incensed by the recordings, told The Daily News she called a number of city, state and federal officials to see what parents can do to stop them.

She says the U.S. attorney in Seattle recommended that she and other concerned parents write the United States Department of Justice in Washington, D.C., to request action against the recordings, but apparently nothing more can be done.

Mrs. Shupe became incensed about the recording when her 10-year-old daughter dialed a number she had been given by another student at her grade school.

"She wasn't told she was going to hear that kind of message," Mrs Shupe said. When her daughter told her about it she called the number herself.

"It was really raw," she said, and consisted of explicit "how to's" of sexual activities. "I was so mad that my little girl had gotten that message in grade school," she added.

Hendrickson says there is nothing the schools can do to stop it.

"To tell the students there's this number for a porno phone line that they shouldn't call would just stir things up more," he said.

Dale Vincent, community affairs manager for Pacific Northwest Bell, says the telephone company has no legal basis for denying phone service to High Society for its recordings.

"Presumably they're operating within the law," he said. Lawsuits have been undertaken in New York against the porno service and complaints have been made by members of Congress. But there is no existing law that prevents obscene calls to which the calling party voluntarily subjects himself.

Mrs. Shupe urged parents with complaints about the phone numbers to write to the United States Department of Justice, Criminal Division, General Crimes Section, Washington, D.C. 20530.

[From the Advertiser & Journal, Montgomery, AL, June 5, 1983]

PORNO HOTLINE REACHES OUT AND TOUCHES KIDS

(By David McFarland)

"III, I'm Susie from High Society," the voice on the other end of the telephone seductively purred into the ear of the listener who dialed a New York porno hotline. "You must be the TV repairman. . ."

The listener wasn't the TV repairman. He was a 6-year-old Montgomery boy.

He and any other child in the United States can call High Society magazine's special telephone numbers and receive erotic messages. Many are doing just that.

What they are hearing are recorded messages that sound much like an X-rated movie soundtrack without the four-letter words.

The "hotline" offers nine messages each day to supplement the adult magazine's monthly nude photographs, according to Gloria Leonard, publisher of High Society.

More than half a million people call the 57-second "hotline" every day—including many children, she says.

The hotline stays within the limit of the law by avoiding profanities and obscene language—words that are forbidden by federal regulations.

But according to Jack Hornady, director of the Alabama Public Service Commission's Consumer Service's Division, highly suggestive language and moans, groans, oohs and aahs are not against the law.

Hornady said his office has been swamped with numerous complaints from Alabamians who have suddenly found their telephone bills filled with one-minute calls to New York City.

The complainant is usually the parent of a teen-aged boy.

Lisa Long, an employee in the consumer division, said she has received about 10 complaints a day for the past month from Alabama customers who have been charged with calls to New York.

Reports of these one-minute charges have been reported from virtually every area of the state.

"There is nothing we can do about it," Mrs. Long said. "We don't have the authority to stop the phone service because they aren't doing anything against the law."

Phone companies find themselves in a similar position.

New York Telephone, which provides the equipment High Society uses to operate the service, says it cannot stop the service.

"We are not permitted to be censors," said John Quinn, a spokesman with the company. Quinn said his office has received complaints about the hotlines from all over the country.

Tom Somerville, a South Central Bell spokesman, said his office in Montgomery also has received several complaints about the billings.

But, he said, his company can do nothing about the calls.

"They are definitely being made from those phones," Somerville said and parents are responsible for all calls their children make.

School phones also have been used to call the hotlines, according to Montgomery School Superintendent Henry Adair.

Adair said he is certain the calls were made by students. The calls, placed from Carver and Lanter high schools, will have to be absorbed by the schools, Adair said.

"It's a natural place for the telephone numbers to be exchanged," he said. The city's principals were made aware of the problem earlier this year, and they were asked to tighten student use of school phones, he said.

Such monitoring measures also are advocated by the woman who runs the hotline service from New York.

"It's the parent's responsibility to monitor their children's telephone habits," Ms. Leonard said.

"The magazine is not supposed to be sold to anyone under 18 years of age," she said. "But it's an old tradition for the children to get a hold of daddy's magazine or big brother's magazine." The hotline numbers are advertised in the magazine.

Her magazine began the hotline service in February with its "free phone sex," as it is billed on the July cover.

A full-page advertisement, including the three hotline numbers, are on the inside front cover.

Ms. Leonard, who claims to be the only woman publisher in the men's magazine industry, is proud of her idea's success. "We have more than 15 million people calling every month. That's what I call encouraging."

One reason Ms. Leonard is encouraged by the response to the service is that her magazine is making about $10,000 a day from the calls.

Costs of the one-minute calls from Alabama range from 25 cents to $1.05, depending on what time of day they are place.

Because of a special New York state telephone tariff, the magazine receives two cents per phone call: New York Telephone gets 13 cents per call for renting the service.

Such a hotline in Alabama would not be profitable, Hornady said, because Alabama has no law that would allow a company to collect money for a similar service.

But he said there is no law in Alabama prohibiting a person from starting a hotline.

The complaints have not fallen on deaf ears, however. The U.S. Justice Department is researching a way to stop the hotline.

John Russell, a spokesman with the department's Washington office, said staff attorneys may try to stop the hotline through civil litigation.

He said the service violates no criminal laws.

Ms. Leonard balks at the suggestion that the line should or could be cut off.

"The government is just passing the buck because it doen't want to tangle with us."

[From the Chicago Tribune, Jan. 20, 1985]

INVADING TV PORN TROUBLES A CHILD

(By Bob Greene)

The 9-year-old girl had been at a Saturday-night slumber party. She and another 9-year-old friend had slept over at the house of another friend, this one 11.

The next day she returned home, and her parents took her to church. When the family had come back from the worship services, the little girl became strangely quiet. Then she told her mother there was something she wanted to talk about.

"At the slumber party last night I saw a movie . . ." the girl began. Then she started to cry.

Her mother talked with her about what had happened, and this is what the girl said:

She and her friends had played all evening, and then had been sent to bed. The girls were all in one bedroom when—as children will—they decided that they wanted to stay up later than their parents thought they should.

So they turned on the television set and started switching channels. They went from one program to the next—and when they got to Channel 44 they stopped. They couldn't believe what they were seeing.

A nude man and woman were on the screen. The man and the woman were having sex.

Now, Channel 44 is the channel that pay TV operation known as ON-TV uses to send out its signals. The way it works is that every house in the Chicago area receives a scrambled signal on Channel 44; if the homeowners subscribe to ON-TV the signal is unscrambled, and the movies come in clearly. Late each night, "adult" movies are shown on the channel: these, too, are scrambled, and homeowners have to pay a special premium charge to unscramble them.

At this particular house—the house where the slumber party was underway—the parents were not subscribers to ON-TV. This was just a regular television set without pay-TV accessories.

And yet here was the movie—it was called "Dirty Lilly"—being broadcast clearly onto the screen.

There was no sound: the video signal was being broadcast, but not the audio signal. The girls has never seen anything like this before; they sat and watched. Finally the mother of the girl who was giving the slumber party heard them talking, and told them to go to bed. They turned off the movie.

And now, the next day, the 9-year-old was crying to her mother.

"She was extremely upset," the mother said. "This was her first contact with anything that has explicit sexual content. It took me a long time to get her to tell me what she saw. She said that there were men and women with no clothes on crawling all over each other. She said that there were women with no clothes on kissing other women. She asked me why they were doing those things."

The more the mother heard, the more furious she became. "It's hard enough bringing a child up in today's social environment," she said. "We have told our daughter the basic facts about sex—that it's something beautiful that happens between a man and a woman, and that it is an expression of love and happiness. But we haven't gone into any details of how all of this takes place.

"And now my daughter's first view of what sex is comes from some filthy, perverted porno movie. It just makes me sick."

The mother called the mother of the girl who had hosted the slumber party. The other mother confirmed that her family did not subscribe to ON-TV; she couldn't imagine how this could have happened. She was equally upset.

The mother of the 9-year-old called the ON-TV business offices. "I got a runaround," she said. "They told me that in certain weather conditions the signal sometimes becomes unscrambled, but that there was nothing they could do about it. They said it's just something that sometimes happens."

[I called Kent Hauver, the general manager of ON-TV. "We've had enough complaints that I have to say it probably did happen on the night in question," he said. "Technically, we don't know why. Something must have broken down electronically. It shouldn't have happened, and it won't happen again."]

The mother next called the Federal Communications Commission. "I asked if something couldn't be done about this," she said. "Basically they were very sympathetic—but they told me that there wasn't much they could do."

Now the mother is trying to explain to her daughter that sex is something that grown-ups who love each other do to express that love. Her daughter, she said, is confused.

"I don't blame her," she said. "I would never allow these kinds of movies in our house; I don't approve of them. Now my child's first view of sex was a dirty, snickering movie that cheapens sex and sells it for cheap thrills. The fact that she told me she had seen the women having sex together especially bothers me; when you're trying to explain to your child what sex is, how do you explain a lesbian scene in a porno movie? I know we're supposed to be living in a world where everything is permissible, but I don't know what you're supposed to tell a 9-year old about that."

She said that she is thinking about telling the staff psychologist at her daughter's school about what happened, and seeking his advice.

"I just don't know what the proper course to take is," she said. "But it repulses me and sickens me that a family can do everything in its power to bring up its children in a wholesome way—and then some pay-TV operation can send porno movies into houses that don't want them, and get away with just saying, 'Oh, we're sorry.' "

By Mr. MATHIAS (for himself, Mr. THURMOND, Mr. BIDEN, Mr. DOLE, Mr. DECONCINI, Mr. HEFLIN, Mr. DENTON, and Mr. SPECTER):

S. 1093. A bill to amend the patent law to restore the term of the patent grant in the case of certain products for the time of the regulatory review period preventing the marketing of the product claimed in a patent; to the Committee on the Judiciary.

AGRICULTURAL PATENT REFORM ACT

● Mr. MATHIAS. Mr. President, one of the signal accomplishments of the 98th Congress was the passage of the pharmaceutical patent term restoration bill, now Public Law 98-417. This measure restores equity to inventors by extending patents on medical drugs for the time lost on the patent because of Federal testing requirements. This process consumes on average more than half of the 17-year patent.

In the earlier versions of this bill, which I introduced at the beginning of the 98th and 97th Congresses (S. 1306 and S. 255, respectively), the coverage included both pharmaceutical drugs and agricultural chemicals such as pesticides and fertilizers. These agrichemicals also lose an average of 5 to 7 years of their patents because of premarket regulatory review requirements imposed by the EPA. Last year we separated the agrichemical portion of the bill from the pharmaceutical bill because the latter became coupled with amendments on generic drugs, and the agrichemical provisions no longer fit neatly into the package. A separate bill was introduced late in the session last year in the House and Senate, but we ran out of time. A solid legislative record has been built for agrichemical patent restoration in hearings over the past two Congresses, and I would hope to hold an early hearing this year to bring the record up to date.

Fairness is the primary goal of this bill. The inventor of an agrichemical product should get the same treatment under our patent laws as any other invention. But it is important to remember the reason for the patent laws in the first place: the principle that exclusive rights for limited times is the best way to promote scientific progress in the useful arts, the principle embodied in Article I, Section 8 of our Constitution. Giving fuller patent life to inventions in the agricultural field will stimulate greater research and innovation. As reports of famine and malnutrition crowd in on us from many quarters, we all know the importance of increased agricultural productivity. Three percent of the American population feeds our country and much of the rest of the world. But our food production must double by the year 2030 to feed the projected world population at that time. In facing this challenge, the chemicals that we use to fight insects, weeds, and diseases to protect our crops and the world's crops have an essential role to play in the battle against hunger. We must insure that the system of incentives that has worked in the past remains intact to fuel inventive genius in the future.

The text of the bill I am introducing today is nearly identical to that passed by the House Judiciary Committee last year. I ask unanimous consent that it be printed in the RECORD.

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

S. 1093

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That this Act be cited as the "Agricultural Patent Reform Act of 1985".

SEC. 2. (a) Title 35 of the United States Code is amended by adding the following new section immediately after section 156:

"§ 157. Restoration of patent term for certain agricultural and chemical products.

"(a)(1) The term of a patent which claims a product subject to a regulatory review period or a method for using such a product or a method for manufacturing such a product shall be extended, in accordance with this section, from the original expiration date of the patent if—

"(A) the product sponsor gives notice to the Commissioner in compliance with the provisions of subsection (b)(1):

"(B) the product has been subject to a regulatory review period pursuant to statute before its commercial marketing or use;

"(C) the patent to be extended has not expired prior to notice to the Commissioner under subsection (b)(1);

"(D)(i) in the case of a patent which claims a method of manufacturing the product which does not primarily use recombinant DNA technology in the manufacture of the product—

"(I) no other patent has been issued to the patent owner which claims the product or a method of using the product; and

"(II) no other method of manufacturing the product which does not primarily use DNA technology in the manufacture of the product is covered by a claim in a patent issued to the patent owner having an earlier issuance date;

"(ii) in the case of a patent which claims a method of manufacturing the product which primarily uses recombinant DNA technology in the manufacture of the product—

"(I) the holder of the patent for a method of manufacturing the product is not the holder of a patent for the product or for a method of using the product;

"(II) no other method of manufacturing the product primarily using recombinant DNA technology is covered by a claim in a patent having an earlier issuance date; and

"(III) the holder of the patent for a method of manufacturing is not owned or controlled by a holder of a patent for the product or for a method of using the product or by a person who owns or controls a holder of such a patent, and does not own or control the holder of such a patent or a person who owns or controls a holder of such a patent; and

"(E) except in the case of a patent which claims a method of manufacturing the product which primarily uses recombinant DNA technology in the manufacture of the product, the permission for the commercial marketing or use of the product after such regulatory review period is the first permitted commercial marketing or use of the product under the provision of law under which such regulatory review period occurred.

"(2) The rights derived from any claim of any patent extended under paragraph (1) shall be limited in scope during the period of any extension as follows:

"(A) In the case of any patent, to the scope of such claim which relates to the product subject to regulatory review.

"(B) In the case of a patent which claims a product or a method of using a product—

"(i) which is subject to regulatory review under the Federal Food, Drug, and Cosmetic Act, to the uses of the product which may be regulated by the chapter of such Act under which the regulatory review occurred, or

"(ii) which is subject to regulatory review under any other statute, to the uses of the product which may be regulated by the statute under which the regulatory review occurred.

"(C) In the case of a patent which claims a method of manufacturing a product, to the method of manufacturing as used to make the approved product.

"(3)(A) Subject to subparagraph (B), the term of a patent shall be extended by the time equal to the regulatory review period which occurred during the period up to ten years after the date of filing of the earliest application for such patent and the time equal to one-half the regulatory review period which occurred during the period between ten and twenty years from the filing date of the earliest patent application for such patent.

"(B)(i) In determining a regulatory review period for purposes of subparagraph (A), if an application or notice described in paragraph (5)(B)(ii) or (5)(C)(ii) of subsection (c) was rejected and returned to the product sponsor because of insufficiency of data, the period beginning on the date the application was rejected for insufficiency of data and ending on the date the application was subsequently accepted shall be excluded, except that if during such period the product sponsor conducts a major health or environment effects test, the period during which such test is conducted shall not be excluded. In determining the regulatory review period for purposes of subparagraph (A) with respect to a new animal drug, if the Secretary of Health and Human Services refuses to approve an application submitted under section 512 of the Federal Food, Drug, and Cosmetic Act on the grounds that the application contains insufficient information, the period beginning on the date the Secretary issues an order under subsection (d)(1) of such section refusing to approve such application and ending on the date a subsequent application is approved shall be excluded.

"(ii) In determining a regulatory review period for purposes of subparagraph (A), the regulatory review period shall be reduced by any period determined under subsection (b)(2) during which the applicant for the patent extension did not act with due diligence.

"(iii) In no event shall the term of any patent be extended for more than five years. No term of any extended patent may exceed twenty-five years from the date of filing of the earliest United States patent application which provides support under section 120 of this title for any claim of the patent to be extended. If the regulatory review period for a product began before the date of enactment of this section and if on such date the regulatory review period has not ended, the period of patent extension for the patent which claims the product or a method of using or manufacturing the product shall be measured from the date of enactment and shall not exceed three years.

"(C) In no event shall more than one patent be extended for the same regulatory review for any product.

"(D) In the case of a pesticide, all formulations of such pesticide containing the identical active ingredient shall be considered the same pesticide and no pesticide may be the subject of more than one patent extension.

"(b)(1) To obtain an extension of the term of a patent under subsection (a), the product sponsor shall notify the Commissioner under oath, within ninety days after the termination of the regulatory review period for the product to which the patent relates, that the regulatory review period has ended. If the product sponsor is not the owner of record of the patent, the notification shall include the written consent of the owner of record of the patent to the extension. Such notification shall be in writing and shall—

"(A) identify the Federal statute under which regulatory review occurred or, if the regulatory review occurred under the Federal Food, Drug, and Cosmetic Act, the chapter of the Act under which the review occurred;

"(B) state the dates on which the regulatory review period commenced and ended;

"(C) identify the product for which regulatory review was required;

"(D) state that the requirements of the statute under which the regulatory review referred to in subsection (a)(1)(B) occurred have been satisfied and commercial marketing or use of the product is not prohibited; and

"(E) identify the patent and any claim thereof to which the extension is applicable; the date of filing of the earliest application for the patent; and the length of time of the regulatory review period for which the term of such patent is to be extended; and state that no other patent has been extended for the regulatory review period for the product.

"(2)(A) Within 60 days of the submittal of the extension notice under paragraph (1), the Commissioner shall notify—

"(i) the Secretary of Agriculture if the patent claims a veterinary biological product subject to the Virus-Serum-Toxin Act or a method of using or manufacturing such a product,

"(ii) the Secretary of Health and Human Services if the patent claims an animal drug product or animal antibiotic product subject to the Federal Food, Drug, and Cosmetic Act or a method of using or manufacturing such a product,

"(iii) the Administrator of the Environmental Protection Agency if the patent claims a pesticide subject to the Federal Insecticide, Fungicide, and Rodenticide Act, a chemical substance or mixture subject to the Toxic Substances Control Act, or a method of using or manufacturing such a pesticide, substance, or mixture,

of the extension notice and shall submit to the Secretary or Administrator who is so notified a copy of the extension notice. Not later than thirty days after the receipt of the extension notice from the Commissioner, the Secretary or Administrator receiving the extension notice shall review the dates contained in such notice pursuant to paragraph (1)(B) and determine the applicable regulatory review period, shall notify the Commissioner of the determination, and shall publish in the Federal Register a notice of such determination.

"(B) If a petition is submitted to the Secretary or Administrator making the determination under subparagraph (A), not later than one hundred and eighty days after the publication of the determination under subparagraph (A), upon which it may reasonably be determined that the product sponsor did not act with due diligence during the applicable regulatory review period, the Secretary or Administrator making the determination shall, in accordance with regulations promulgated by such Secretary or Administrator, determine if the product sponsor acted with due diligence during the ap-

plicable regulatory review period. The Secretary or Administrator shall make such determination not later than 90 days after the receipt of such a petition. The Secretary of Health and Human Services may not delegate such authority to make the determination prescribed by this subparagraph to an office below the Office of the Commissioner of Food and Drugs, the Secretary of Agriculture may not delegate such authority to an office below the Deputy Administrator of Veterinary Services, and the Administrator of the Environmental Protection Agency may not delegate such authority to an office below the Assistant Administrator for Pesticides and Toxic Substances.

"(C) The Secretary or Administrator making a determination under subparagraph (B) shall notify the Commissioner of the determination and shall publish in the Federal Register a notice of such determination, together with the factual and legal basis for such determination. Any interested person may request, within the 60-day period beginning on the publication of a determination, the Secretary or Administrator making the determination to hold a hearing on the determination. Such a hearing shall be an informal hearing which is not subject to section 554, 556, or 557 of title 5, United States Code. If such a request is made within such period, such Secretary or Administrator shall hold such hearing not later than thirty days after the date of the request, or at the request of the person making the request, not later than sixty days after such date. The Secretary or Administrator who is holding the hearing shall provide notice of the hearing to the product sponsor and to any interested person and provide the owner and any interested person an opportunity to participate in the hearing. Within thirty days after the completion of the hearing, such Secretary or Administrator shall affirm or revise the determination which was the subject of the hearing and notify the Commissioner of such affirmation or any revision of the determination and shall publish such affirmation or revision in the Federal Register.

"(D) Failure of a product sponsor to act with due diligence during a regulatory review period shall not be a defense in any action involving the infringement of a patent.

"(E) For purposes of this paragraph, the term 'due diligence' means that degree of attention, sustained directed effort, and timeliness as may reasonably be expected from, and are ordinarily exercised by, a person during a regulatory review period.

"(F) In a proceeding under this paragraph, the Secretary or Administrator may take into consideration the failure of a product sponsor to submit data which the product sponsor knew or reasonably should have known was necessary to support an application or notice described in paragraph (5) of subsection (c).

"(G) The Secretary and the Administrator may establish such fees as the Secretary and Administrator determine appropriate to cover the costs to the Secretary and the Administrator of making the review under subparagraph (A), receiving and acting upon petitions under subparagraph (B), and holding hearings under subparagraph (C).

"(3) Upon receipt of a final determination of the applicable regulatory review period under paragraph (2), the Commissioner shall issue to the owner of record of the patent a certificate of extension, under seal, stating the fact and length of the extension, identifying the product and the statute under which regulatory review occurred, and specifying any claim to which such extension is applicable. Such certificate shall be recorded in the official file of the patent so extended and shall be considered as part of the original patent. The Commissioner shall publish in the Official Gazette of the Patent and Trademark Office a notice of such extension.

"(4) If information submitted by a product sponsor during a regulatory review period is considered as trade secret or confidential commercial or financial information under the law under which such regulatory review occurred, such information may only be disclosed under this section in accordance with such law.

"(c) As used in this section:

"(1) The term 'product' means any machine manufacture, or composition of matter for which a patent may be obtained and is limited to the following:

"(A) Any new animal drug or animal antibiotic subject to regulation under the Federal Food, Drug, and Cosmetic Act.

"(B) Any veterinary biological product subject to regulation under the Virus-Serum-Toxin Act.

"(C) Any pesticide subject to regulation under the Federal Insecticide, Fungicide, and Rodenticide Act.

"(D) Any chemical substance or mixture subject to regulation under the Toxic Substances Control Act.

"(2) The term 'major health or environmental effects test' means an experiment or study to determine or evaluate health or environmental effects which requires at least six months to conduct, not including any period for analysis or conclusions, and the data from which is submitted to recieve permission for commerical marketing or use.

"(3) The term 'earliest application for the patent' means the patent application providing the earliest benefit of a filing date to the patent and includes patent applications under section 120.

"(4) The term 'product sponsor' means any person who, with the consent of the patent owner, initiates testing or investigations, claims an exemption, or submits an application, petition, protocol, request, or notice described in paragraph (5) of this subsection.

"(5) The term 'regulatory review period' has the following meaning:

"(A) With respect to a product which is a new animal drug, animal antibiotic, or veterinary biological product, the regulatory review period is the sum of—

"(i) the period beginning on the date—

"(I) an exemption under subsection (j) of section 512 of the Federal Food, Drug, and Cosmetic Act, or

"(II) the authority to prepare an experimental biological product under the Virus-Serum-Toxin Act,

became effective for the approved product and ending on the date an application was submitted for such product under section 512 of the Federal Food, Drug, and Cosmetic Act or the Virus-Serum-Toxin Act, and

"(ii) the period beginning on the date the application was submitted for the approved product under section 512 of the Federal Food, Drug, and Cosmetic Act or the Virus-Serum-Toxin Act and ending on the date such an application was approved.

"(B) With respect to a product which is a pesticide, the term means the sum of—

"(i) the period beginning on the earlier of the date the product sponsor (I) initiates a major health or environmental effects test on such pesticide, or (II) requests, in accordance with regulations issued by the Administrator, the grant of an experimental use permit for the pesticide under setion 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, and ending on the date an application is submitted for registration of such pesticide pursuant to section 3 of such Act, and

"(ii) the period beginning on the date an application is submitted, in accordance with regulations by the Administrator, for registration of such pesticide pursuant to section 3 of such Act and ending on the date such pesticide is first registered, either conditionally or fully, under such section.

"(C) With respect to a product which is a chemical substance for which notice is required under section 5 of the Toxic Substance Control Act or which is a mixture which contains a substance for which such notice is required and—

"(i) which is subject to a rule requiring testing under section 4(a) of such Act, the term means a period commencing on the date the product sponsor has initiated the testing required in such rule and ending on the expiration of the notice period for such chemical substance or mixture under section 5 of such Act, or if an order or injunction is issued under section 5(e) or 5(f) of such Act, the date on which such order or injunction is dissolved or set aside; or

"(ii) which is not subject to a testing rule under section 4 of such Act, the term means a period commencing on the earlier of the dae the product sponsor—

"(I) submits, in accordance with regulations issued by the Administrator, a notice under section 5 of such Act, or

"(II) initiates a major health or environmental effects test on such chemical substance or mixture,

and ending on the expiration of the notice period for such substance under section 5 of such Act or if an order or injunction is issued under section 5(e) or 5(f) of such Act, the date on which such order or such injunction is dissolved or set aside.

No regulatory review period shall be deemed to have commenced until a patent has been granted for the product which is subject to regulatory review, for the method for using such product, or for the method for producing such product.

"(6) The term 'Virus-Serum-Toxin Act' means the Act of March 4, 1913 (21 U.S.C. 151–158).".

(b) The analysis for chapter 14 of title 35 of the United States Code is amended by adding at the end the following:

"157. Restoration of patent term of certain agricultural and chemical products.".●

By Mr. DOLE (for himself, Mr. ANDREWS, Mr. BOSCHWITZ, Mr. BURDICK, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. EAGLETON, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. LEAHY, Mr. LUGAR, Mr. MOYNIHAN, Mr. NUNN, Mr. PRYOR, Mr. STAFFORD, Mr. STENNIS, Mr. WILSON, and Mr. ZORINSKY):

S.J. Res. 133. Joint resolution to designate May 25, 1985, as "National Holstein Day"; to the Committee on the Judiciary.

NATIONAL HOLSTEIN DAY

Mr. DOLE. Mr. President, it is my pleasure today to introduce a joint resolution proclaiming May 25, 1985, as "National Holstein Day" and to be joined as original cosponsors by my distinguished colleagues, Senators ANDREWS, BOSCHWITZ, BURDICK, COCHRAN, COHEN, D'AMATO, EAGLETON, HEFLIN, HELMS, HOLLINGS, HUMPHREY, JOHNSTON, KASSEBAUM, KASTEN, KENNEDY, LEAHY, LUGAR, MOYNIHAN, NUNN, PRYOR, STAFFORD, STENNIS, WILSON, and ZORINSKY.

Mr. President, 1985 marks the 100th anniversary of the Holstein-Friesian Association of America, the largest dairy cattle breed association. From a beginning membership of 284 at the time of its incorporation in 1885, the association has grown to over 44,000 breeders of purebred, registered Holstein dairy cattle.

ASSOCIATION PURPOSE

As expressed in its original charter, the purpose of the association was to improve the breed of Holstein-Friesian cattle; ascertaining, preserving, and disseminating all useful information and facts as to their pedigrees and desirable qualities, and the distinguishing characteristics of the best specimens, and preparing, publishing, and supplying all necessary volumes of the Holstein-Friesian herd book; and, generally, for promoting and securing the best interests of the importers, breeders, and owners of Holstein cattle, and thereby the public generally.

Mr. President, this has been a worthy and admirable aim of the Holstein-Friesian Association of America. The association can be proud of its role in developing the quality of the Holstein dairy cattle breed throughout the United States and the world. U.S. Holsteins account for upward of 90 percent of the Nation's milk supply as well as being a primary source of genetic material used for development and improvement of dairy cattle throughout the world.

Mr. President, "National Holstein Day" is indeed a fitting and appropriate way to recognize the 100th anniversary of the Holstein-Friesian Association of America. We all owe a debt to their efforts in developing the Holstein dairy breed which provides a nutritious, wholesome, and abundant supply of dairy products to our Nation's consumers.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. RES. 133

Whereas the Holstein-Friesian Association of America is the premier dairy cattle breed organization of the world;

Whereas the Holstein breed of dairy cattle produces nearly 90 percent of the Nation's milk supply;

Whereas the Holstein-Friesian Association maintains the only official, complete genetic data bank and lineage record for all purebred, registered Holstein dairy cattle in the United States;

Whereas the Holstein-Friesian Association through its many programs and services to the dairy industry has provided and continues to provide an environment, incentives, and genetic data for the continued improvement of the Holstein breed;

Whereas the United States Holsteins are recognized worldwide as being the superior strain of Holstein breeding stock;

Whereas the genetic pool of the Holstein breed in the United States has become the primary source of genetic material for the development and improvement of dairy cattle throughout the world; and

Whereas the Holstein-Friesian Association of America, a nonprofit membership organization of more than forty-four thousand breeders of purebred, registered Holstein dairy cattle, was organized on May 25, 1985, and chartered by the legislature of the State of New York as a union of two predecessor organizations of a similar nature dating back to 1871; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 25, 1985, is hereby designated as "National Holstein Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to recognize May 25, 1985, as "National Holstein Day".

ADDITIONAL COSPONSORS

S. 140

At the request of Mrs. HAWKINS, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 140, a bill to amend the Child Abuse Amendments of 1984 to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of sexual child abuse cases.

S. 377

At the request of Mr. DECONCINI, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 377, a bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans, and for other purposes.

S. 625

At the request of Mrs. HAWKINS, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 625, a bill to include the offenses relating to sexual exploitation of children under the provisions of RICO and authorize civil suits on behalf of victims of child pornography and prostitution.

S. 838

At the request of Mr. CHAFEE, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 838, a bill to repeal title VIII of the Education for Economic Security Act, relating to equal access to public secondary schools.

S. 961

At the request of Mr. SARBANES, the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 961, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 1018

At the request of Mr. GORTON, the name of the Senator from Colorado [Mr. HART] was added as a cosponsor of S. 1018, a bill to amend the National Labor Relations Act to clarify the meaning of the term "guard" for the purpose of permitting certain labor organizations to be certified by the National Labor Relations Board as representatives of employees other than plant guards.

S. 1025

At the request of Mr. PRESSLER, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1025, a bill to require the U.S. International Trade Commission to investigate and report on the effects of honey imports and to require the President under certain conditions to take action based on such report.

S. 1047

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 1047, a bill to reform the laws relating to former Presidents.

At the request of Mr. CHILES, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Arizona [Mr. GOLDWATER] were added as cosponsors of S. 1047, supra.

S. 1051

At the request of Mr. ZORINSKY, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1051, a bill to provide price and income protection for farmers and to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

SENATE JOINT RESOLUTION 43

At the request of Mr. THURMOND, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Joint Resolution 43, a joint resolution to authorize the Armored Force Monument Committee, the U.S. Armor Association, the World Wars Tank Corps Association, the Veterans of the Battle of the Bulge, the 11th Armored Cavalry Regiment Association, the Tank Destroyer Association, the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th,

and 16th Armored Division Associations, and the Council of Armored Division Associations, jointly to erect a memorial to the "American Armored Force" on U.S. Government property in Arlington, VA, and for other purposes.

SENATE JOINT RESOLUTION 55

At the request of Mr. COCHRAN, the names of the Senator from Nevada [Mr. LAXALT], the Senator from Michigan [Mr. LEVIN], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 55, a joint resolution to designate May 24, 1985, as "National Self-Help Housing Day."

SENATE JOINT RESOLUTION 57

At the request of Mr. CHILES, the name of the Senator from Tennessee [Mr. SASSER], was added as a cosponsor of Senate Joint Resolution 57, a joint resolution to designate the week of October 20, 1985, through October 26, 1985, as "Lupus Awareness Week."

SENATE JOINT RESOLUTION 66

At the request of Mr. D'AMATO, the name of the Senator from Minnesota [Mr. DURENBERGER], was added as a cosponsor of Senate Joint Resolution 66, a joint resolution designating June 14, 1985, as "Baltic Freedom Day."

SENATE JOINT RESOLUTION 87

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Joint Resolution 87, a joint resolution to provide for the designation of July 19, 1985, as "National P.O.W./M.I.A. Recognition Day."

SENATE JOINT RESOLUTION 117

At the request of Mr. LEVIN, the names of the Senator from Ohio [Mr. METZENBAUM], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 117, a joint resolution designating the week beginning September 22, 1985, as "National Adult Day Care Center Week."

SENATE JOINT RESOLUTION 122

At the request of Mr. BRADLEY, the names of the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 122, a joint resolution to authorize the President to proclaim the last Friday of April each year as "National Arbor Day."

SENATE JOINT RESOLUTION 125

At the request of Mr. LEAHY, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. ANDREWS], the Senator from North Carolina [Mr. EAST], the Senator from Georgia [Mr. NUNN], the Senator from Massachusetts [Mr. KERRY], the Senator from Louisiana [Mr. JOHNSTON], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Georgia [Mr. MATTINGLY], the Senator from Nevada [Mr. LAXALT], the Senator from Idaho [Mr. MCCLURE], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 125, a joint resolution designating the week of June 23, 1985, through June 29, 1985, as "Helen Keller Deaf-Blind Awareness Week."

SENATE JOINT RESOLUTION 129

At the request of Mr. NUNN, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Joint Resolution 129, a joint resolution to promote internal reconciliation within Nicaragua, on the basis of democratic principles, in furtherance of a peaceful resolution of the conflict in Central America.

SENATE JOINT RESOLUTION 131

At the request of Mr. GRASSLEY the names of the Senator from Texas [Mr. GRAMM], and the Senator from Washington [Mr. GORTON] were added as cosponsors of Senate Joint Resolution 131, a joint resolution to designate the week of June 2, 1985, through June 8, 1985, as "Future Problem Solving Program Week."

SENATE CONCURRENT RESOLUTION 6

At the request of Mr. GLENN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 6, a concurrent resolution expressing the sense of the Congress that the policy of separate development and the forced relocation of South African blacks to designated "homelands" is inconsistent with fundamental American values and internationally recognized principles of human rights and should be discontinued.

SENATE CONCURRENT RESOLUTION 20

At the request of Mr. CRANSTON, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Oklahoma [Mr. NICKLES], the Senator from Nebraska [Mr. ZORINSKY], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Concurrent Resolution 20, a concurrent resolution expressing the sense of the Congress that payments by the Veterans' Administration to veterans as compensation for service-connected disabilities should remain exempt from Federal income taxation.

SENATE CONCURRENT RESOLUTION 36

At the request of Mr. PROXMIRE, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Concurrent Resolution 36, a concurrent resolution expressing the sense of the Congress regarding the establishment of a joint commission between the United States and the Soviet Union to study the concept of "nuclear winter" and its impact for the national security of both nations.

SENATE CONCURRENT RESOLUTION 40

At the request of Mr. COCHRAN, the name of the Senator from Mississippi [Mr. STENNIS] was added as a cosponsor of Senate Concurrent Resolution 40, a concurrent resolution to express the sense of the Congress that the President appoint a bipartisan Commission to study the trade deficit and related problems.

SENATE RESOLUTION 101

At the request of Mr. WILSON, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Resolution 101, a resolution to preseve the tax deduction for charitable contributions.

SENATE RESOLUTION 112

At the request of Mr. COHEN, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Utah [Mr. GARN], and the Senator from Wisconsin [Mr. PROXMIRE] were added as cosponsors of Senate Resolution 112, a resolution relating to bilateral discussions between the United States and the Soviet Union to ban chemical weapons.

SENATE RESOLUTION 148

At the request of Mr. HELMS, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from North Dakota [Mr. BURDICK], the Senator from Florida [Mr. CHILES], the Senator from New Mexico [Mr. DOMENICI], the Senator from North Carolina [Mr. EAST], the Senator from Tennessee [Mr. GORE], the Senator from Wisconsin [Mr. KASTEN], the Senator from Georgia [Mr. MATTINGLY], the Senator from South Dakota [Mr. PRESSLER], the Senator from Arkansas [Mr. PRYOR], the Senator from South Carolina [Mr. THURMOND], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. DIXON], the Senator from Vermont [Mr. LEAHY], the Senator from Georgia [Mr. NUNN], the Senator from Wisconsin [Mr. PROXMIRE], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Resolution 148, a resolution commemorating the 50th anniversary of the Rural Electrification Administration.

SENATE RESOLUTION 154

At the request of Mr. LAUTENBERG, the names of the Senator from Maine [Mr. COHEN], the Senator from Maine [Mr. MITCHELL], the Senator from Texas [Mr. BENTSEN], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Nevada [Mr. LAXALT], the Senator from Missouri [Mr. DANFORTH], the Senator from Missouri [Mr. EAGLETON], the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Alabama [Mr. DENTON] were added as cosponsors of Senate Resolution 154, a resolution to pay tribute to the American Veterans of World War II on the 40th anniversary of V-E Day.

AMENDMENT NO. 24

At the request of Mr. CRANSTON, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of amendment No. 24 intended to be proposed to Senate Concurrent Resolution 32, an original concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1986, 1987, and 1988, and revising the congressional budget for the U.S. Government for the fiscal year 1985.

AMENDMENT NO. 56

At the request of Mr. NICKLES, his name was withdrawn as a cosponsor of amendment No. 56 proposed to Senate Concurrent Resolution 32, an original concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1986, 1987, and 1988, and revising the congressional budget for the U.S. Government for the fiscal year 1985.

SENATE CONCURRENT RESOLUTION 47—COMMEMORATING THE 20TH ANNIVERSARY OF THE ENACTMENT OF THE OLDER AMERICANS ACT

Mr. HEINZ (for himself, Mr. GLENN, Mr. PACKWOOD, Mr. PRYOR, Mr. CHILES, Mr. GORTON, Mr. BENTSEN, Mr. ROTH, Mr. WALLOP, Mr. METZENBAUM, Mr. DOMENICI, Mr. CRANSTON, Mr. GRASSLEY, Mr. PROXMIRE, Mr. ANDREWS, Mr. DODD, Mr. BRADLEY, Mr. BURDICK, Mr. MELCHER, Mr. SIMON, Mr. DENTON, Mr. JOHNSTON, Mrs. HAWKINS, Mr. PRESSLER, Mr. COCHRAN, Mr. LUGAR, Mr. HARKIN, and Mr. SARBANES) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 47

Whereas 1985 marks the 20th anniversary of the enactment of the Older Americans Act of 1965;

Whereas over its 20-year history, the Older Americans Act of 1965 has provided important social and human services to tens of millions of older individuals in their communities helping to promote greater independence for them and maintaining their dignity;

Whereas one of the key elements contributing to the successful implementation of the Older Americans Act of 1965 during this 20-year period was the establishment of the "aging network" which consists of State and area agencies on aging, as well as congregate and home delivered nutrition providers and other supportive service providers;

Whereas the Administration on Aging, created by the Act, has served as a purposeful advocate for the concerns and needs of older individuals;

Whereas the Act has provided important funds for research, training, and demonstration programs to improve, expand, and enhance services to older individuals;

Whereas the Act has provided important part-time community service employment opportunities for low-income older individuals, many of whom work in providing services to other older individuals;

Whereas the Act has sought to address the special needs of older American Indians through grants to Indian tribes;

Whereas the programs and services provided under the Act have been more successful because of the contributing role of volunteers;

Whereas the Act has periodically been amended by Congress in recognition of the changing needs of our rapidly aging society; and

Whereas the Older Americans Act of 1965 serves as a model for the development of community-based services which provide alternatives to institutionalization of older individuals:

Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes the 20th anniversary of the enactment of the Older Americans Act of 1965 and the successful implementation of such Act;

(2) acknowledges the many and varied contributions by all levels of the aging network and recognizes that the Act has achieved its mandate to the extent that it has because of the day-to-day work performed by the aging network; and

(3) reaffirms its support for the Older Americans Act of 1965 and its primary goal of providing services to maintain the dignity and promote the independence of older individuals in the United States.

● Mr. HEINZ. Mr. President, this year marks the 20th anniversary of the enactment of the Older Americans Act of 1965. To commemorate this occasion, I am pleased to submit today a concurrent resolution that pays special tribute to the many and varied contributions by all levels of the aging network, and recognizes the tremendous achievements of the Older Americans Act.

Since 1965, we have seen sweeping changes and expansion of services provided in response to dramatic shifts in the needs of our older citizens, as well as changes in our national policy on aging. The programs under the Older Americans Act have grown in both size and scope. Today, a complex network of 57 State and territorial units on aging, over 660 locally based area agencies on aging, and thousands of senior centers form the foundation for the provision of a wide array of community services to older people. While the budget for these programs in 1966 was $5.7 million, more than $1 billion has been committed to support them in the current fiscal year.

Mr. President, the Older Americans Act is an extraordinary legislative document. It is a comprehensive declaration of the long-term goals of American society with regard to our elderly citizens. The act commits us as a nation to actively work to enhance the quality of life of older Americans. This legislation continues to achieve its objectives of promoting greater independence and providing services designed to maintain the dignity of millions of older individuals.

The coordinated system of services mandated under the act reach into every community in this Nation, making possible a broad range of programs including nutrition, transportation, counseling, and the more intensive home health and social services provided to the frail elderly. Millions of older Americans have benefited from such services. In my own home State of Pennsylvania, I am pleased to say that over $90 million will be expended this year in support of programs initiated under the Older Americans Act. These funds have supported a broad array of services provided by 50 area agencies on aging and more than 520 senior centers throughout the Commonwealth. The social, economic, and emotional benefit derived by over one-half million older Pennsylvanians who participate in these programs annually is immeasurable.

As chairman of the Special Committee on Aging, I have a deep concern for the utility and efficacy of these programs. In case after case, examples abound of hungry individuals being fed, loneliness being met with compassion and caring, and chronic health problems being ameliorated through concerted community efforts. In short, over the past two decades, the Older Americans Act has been an unqualified success story—one that deserves special recognition by Congress.

Mr. President, the month of May has been proclaimed by President Reagan as Older American Month with the theme: "Help Yourself to Independence." The theme and activities being planned during this month are designed to focus public awareness on the needs of older Americans, their abilities, and their rich potential. To pay tribute to the 20th anniversary of the Older Americans Act, the Senate Special Committee on Aging will join with the House Select Committee on Aging and the Federal Council on Aging in presenting a salute to the aging network and the programs under the act. This event is scheduled on May 15, and will be held in the Dirksen Senate Office Building Auditorium. It would indeed be appropriate for both the Senate and the House to adopt this concurrent resolution prior to this occasion. I urge my colleagues who have yet to cosponsor this resolution to join with me and the 27 other cosponsors in acknowledging the immense contributions of the Older Americans Act.●

● Mr. GLENN. Mr. President, I am pleased to cosponsor this concurrent resolution to observe the 20th anniversary of the enactment of the Older Americans Act of 1965—a law that is truly working.

We all remember the 1960's as a tumultuous time in American social history—and as an extraordinarily active time in our country's legislative history; a time when the Civil Rights Act, Medicare, the War on Poverty, and

many other Federal programs were established. For older Americans, the 1960's was especially significant, and one of the programs which emerged during that decade was the Older Americans Act of 1965—the first Federal program specifically designed to meet the social service needs of older persons. Amended again last year—and nine other times since 1965—the Older Americans Act has grown from an original program of small grants into one which now supports an organized network of 57 State units on aging, 662 area agencies on aging, and 25,000 local nutrition and supportive service providers. As the number of valuable services provided under the act multiplied, so did the budget—from $7.5 million in 1966 to over $1 billion in 1985.

The purpose of the act is simple: to increase opportunities for older Americans and to improve the quality of their lives—especially in the areas of income, health, housing, employment, retirement, cultural and community services, and gerontological research. But it is not designed to run their lives—or to infringe on their independence. In fact, one of the act's stated objectives is to help promote older citizens' "freedom, independence, and the free exercise of individual initiative in planning and managing their own lives." And over the past 20 years, the act has largely succeeded in creating a comprehensive service delivery system that helps older Americans remain self-sufficient and independent.

The many successes of the Older Americans Act are especially visible in Ohio. Each day, thousands of older Ohioans gather in 413 senior centers for recreational and social activities; 19,000 meals are served in 456 nutrition sites across the State; and 8,240 meals are delivered to homebound elderly. But that's not all. In addition to providing for basic social and nutritional needs, the Older Americans Act also supports a number of other important services, including employment, counseling, home health care, transportation, adult day care, information and referral, and legal services. All told, over 1 million older Ohioans are served annually.

In 1984, Congress extended the Older Americans Act for an additional 3 years and added several new provisions to benefit older Americans, their families, and their communities. Health education and training programs will be established in senior centers to address various aspects of health awareness and disease prevention. Special priority will be given to the training of people who care for Alzheimer's disease victims and their families. Funding for the Senior Community Service Employment Program—title V—has been increased so that additional low-income elderly citizens can be employed in hospitals, senior centers, and schools.

It is especially fitting that we celebrate the 20th anniversary of the Older Americans Act during May, which is older Americans month. The theme for this year's celebration is "Help Yourself to Independence." Events planned for millions of older Americans will emphasize the roles of the individual, the family, the community, and technology in helping older people enhance their independence.

One of the key elements contributing to the success of the Older Americans Act has been the establishment of the aging network across America. This includes State and area agencies on aging, as well as congregate and home-delivered nutrition providers and other supportive service providers. The staff, volunteers, and participants in the Older Americans Act programs deserve a large round of applause for their efforts and achievements.

I urge my colleagues to join me in reaffirming our support for the Older Americans Act and for its primary goal of providing services to maintain the dignity and promote the independence of senior citizens.●

● Mr. CHILES. Mr. President, I am pleased to join in submitting this concurrent resolution which observes the 20th anniversary of the enactment of a very important piece of legislation for the elderly of our country, the Older Americans Act of 1965.

The Older Americans Act of 1965 is the major Federal vehicle for the coordination and delivery of social services to the elderly. This act grew out of congressional concern for the large percentage of older Americans who were impoverished, and a belief that greater Federal involvement was needed beyond income and health programs. The act became part of a major thrust to improve the life and health of senior citizens. These initiatives brought much of our Nation's elderly population out from under the heavy load of poverty. The act established a structure through which Congress has continually improved aging services.

The Older Americans Act of 1965 was limited in scope and funding. It provided for a Federal Administration on Aging and made minimal grants to state units on aging. The act was identified as a new design in service programs because its chief functions was to act as a coordinator of existing services and programs for the elderly. Thus, the emphasis was on coordinating rather than service providing.

The act grew slowly in the late 1960's, but in the 1970's following the White House Conference on Aging, Congress legislated significant expansions in services for the elderly. I remember that time well. I was a new Senator who listened to thousands of older Floridians who knew we had to do more to care for our elderly. I learned from them then and am still learning from them today, in growing numbers. Many of my colleagues listened also and we followed up on the White House Conference by establishing the nutrition program for the elderly which includes the very popular congregate meals programs and the home delivered meals service. Later, the act was amended to include the area agencies on aging which were intended as the major focal points for aging services in a community. These features of the act have become integral to its tremendous success. With growing support and demand, the appropriations for Older Americans Act programs have increased from $6.5 million in fiscal year 1966 to over $1 billion in fiscal year 1984.

The essential mission of the Older Americans Act has remained the same since its inception—to provide a wide array of social and community services to those older persons in greatest need in order to foster maximum independence. One of the prime features of the act is its decentralized framework which allows more local control over policy decisions to make a very responsive service system in the community. Senior citizens, service providers, and local officials make up advisory councils which direct the local agencies. The Older Americans Act has now evolved into a network of 57 State units of aging, over 660 area agencies on aging, and over 15,000 community organizations providing support services for the elderly. This network incorporates State and local agencies on aging, community volunteers, older citizens, and the public at large into a protective blanket for the elderly. The programs to assist the elderly have become so effective because of those people who have been willing to give their time and energy to those in need.

In my own State, almost 18 percent of the entire population is age 65 or over. The Older Americans Act of 1965 certainly has provided these individuals needed services to improve nutrition, living conditions, and employment possibilities. Florida's seniors and service providers have participated enthusiastically in all of the programs providing for an effective array of services for those in need. Many of my elderly constituents have taken advantage of the Senior Community Service Employment Program which provides for jobs for persons 55 years and older. Also, as the home to 11 million Older Americans, my State has been the recipient of many research and demonstration projects under the Older Americans Act including a grant to design a model program for housing of the elderly, a demonstration for more effective long term care programs, and funding to study Alzheimer's disease day care programs.

It is true that many senior citizens cannot identify an Older Americans Act. But, ask them about their senior center, the home-delivered meal they receive daily, or the ombudsman who visits them in the nursing home, and watch their eyes light up. These programs have not only provided a basic service to millions of our elderly but have also meant far, far more.

Senior centers have become the hub in many communities where a senior knows he or she can find friendship, information and an attentive ear.

A meal delivered to a senior's home and a visit from the home health aide can often allow the resident to remain at home and avoid premature placement in a nursing home.

The visit by the nursing home ombudsman is often the only link with the community the senior resident might have. I am proud to have played a key role in assuring that seniors receive adequate care and attention in nursing homes by establishing this ombudsman program which protects the rights of nursing home patients.

And, may be most importantly, these Older Americans Act programs have given many of our older citizens what they desire most—to feel needed. Most of the programs are operated with thousands of elderly employees and volunteers. The programs really are "their program."

The success of the Older Americans Act programs can best be reflected in a letter I received from an elderly person in my State. She says: "These programs help me so very much. I am proud of myself to know I can earn a few dollars beyond my social security check which is very small. I can buy food and clothes once in a while. Without these programs, I don't know what I and a lot of other elderly people would do."

However with all these successes of the Older Americans Act programs, it still remains a fact in Florida that 12 percent of the elderly had below-poverty incomes in 1979. Obviously, there is much more progress to be made in alleviating the problems of the elderly in our society. The Older Americans Act of 1965 was critical when passed by Congress, and with our elderly population predicted to increase to 21.2 percent by the year 2030, I feel that this act will be utilized even more in the future.●

● Mr. GRASSLEY. Mr. President, I am a cosponsor of this concurrent resolution and rise to urge that my colleagues give it their support. This concurrent resolution is an appropriate acknowledgment of the Older Americans Act which, with the Social Security Act of 1935, is one of the two most important pieces of legislation designed to assist our older citizens which the Congress has passed.

Based on my experience as a charter member of the House Select Committee on Aging, as a member of the Special Committee on Aging from the time I joined the Senate, and as the chairman of the Subcommittee on Aging of the Senate Committee on Labor and Human Resources, I think I can say with confidence that, since its passage in 1965, the Older Americans Act has deservedly enjoyed broad and deep support, both in the Congress and among the general public. The services it authorizes—social and nutrition services, multipurpose senior centers, health education and training programs, and training, research, and demonstration activities, and community service employment programs—have made, and are making, a major difference in the lives of millions of older people. The Older Americans Act network, which includes 57 State and territorial units on aging, over 670 area agencies on aging, and thousands of senior centers and nutrition sites, is now active in every community in the land and has been, and is, the effective administrator of the programs authorized under the act.

Mr. President, the Older Americans Act programs have grown manyfold since the act's passage in 1965, from approximately $6 million to approximately $1 billion. It is part of the genius of the Older Americans Act that it has been able to grow incrementally over the years and has been able to closely conform to the needs of our States and localities. Perhaps the main reason for this is that the Older Americans Act has been decentralized both in spirit and in administration, and thus has allowed the State units on aging and the area agencies on aging in each State to develop programs best suited to the needs of their constituents. It is this strong orientation toward local needs that has contributed to the broad and deep support enjoyed by the act and the network it has created. It is also this flexible, decentralized structure which has allowed the Congress to amend the Older Americans Act from time to time in light of national needs, and yet feel confident that the State and area agencies on aging will adapt national dictates made through amendments to the act to the specific circumstances faced by their constituents.

I think we can feel confident, Mr. President, that the Older Americans Act is well designed to continue contributing to the well-being of our older citizens and that the network it establishes will be able to adapt to the challenges we know the future is going to bring.●

SENATE RESOLUTION 156—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. GOLDWATER, from the Committee on Armed Services, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 156

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 1029, a bill to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1986, and for other purposes.

Such a waiver is necessary because section 303(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) which provides new spending authority described in section 401(c)(2)(C) of such Act to become effective during a fiscal year until the first concurrent resolution on the budget for such year has been agreed to pursuant to section 301 of such Act.

For the foregoing reasons, pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to S. 1029, as reported by the Senate Armed Services Committee.

SENATE RESOLUTION 157—ESTABLISHING A TEMPORARY SELECT COMMITTEE TO STUDY THE CONGRESSIONAL BUDGET PROCESS

Mr. EVANS (for himself, Mr. QUAYLE, and Mr. MATTINGLY) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 157

To establish a temporary select committee to study the congressional budget process, including proposals for a two-year budget and other aspects of the congressional budget process.

SEC. 1. (a)(1) There is established, for the duration of the first session of the 99th Congress, a select committee of the Senate to be known as the Select Committee on the Two Year Budget (hereafter in this section referred to as the "select committee"). The select committee shall be composed of twelve members of the Senate, six from the majority party and six from the minority party to be appointed by the President of the Senate upon the recommendation of the majority leader and the minority leader.

(2) Of the twelve members—

(A) two members shall be from the Committee on the Budget;

(B) two members shall be from the Committee on Rules and Administration;

(C) two members shall be from the Committee on Governmental Affairs;

(D) two members shall be from the Committee on Appropriations;

(E) two members shall be from the Committee on Finance; and

(F) two members shall be from the Senate at large.

(3) The majority leader shall select a chairman from among its majority members and the minority leader shall select a cochairman from among its minority members.

(b)(1) A majority of the members of the select committee shall constitute a quorum

for the transaction of business, except that the select committee may fix a lesser number as a quorum for the purpose of taking sworn testimony.

(2) Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the committee, and shall be filled in the same manner as original appointments are made.

(3) The select committee shall adopt rules of procedure not inconsistent with the rules of the Senate governing standing committees of the Senate.

(4) Service of a Senator as a member or as chairman of the select committee shall not be taken into account for the purposes of paragraph 4 of rule XXV of the Standing Rules of the Senate.

(c)(1) It shall be the duty of the select committee to—

(A) study and review legislative proposals to improve the operation of the congressional budget process, including proposals for the two-year budget; and

(B) recommend specific legislation to improve the operation and enforcement of the congressional budget process, including the components of the two-year budgeting.

In carrying out clause (A) of this paragraph the select committee shall pay particular attention to the need to free the time of Senators from unnecessary repetitive operations, to encourage oversight of enacted legislation by committees, to provide better financial and management information by determining the feasibility of proposals found in the U.S. General Accounting Office study entitled, "Managing the Cost of Government: Building an Effective Financial Management Structure," to provide stable funding expectations to State and local governments, and to maintain accurate budgetary estimates and assessments of national needs and priorities.

In further carrying out clause (A) of this paragraph the select committee shall pay particular attention to establish a two-fiscal-year budget cycle; to change the fiscal year to coincide with the calendar year; to require all program budget authority and outlays to be accounted for on-budget; to provide for (i) reconciliation pursuant to the first concurrent resolution on the budget for a fiscal year, (ii) enforcement of the first concurrent resolution on the budget pursuant to section 311 of the Congressional Budget and Impounding Act of 1974, and (iii) elimination of the requirement that a second concurrent resolution be adopted for each fiscal year; to require an affirmative vote by two-thirds of all Members duly chosen and sworn to override a point of order raised under section 31 of such Act; to establish a budget that sets forth separately the budget authority and outlays provided for the acquisition of capital assets by the Federal Government; and to require periodic submission by the President a financial statement setting forth the assets and liabilities of the Federal Government in accordance with generally accepted auditing standards.

(2) The select committee shall report and make recommendations to the Senate within 180 days after the adoption of this resolution.

(d)(1) The select committee is authorized (A) to employ personnel, (B) to make expenditures from the contingent fund of the Senate, (C) to hold hearings, and (D) to sit and act at any time or place.

(2) With the consent of the chairman and ranking minority member of any other committee of the Senate, the select committee may utilize the facilities and the services of the staff of such other committee of the Senate, or any subcommittee thereof, whenever the chairman and the cochairman of the select committee determines that such action is necessary and appropriate.

(e) Expenses of the select committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee.

Mr. EVANS. Mr. President, I am introducing today a resolution to establish a temporary select committee to study the congressional budget process. Reform is needed and analysis is required in order to proceed.

This resolution parallels the recommendation offered by the Quayle committee. It calls for the establishment of a select committee to study the congressional budget process and directs the majority and minority leaders to select a chairman and cochairman from its members.

The temporary committee is composed of 12 members, half from the majority and half from the minority. Of the 12 members, 2 will be appointed from each of the Committees on the Budget, Rules and Administration, Government Affairs, Appropriations, and Finance and 2 members from the Senate at large.

It is the duty of the select committee to study and review ways to improve the operation of the congressional budget process. Beyond the Quayle proposal, this resolution asks for a review of the proposals found in the GAO study entitled, "Managing the Cost of Government: Building an Effective Management Structure," questions the establishment of a binding first concurrent budget resolution, and examines the feasibility to require periodic submission by the President a financial statement setting forth the assets and liabilities of the Federal Government in accordance with generally accepted auditing standards.

The splendid job performed by the Quayle committee and the recommendations presented have not produced the results many of us had anticipated. But if we narrow our focus and if we take one issue at a time, we can move ahead slowly and tackle the budget process—a process which appears to encompass many of our frustrations.

Let me point out a few of these frustrations.

First, deadlines missed and continuing resolutions accepted have become the standard, not the exception. The unpleasant experience of last October, presented this Nation with a continuing resolution which included 8 of 13 funding bills and $500 billion of Government spending and, in addition, was delayed to the extent that 500,000 Government workers were placed on furlough.

It should be noted, however, that Senators DOMENICI and HATFIELD, as chairmen of the Budget and Appropriations Committees, have performed yeoman's work given the budget process within which they must operate.

Second, the complex procedures and numerous stages of the budget process lead to conflict rather than consensus, while continuous duplication replaces resolution.

For example, since President Reagan took office in 1981, the House and the Senate have recorded 40 separate votes on the MX missile, most of them necessitated by the cumbersome budget process. Furthermore, 25 votes were recorded in the Senate on a 1981 budget bill and 55 votes for a tax-cut bill during the same year. During a 3-month period in 1983, the House staged 27 votes on the nuclear freeze, including 11 in 1 week. Many more examples can be recited, with frustration growing with each reference.

Congress cannot continue to support a process of annual budgets that dictate the impossible, rather than reflect the necessary; misinform the public; and confuse the Members themselves.

Mr. President, 21 States now adopt 2-year budget. It has worked. And we can learn from their experience.

I found as Governor of Washington State the 2-year budget cycle a remarkably better system than any type of annual budget process. The 2-year process in the State of Washington effectively reduced the demand for budget increases and provided an opportunity for enhanced planning and program oversight. We were able to ensure moneys appropriated in the first year were being properly used in the second. And, if emergencies arose, we responded with supplemental budgets in the second year of the cycle. It should be noted, however, that second-year budget additions remained low or nonexistent as a result of executive, legislative, and public pressure to control Government spending.

Finally, a 2-year approportions would be linked with the first nonelection year of the 2-year period. This effectively removes the many political pressures from the budget or, at least, substantially reduces their influence. The second year should focus on detailed program oversight and evaluation.

I was pleased to read that the Senate Armed Services Committee has recommended in its fiscal year 1986 defense authorization bill that the Defense Department move toward a 2-year budget cycle. The Secretary of Defense also endorsed the concept and indicated his willingness to cooperate. What about the numerous Senators who testified in support? So there is a growing consensus on the desirability of achieving a 2-year budget to provide more oversight and stability to our

system of budgeting for this Nation's needs.

Mr. President, we must reach a consensus on a budget process to which a commitment of control can be made. The select committee provides us with a foundation for change and an opportunity to build a process that we can all live within.

Mr. QUAYLE. Mr. President, I am pleased to cosponsor this resolution to establish a committee with jurisdiction to examine the budget process offered by Senator EVANS. I am confident that the committee will recommend a 2-year budget process which I have long advocated. At present, three different committees have jurisdiction over the Budget Act making it almost impossible to enact any changes. By consolidating jurisdiction, action becomes possible—and we all know that action is necessary.

This resolution is in essence the same as section 7 of the resolution unanimously reported by the Temporary Select Committee to Study the Senate Committee System which I had the honor to chair in the last Congress. That resolution, introduced as Senate Resolution 31 and cosponsored by my distinguished cochairman, Senator FORD from Kentucky, currently languishes in the Committee on Rules.

Many of us hoped that the beginning of the 99th Congress would see a significant effort toward reform of the Senate as an institution along the lines recommended by the select committee. I know the Senator from Washington was one of those who shared that hope. However, there is a time for realism as well as for idealism. If we cannot get broad scale reform, let us at least begin to try to tackle one of our most pressing problems by establishing a workable mechanism to reform the budget process.

AMENDMENTS SUBMITTED

FIRST CONCURRENT RESOLUTION ON THE BUDGET

MOYNIHAN (AND LAUTENBERG) AMENDMENT NO. 57

Mr. MOYNIHAN (for himself and Mr. LAUTENBERG) proposed an amendment which was subsequently modified to amendment No. 43 proposed by Mr. DOLE (and Mr. DOMENICI) to the motion to recommit with instructions, the concurrent resolution (S. Con. Res. 32) setting forth the congressional budget for the U.S. Government for fiscal years 1986, 1987, and 1988 and revising the congressional budget for the U.S. Government for the fiscal year 1985; as follows:

On page 38, line 14, add the following: "The Committee on Banking, Housing, and Urban Affairs shall also report changes in laws within its jurisdiction to provide for a pilot program for the sale without recourse of up to $10 billion annually in each fiscal year 1986, 1987, 1988, the first year of which direct loans under title V of the Housing Act of 1949 to one or more federally chartered entities on an overcollateralized basis. Overcollateralization means that the Secretary of Agriculture, in consultation with whatever investment counsel he deems necessary, shall designate a pool of Government-owned loans to serve as collateral for the loans sold under this pilot program. The amount of loans to be designated for collateralization shall be determined by the Secretary of Agriculture with whatever investment counsel he deems necessary. Loans designated to serve as collateral will be eligible for acquisition by the private sector buyer (the federally chartered entity) in the event that any loans purchased are delinquent for 30 days or more. If this occurs, the delinquent loans shall be reacquired by the Department of Agriculture when the Government substitutes a new loan in place of the delinquent loan. At this time all cash proceeds from the delinquent loan, including interest income and principal repayment revert to the Federal Government.

"This procedure is to be construed as a straightforward contract specifying the use of predesignated collateral. The arrangement is to be viewed by a prospective purchaser as an adequately collateralized purchase as would occur between any two private sector entities, and it is not to be construed by a prospective purchaser or other interested party as a Federal guarantee of any form.

"Net proceeds for the loan sale in FY 1986 will be deposited in the rural housing insurance revolving fund and may be used for funding new loans under title V of the Housing Act of 1949 pending congressional authorization.

"In all instances, the terms and conditions of the Housing Act of 1949 shall apply to the servicing of loans sold or subsequently acquired under this pilot program.".

On page 45, line 12, and the following: "The Committee on Banking, Finance, and Urban Affairs shall also report changes in laws within its jurisdiction to provide for a pilot program for the sale without recourse of up to $10,000,000,000 of direct loans under title V of the Housing Act of 1949 to one or more federally chartered entities on an overcollateralized basis. Overcollateralization means that the Secretary of Agriculture, in consultation with whatever investment counsel he deems necessary, shall designate a pool of Government-owned loans to serve as collateral for the loans sold under this pilot program. The amount of loans to be designated for collateralization shall be determined by the Secretary of Agriculture with whatever investment counsel he deems necessary. Loans designated to serve as collateral will be eligible for acquisition by the private sector buyer (the federally chartered entity) in the event that any loans purchased are delinquent for 30 days or more. If this occurs, the delinquent loans shall be reacquired by the Department of Agriculture when the Government substitutes a new loan in place of the delinquent loan. At this time all cash proceeds from the delinquent loan, including interest income and principal repayment revert to the Federal Government.

"This procedure is to be construed as a straightforward contract specifying the use of predesignated collateral. The arrangement is to be viewed by a prospective purchaser as an adequately collateralized purchase as would occur between any two private sector entities, and it is not to be construed by a prospective purchaser or other interested party as a Federal guarantee of any form.

"In consultation with whatever investment counsel deemed necessary by the Secretary of Agriculture, the value of the loans sold shall be determined by their face value discounted by an amount necessary to equate the contracted interest payments on the loan with current yields on Treasury securities of the same duration. This current rate value may be greater than the face value of the loans sold if Treasury rates prevailing at the time of the sale are lower than the loan's original rate.

"Net proceeds for the loan sale will be deposited in the rural housing insurance revolving fund and may be used for funding new loans under title V of the Housing Act of 1949 pending congressional authorization.

"In all instances, the terms and conditions of the Housing Act of 1949 shall apply to the servicing of loans sold or subsequently acquired under this pilot program.".

In subsequent years, FY1987 and FY1988, the Office of Management and Budget and the Secretary of the Treasury shall design and implement the loan sale to yield at least $8 billion annually.

SYMMS AMENDMENT NO. 58

Mr. SYMMS proposed an amendment to amendment No. 43 proposed by Mr. DOLE (and Mr. DOMENICI) to the motion to recommit with instructions the concurrent resolution Senate Concurrent Resolution 32, supra; as follows:

In the pending amendment, do the following:

On page 3, decrease the amount on line 12 by $100,000,000.

On page 3, decrease the amount on line 13 by $100,000,000.

On page 3, decrease the amount on line 14 by $100,000,000.

On page 3, decrease the amount on line 18 by $100,000,000.

On page 3, decrease the amount on line 19 by $100,000,000.

On page 3, decrease the amount on line 20 by $100,000,000.

On page 3, decrease the amount on line 25 by $100,000,000.

On page 4, decrease the amount on line 1 by $100,000,000.

On page 4, decrease the amount on line 2 by $100,000,000.

On page 4, decrease the amount on line 6 by $100,000,000.

On page 4, decrease the amount on line 7 by $200,000,000.

On page 4, decrease the amount on line 8 by $300,000,000.

On page 4, decrease the amount on line 12 by $100,000,000.

On page 4, decrease the amount on line 13 by $100,000,000.

On page 4, decrease the amount on line 14 by $100,000,000.

On page 8, decrease the amount on line 1 by $200,000,000.

On page 8, decrease the amount on line 2 by $200,000,000.

On page 8, decrease the amount on line 10 by $200,000,000.

On page 8, decrease the amount on line 11 by $200,000,000.

On page 8, decrease the amount on line 19 by $200,000,000.
On page 8, decrease the amount on line 20 by $200,000,000.
On page 13, increase the amount on line 20 by $100,000,000.
On page 13, increase the amount on line 21 by $100,000,000.
On page 14, increase the amount on line 4 by $100,000,000.
On page 14, increase the amount on line 5 by $100,000,000.
On page 14, increase the amount on line 13 by $100,000,000.
On page 14, increase the amount on line 14 by $100,000,000.
On page 37, decrease the first amount on line 11 by $100,000,000.
On page 37, decrease the second amount on line 11 by $100,000,000.
On page 37, decrease the amount on line 12 by $100,000,000.
On page 37, decrease the amount on line 13 by $100,000,000.
On page 37, decrease the first amount on line 14 by $100,000,000.
On page 37, decrease the second amount on line 14 by $100,000,000.
On page 41, increase the amount on line 3 by $200,000,000.
On page 41, increase the amount on line 4 by $200,000,000.
On page 41, increase the first amount on line 5 by $200,000,000.
On page 41, increase the second amount on line 5 by $200,000,000.
On page 41, increase the amount on line 6 by $200,000,000.
On page 41, increase the amount on line 7 by $200,000,000.
On page 44, decrease the amount on line 10 by $100,000,000.
On page 44, decrease the amount on line 11 by $100,000,000.
On page 44, decrease the first amount on line 12 by $100,000,000.
On page 44, decrease the second amount on line 12 by $100,000,000.
On page 44, decrease the amount on line 13 by $100,000,000.
On page 44, decrease the amount on line 14 by $100,000,000.
On page 46, increase the amount on line 23 by $200,000,000.
On page 46, increase the amount on line 24 by $200,000,000.
On page 46, increase the first amount on line 25 by $200,000,000.
On page 46, increase the second amount on line 25 by $200,000,000.
On page 47, increase the amount on line 1 by $200,000,000.
On page 47, increase the amount on line 2 by $200,000,000.
On page 52, decrease the amount on line 1 by $100,000,000.
On page 52, decrease the amount on line 3 by $100,000,000.
On page 52, decrease the amount on line 4 by $100,000,000.

SPECTER AMENDMENT NO. 59

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to amendment No. 43 proposed by Mr. DOLE (and Mr. DOMENICI) to the motion to recommit with instructions the concurrent resolution S. Con. Res. 32, supra; as follows:

On page 3, increase the amount on line 12 by $600,000,000.
On page 3, increase the amount on line 13 by $700,000,000.
On page 3, increase the amount on line 14 by $700,000,000.
On page 3, increase the amount on line 18 by $500,000,000.
On page 3, increase the amount on line 19 by $700,000,000.
On page 3, increase the amount on line 20 by $700,000,000.
On page 3, increase the amount on line 25 by $500,000,000.
On page 4, increase the amount on line 1 by $700,000,000.
On page 4, increase the amount on line 2 by $700,000,000.
On page 4, increase the amount on line 6 by $500,000,000.
On page 4, increase the amount on line 7 by $1,200,000,000.
On page 4, increase the amount on line 8 by $1,900,000,000.
On page 4, increase the amount on line 12 by $500,000,000.
On page 4, increase the amount on line 13 by $700,000,000.
On page 4, increase the amount on line 14 by $700,000,000.
On page 16, increase the amount on line 20 by $600,000,000.
On page 16, increase the amount on line 21 by $500,000,000.
On page 17, increase the amount on line 4 by $600,000,000.
On page 17, increase the amount on line 5 by $600,000,000.
On page 17, increase the amount on line 13 by $600,000,000.
On page 17, increase the amount on line 14 by $600,000,000.
On page 33, increase the amount on line 2 by $100,000,000.
On page 33, increase the amount on line 3 by $100,000,000.
On page 33, increase the amount on line 11 by $100,000,000.
On page 33, increase the amount on line 12 by $100,000,000.
On page 38, decrease the first amount on line 24 by $616,000,000.
On page 38, decrease the second amount on line 24 by $536,000,000.
On page 38, decrease the amount on line 25 by $616,000,000.
On page 39, decrease the amount on line 1 by $577,000,000.
On page 39, decrease the first amount on line 2 by $616,000,000.
On page 39, decrease the second amount on line 2 by $616,000,000.
On page 46, decrease the amount on line 9 by $616,000,000.
On page 46, decrease the amount on line 10 by $536,000,000.
On page 46, decrease the first amount on line 11 by $616,000,000.
On page 46, decrease the second amount on line 11 by $577,000,000.
On page 46, decrease the amount on line 12 by $616,000,000.
On page 46, decrease the amount on line 13 by $616,000,000.
On page 52, increase the amount on line 1 by $600,000,000.
On page 52, increase the amount on line 3 by $600,000,000.
On page 52, increase the amount on line 4 by $600,000,000.

SACCHARINE STUDY AND LABELING ACT AMENDMENTS

METZENBAUM AMENDMENT NO. 60

Mr. METZENBAUM proposed an amendment to the bill (S. 484) to amend the Saccharine Study and Labeling Act; as follows:

At the end of the bill, add the following:

SEC. 2. (a) Section 403 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new paragraph:

"(q) If it is a soft drink which contains aspartame, unless its label or labeling states the total number of milligrams of aspartame contained in each serving of such soft drink.".

(b) The provisions of section 403(q) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section) shall take effect no later than eighteen months after the date of enactment of this Act.

ADDITIONAL STATEMENTS

GENE CHEATHAM: TENNESSEE'S SMALL BUSINESS PERSON OF THE YEAR

● Mr. SASSER. Mr. President, this week we are honoring the men and women who make up perhaps the most important segment of our economy, small business. May 5-11 has been proclaimed "Small Business Week." This allows us an opportunity to take time to call attention to small business owners and operators from across the country who best exemplify the contributions small firms make to this Nation.

This year, Tennessee's Small Business Person of the Year is Eugene Cheatham III, the president of Advanced Integrated Technology headquartered in Columbia, TN. Gene's story of success with AIT is one worthy of the honors bestowed upon him this week and stands as a fine example of what dedication and commitment to an idea can bring to a budding small business.

Gene opened AIT for business in Tennessee in 1979. He recognized the favorable business trends surrounding the computer and computer-related industries and jumped into this highly competitive field. AIT, with its three employees, specialized in hardware and software minicomputer applications. In addition, Gene was able to secure a distributorship with Digital Equipment Corp.

In that first year of business, Gene's sales totaled $250,000. Thanks to Gene's vision and energy, that figure has grown steadily year after year. By 1984, sales totaled about $4 million. Over that same period, AIT's work force has grown from 3 to 15. The list of clients who have come to rely on the services of Gene Cheatham and

AIT are quite impressive indeed: Westinghouse, DuPont, Union Carbide, Bendix, and General Electric to name a few. In addition to extensive client growth in the private sector, Gene has sought to expand his client base by doing business with the Federal Government.

What all these clients, including the Government, have found in Gene Cheatham is an articulate, thoughtful small business owner. I base these observations on my own dealings with Gene, Mr. President.

In October of 1983, I chaired field hearings of the Senate Small Business Committee in Nashville, TN, to explore barriers facing small businesses which desired to do business with the Federal Government. I was fortunate enough to have Gene testify before the committee at that hearing. I came away from that hearing impressed with what I heard from Gene. He provided keen insight and constructive criticism of the procurement system and suggested steps we could take to aid those small firms who want nothing but a fighting chance on a Government contract. I believe we have started down the road of improvements which Gene and others help point out.

Since that time, my office has had the good fortune of working with Gene on a number of projects. And I am grateful that I have found in Gene a voice for small business concerns in Tennessee. Moreover, Gene has not limited himself to concerns that directly affect the day-to-day operations of AIT.

Indeed, Gene exemplifies a trait shared by many successful small business owners, a willingness to share their knowledge and experience with others.

One can see the lending hand Gene has extended through his association with several organizations in Tennessee. He serves on the advisory boards to the Tennessee State Employment Securities Commission, the TVA-Tennessee State University Private Enterprises Incubation Center and the Tennessee State University Business School among others. And lest one think Gene confines himself to the interests of the business community, he has been active in community affairs as well, especially those pertaining to soccer.

This mixing of business success with community concern helps explain success stories such as Gene Cheatham and AIT. It also explains the importance that myself and others attach to the small business community. Therefore, I am pleased that we have chosen to honor these business leaders this week and I am proud that Gene Cheatham has been selected as Tennessee's "Small Business Person of the Year" for 1985. In conclusion, I again congratulate Gene on this achievement.●

OUTSTANDING SOUTH DAKOTA SMALL BUSINESS LEADERS

● Mr. PRESSLER. Mr. President, as we begin Small Business Week 1985, I rise to congratulate several individuals from my home State of South Dakota who have distinguished themselves as small business leaders.

Tony Bour, vice president and general manager of Starmark, Inc., of Sioux Falls, SD, has been named our State's Small Business Person of the Year. Tony formed Starmark in 1979 with only three employees. He has built the corporation to its current level of 135 employees, nearly doubled its manufacturing area in the past year alone, and is still very much on the grow. What started as a small firm with its roots planted in the philosophy of a people-oriented business now has dealers in 29 States.

Tim Giago, editor of the Lakota Times, published in Martin, SD, on the Pine Ridge Indian Reservation is this year's Media Advocate of the Year. Tim, a native of Pine Ridge, started the Lakota Times in 1981 and has built his quality publication into the largest privately owned and operated Indian newspaper in the United States, with a weekly circulation of over 6,000 copies.

Herb Bowden of Sencore, Inc., in Sioux Falls, SD, was selected as the Small Business Exporter of the Year. Sencore has become one of the world's leading manufacturers of electronic testing equipment with 20 production lines. The corporation has been exporting to Japan, England, Austria, West Germany, and recently established distributorships in Taiwan, India, and New Zealand. Sencore's spirit of excellence continues as it strives to combine into one machine all diagnostic features that electronic repairmen require.

Finally, Gene Murphy has been selected as the Veteran Advocate of the Year. He is a fellow Vietnam veteran and is combat disabled. Gene's handicap has not prevented him from aggressive leadership. He was one of the prime organizers and promoters of a Small Business Veterans Conference held in Sioux Falls, SD, last fall. His numerous activities were also recognized when he was named the U.S. Outstanding Disabled Veteran of 1984 by the National Disabled Veterans Organization.

As a member of the Senate Small Business Committee, I know how vitally important small businesses are to our country's economy. Most of the new jobs created, even during times of economic recession, come from the small business sector. Each of these individuals has reason to be proud of his leadership in building a stronger economy. Each of us should take a moment to commend them for their entrepreneurial spirit.●

THE PEABODY AWARD FOR DICK KAY

● Mr. DIXON. Mr. President, I rise to recognize the accomplishments of one of our country's finest journalists, Mr. Dick Kay, who is political editor and commentator at WMAQ-TV in Chicago.

Dick Kay, has recently been awarded the prestigious George Foster Peabody Award for a series of investigative reports and commentaries probing widespread financial waste and corruption within the Illinois legislative commission system.

As a result of the series, legislation was enacted in Illinois that will save the taxpayers of my State several millions of dollars.

The Peabody awards are presented annually by the Henry W. Grady School of Journalism and Mass Communications at the University of Georgia.

Since their inception in 1939, the awards have sought to emphasize quality and distinguished service, and are one of the industry's most highly valued honors, representing the achievement of excellence in broadcast journalism.

In addition, Dick Kay, and his able producers for this series, Katy Smyser and V.J. McAleer, were awarded the Illinois Associated Press Award, the Jacob Scher Award from women in communications and the National Headliner Award from the Atlantic City Press Club.

Mr. President, the State of Illinois and the city of Chicago are proud of their native son, Dick Kay. He began his career in Peoria, a town where so many great broadcasters got their start. He has spent 25 years in broadcasting, the last 17 of them at WMAQ in Chicago.

The Peabody Award is another tribute to Dick Kay's fine reporting. He has also been the recipient of six Chicago Emmy Awards for excellence in broadcasting and investigative journalism.

To Dick Kay, and to all concerned with the production of his reports, my congratulations.●

REV. BENJAMIN WEIR

● Mr. GLENN. Mr. President, today marks a special anniversary—40 years ago the war in Europe ended. I add my best wishes to those expressed by my colleagues on the 40th anniversary of V-E Day. As a veteran of World War II, I remember the joy and relief that V-E Day brought to me. The passage of 40 years has not diminished those feelings.

I rise today, however, to observe another anniversary. This one is not so joyful. Today is the first anniversary of the kidnaping of the Reverend Benjamin Weir in Lebanon. Few Ameri-

cans are aware of the plight of Reverend Weir. The interest generated by his kidnaping waned rapidly after his abduction. During the course of his year of captivity, he has virtually become a forgotten man.

The Reverend Weir is not alone in his captivity. Four other Americans are also being held: William Buckley, an official of the U.S. Embassy in Beirut, kidnaped in March 1984; Peter Kilburn, a librarian at the American University in Beirut, reported missing in December 1984; Father Lawrence Jenco, a Catholic priest, kidnaped in January 1985; and Terry Anderson, an employee of the Associated Press, kidnaped in March 1985. The families of these men should not be made to endure the uncertainties and heartbreak of being separated from loved ones.

Unfortunately, the possibility of similar terrorist-inspired incidents is real and will undoubtedly persist. The threat that terrorists pose to Americans everywhere in the world is growing dramatically. I am disturbed by the increases in international terrorism over the past three decades, and the level of terrorism directed against U.S. personnel and property in recent years has been particularly alarming. The recent tragedies in Lebanon have been painful reminders of this trend.

I have recently contacted Secretary of State George Shultz to express my concern about the Reverend Weir. I have been assured that the Department of State is doing all it can to effect the release of Reverend Weir and the four other American hostages. As the situation in Lebanon becomes more and more desperate, however, I urge the Department of State to redouble its efforts so that these hostages may be safely and expeditiously reunited with their families. I also call upon my colleagues in the Congress not to forget the plight of these hostages, and I encourage them to offer their support to those responsible for gaining their release.●

THE FOREIGN SERVICE

● Mr. MATHIAS. Mr. President, few Americans know of or appreciate fully the contributions being made by our career diplomats stationed abroad. These men and women serve their country under conditions that frequently are difficult and dangerous. They are asked to do much but receive little recognition of their sacrifices.

It was heartening, therefore, for me to come upon an eloquent tribute to our career diplomats written by a U.S. Ambassador who is not a member of the career service.

Joseph Verner Reed has served as U.S. Ambassador to Morocco since 1981. Prior to that, he was an international banker.

In the March 26, 1985, issue of the Wall Street Journal, in an article entitled "Diplomats Abroad: Time To Restore Morale," Ambassador Reed writes of "those unsung, underpaid, and undervalued" American diplomats with whom he has worked for the last 4 years. His article is an important contribution to setting the record straight with respect to our representatives abroad. It deserves to be widely read. I ask that Ambassador Reed's article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Mar. 26, 1985]

DIPLOMATS ABROAD: TIME TO RESTORE MORALE

(By Joseph Verner Reed)

How relevant are career diplomats, the proverbial boys in striped pants, in a profession where the vital interests and rules of play of U.S. foreign policy are often ill defined, even murky? As a non-career diplomat now serving as U.S. ambassador to Morocco, I have come to believe they are vitally important.

While serving abroad I have found many parallels with my previous experience as an executive in a bank comparable with the State Department in size and world-wide interests. Yet, there are many differences. In banking or business, management by objective and therefore achievement is far more measurable; motivation more clear-cut. In government, responsibility is diffuse, hiring and firing almost impossible, and the buck rarely stops anywhere.

The Foreign Service has been maligned, even called "gutless" by another ambassador, yet it is often a more dangerous occupation than serving in our armed forces. Far more ambassadors than generals are shot at each year. In the past two years, three embassies have been obliterated, 19 U.S. diplomats assassinated and 59 others have been the victims of terrorist attack. One needs to be continually alert to security threats. Few in the medium-sized embassy head have not had close friends murdered in "peacetime" in the line of duty. And yet there is little public support for our professional diplomats.

Nor is "daily life" especially easy, even in a welcoming environment like Morocco. For example, secretaries, usually without training in the local language, are isolated here in a foreign, male-oriented culture. Elsewhere—in Kabul, Afghanistan; Beirut, Lebanon, or Bogota, Colombia, for example—day-to-day survival is uppermost. At all posts, code clerks and others work long hours in windowless vaults and everyone is on active call 24 hours a day, seven days a week.

Among our diplomats, decades of haphazard reform and contradictory plans have undercut morale and confidence in promotion for merit. The 1980 Foreign Service Act required the restructuring of our diplomatic corps so as to reduce a then-existing surplus of senior officers. But it has also resulted in the promotion of only a tiny fraction of midcareer officers. If not promoted into the Senior Service within a fixed number of years, many of these officers face forced retirement in their 40s at the taxpayer's expense. The result of this gross inequity is resignation by those with other options or a "take what you can get" attitude by many who stay.

As ambassador, I have found in our Morocco mission loyalty and teamwork, as well as drive, inventiveness and a willingness to go the extra mile. The professional staff in our embassies is clearly on a par with the best in industry, but unsung, underpaid and undervalued at home. the individual officers are, in short, far better than the system they serve.

The department cries out for long-term, enlightened management to motivate and lead our diplomats. The last years of the 20th century will not be easy. We face a new generation of Soviet leaders, the most crucial disarmament talks in history and widespread famines. To cope with these challenges we should take pride in our career diplomats and build up their morale. Ours is still the best diplomatic corps in the world, and as a nation we neglect this wasting asset at our peril.●

I'LL NEVER SAY I TOLD YOU SO—PART 3

● Mr. JOHNSTON. Mr. President, on Sunday, May 5, 1985, the Washington Post business section carried a very interesting article by staff writer Mark Potts entitled "Does Another Oil Shock Lie Ahead?" I ask that this article be printed in the RECORD at the conclusion of my remarks.

These remarks will be brief. The restructuring of the oil industry that is taking place in response to the corporate raids of T. Boone Pickens and his immitators is leaving us far weaker in terms of our industrial capacity and weaker as a nation as a whole.

Our oil companies cannot take the actions they must take to fend off unfriendly takeovers that Pickens has led and is inspiring without reducing efforts to explore for new supplies of oil.

These reductions in exploration will inevitably lead to much lower U.S. oil production in the 1990's as companies increasingly concentrate their scarce exploration dollars overseas. As Bruce Lazier, oil-industry analyst for the Wall Street firm of Prescott, Ball & Turben says in the article:

> The companies are acting rationally individually, but they're setting us up for another price trap by the Persian Gulf countries in the 1990's.

For the foreseeable future, Persian Gulf producers will be conserving their supply relative to the rest of the world. Reserve to production ratios in the Persian Gulf are 100 years or more. In the United States the ratio is 8 years.

In the United States our reserves are dropping steadily while production inches upwards. Collectively, we are producing fast to get rich now. We are borrowing from the future.

Our exploration efforts have been finding about one-third as much oil as we produce each year. Because of the actions of the corporate raiders the U.S. oil industry will be finding even less in the future.

One of the biggest reasons for the current oil glut is the price spike that took place in 1979. The reaction of world economies in reducing demand to respond to that price spike has put severe pressure on OPEC. As a result, the price is coming down. This is the conventional wisdom.

However, certainly at least as important has been the fact that during the 1970's the Alaskan North Slope, the United Kingdom, and Mexico added about 7.6 million barrels per day to world oil supplies that was not there in 1974. The first two of these sources have now peaked and will enter their decline phases by 1990. The last, Mexico, will use most of any production increases it can manage internally.

The geologists tell us that nothing remotely resembling these supply sources is likely to be found outside the Persian Gulf. Thus there is a real danger that world oil importers could once again find themselves dependent on the Persian Gulf for the marginal supply of oil. This is exactly what led to the 1973 and 1979 price shocks.

In the meantime, in the United States we are indulging in the luxury of allowing speculators to feed on the very oil companies whose exploration efforts could buy time for us. In our collective fascination with getting rich quick from a windfall we are hastening the time when, because of the nature-given imbalance in the distribution of crude oil reserves in the world, the United States of America, considered by some the most powerful nation in existence, will once again be forced to alter its foreign and domestic policies, helplessly contemplate the discomfort of its citizens, and postpone a decade of worthwhile investments that might bring real progress for the species while we pay exorbitant prices to a handful of oil producers in the Persian Gulf.

I'll never say I told you so.

The article follows:

DOES ANOTHER OIL SHOCK LIE AHEAD?

(By Mark Potts)

The dramatic financial restructuring of the oil industry through two years of mergers and hostile takeovers may be setting the stage for an oil shock in the early part of the next decade, some analysts warn.

"Everything that's going on just points to . . . a reversal of the oil glut in the 1990s," said Bruce Lazier, an oil-industry analyst for the Wall Street firm of Prescott Ball & Turben. "The companies are acting rationally individually, but they're setting us up for another price trap by the Persian Gulf countries in the 1990s."

As oil companies go heavily into debt to buy their own stock and as they roll back exploration and production efforts to cut costs, they may be jeopardizing the development of new sources of oil, some experts fear. In time, that could make the United States seriously vulnerable once again to interruptions in politically sensitive Middle Eastern petroleum shipments, these experts warn. "The exploration they're cutting back, given the lead time for exploration, is exploration that would have brought in oil for the 1990s," Lazier said.

But advocates of the industry shakeup, notably corporate raider T. Boone Pickens Jr., chairman of Mesa Petroleum Co., argue that the financial recognizations merely recognize the new realities of the oil industry—an oil glut, slumping prices, dwindling prospects for new sources of oil, rising exploration costs and undervalved stock prices.

"You now have an industry in decline," said Pickens, whose raids on companies such as Gulf Corp. and Phillips Petroleum Co. have prompted many of the recent changes in the industry.

"The primary asset for those companies is the reserve base of oil and gas in the United States, and they cannot protect it any longer," Pickens said in an interview last week. "There are not that many prospects. There are not that many opportunities. . . . The reserves are going down." Depressed oil prices mean those reserves are a relatively poor investment for shareholders—they also mean that companies can't justify the costs of new exploration, he said. "You're never going to attain the real value of these companies for the stockholders," he asserted.

Therefore, oil companies are better off spending their money to repurchase their stock, selling U.S. reserves or exploring for oil overseas, where prospects are better, Pickens and others say.

"Clearly, it's going to mean a downturn in U.S. exploration and production, but frankly that's just a continuation of a trend that's gone on for some time," said John Sawhill, former deputy secretary of Energy and now a consultant for McKinsey & Co. "It probably means we'll be more dependent on imports, but the real question is, 'Is it going to affect our national security?' . . . As long as we maintain diversified sources of supply and maintain a strategic petroleum reserve, these will compensate."

The makeover of the oil industry has taken a variety of forms: gargantuan mergers such as Chevron Inc.'s takeover of Gulf and Texaco Inc.'s purchase of Getty Oil Co. last year; fine-tuning adjustments such as write-offs or sales of unprofitable operations or cutbacks in drilling programs; or out-and-out financial reorganizations such as those being undertaken by Phillips and Atlantic Richfield Co.

Arco said last week it would go heavily into debt to buy back $4 billion worth of its stock (more than half the amount outstanding); wrote off $1.3 billion worth of operations; announced plans to close or sell a variety of business, including all of its gasoline refining and marketing operations east of the Mississippi; and said it would reduce its capital spending on petroleum exploration and other ventures to $2.8 billion annually from the current $3.6 billion.

The effects of Arco's actions will be to leave it a much leaner, more efficient company, temporarily heavy with debt, and to give its stock owners increased value for their holdings. The stock market thought so: The price of Arco shares jumped by nearly $10 in the days after the announcement.

But while some Wall Street analysts applauded the plan as innovative and even overdue, many others said Arco seemed to be playing for short-term gain at the expense of long-term energy needs. And they warned that such changes increase the chances of short supplies and higher prices of oil in the years ahead.

"If everybody does what they're doing, everybody's going to cut back on exploration and, inevitably, prices are going to get higher," Lazier said.

Many observers blame the oil industry's upheaval on a somewhat cynical view of the future of the oil industry that is advocated primarily by Pickens—a theory, simply put, that the oil industry is doomed in the long run, so investors might as well make a killing now.

"There is such a thing that I would call the Boone Pickens factor in the oil industry. . . . He started it. It's an emphasis on the short term," said John Lichtblau, executive director of the Petroleum Industry Research Foundation, a New York-based analysis group partly funded by the oil industry. "There's a shift now to emphasize the shareholders' interests by raising the dividend, by buying up the stock. . . . which inevitably means they're going to have less money available for exploration."

What makes the "Pickens factor" possible is the relatively depressed prices of oil company stocks. Years removed from the spiraling oil-product prices of the 1970s—and the gushing profits that went along with them—oil company stocks have dropped, in many cases to roughly half the level of a company's underlying asset value. That is, a company whose petroleum and other holdings have a theoretical value of $100 a share may be trading at about $50 a share.

Oil companies have coped with—or taken advantage of—this undervaluation in various ways. At first, it spurred a wave of mergers in the industry. "The best place to drill for oil is the floor of the New York Stock Exchange," went the saying and, indeed, oil companies bought other oil companies because it was cheaper to purchase additional cash-producing oil reserves than it was to drill for new oil.

The same philosophy turned the oil companies in on themselves. Oil companies generate huge amounts of cash, and rather than spend it on drilling for marginal or high-risk prospects or trying to diversify into new businesses—the cause of some of the industry's biggest recent fiascos—companies began buying their own stock on the open market. Exxon Corp., Amoco Corp. (the former Standard Oil Co. of Indiana), Arco and others have used excess cash in recent years to purchase their own shares, thus pushing the stock prices up closer to the companies' theoretical values.

The massive restructurings undertaken by Arco and Phillips are the latest manifestation of these philosophies, but all of these strategies bother many analysts as diverting attention—and money—from long-range oil-drilling needs. They believe that mergers, handcuff the involved companies' finances while they work off the debt incurred taking each other over. At the same time, combined companies spend less looking for oil than they might have separately, analysts say. "If you go to Texaco, sure, they're doing exploration, but I'm sure it's not what the level would have been for Texaco and Getty," Lazier said.

"It's hard to see how you could be a super-aggressive exploration company when you've got 75 percent debt," said Ted Eck, Amoco's chief economist.

"Some of the money that would have been used to search for hydrocarbons in the United States and elsewhere is going to be diverted to paying off the debt," said Sanford Margoshes, an analyst at Shearson/Lehman Brothers.

Proponents of restructuring say it just doesn't make any sense to spend much more than the minimum for oil exploration and

development these days, especially in the United States. More holes have been poked in this country in the search for oil than anywhere else in the world, and there may not be much left here to find.

There's still plenty of oil overseas. But most of it is in the Middle East. "We'll still have plenty of oil," Lazier said. "The problem is that all the incremental oil will be out of the Persian Gulf, and that puts us back where we were in 1973."

Many experts say the solution is to concentrate on increasing imports from more politically secure areas, and to diversify supply sources as much as possible. To this end, many American oil companies are directing increasing percentages of their oil and gas drilling budgets away from U.S. prospects and into exploration overseas.

"I think it's sort of rational, given the resource endowment overseas," said Amoco's Eck, whose company has shifted much of its exploration effort overseas in recent years. "The only responsible thing to say about American imports is, if we have to import it, we might as well import it from some place where we have some confidence in security of access."

"If we begin getting oil from Colombia and Canada and Indonesia and China, it seems to me that gives us the kind of diversity so that we're not dependent on just one area," Sawhill said. Mexico is another important source removed from the Middle East.

But other experts believe the U.S. oil industry is still better off looking for its oil at home—even if it is less economical to do so. "From the national-interest standpoint, to the extent that we replenish as much oil as possible, we strengthen ourself as much as possible in trying to avoid confrontations with other nations in trying to get to politically insecure oil," Margoshes said. "The way we're headed is toward a more destabilized world if we just sit back and deplete our resources instead of fighting the hard fight to replace what we consume."

There is also concern that oil companies are taking on so much debt in these restructurings and takeovers that their corporate financial structures could be rocked should oil prices fall. "If there's a huge drop in oil prices, . . . the companies with huge debts are much more vulnerable," Eck said. "I don't like that. This has always been a risky business, and it's not getting any less risky—if anything, it's getting more risky."

"Companies are substituting debt for equity to the point where they're making themselves vulnerable if we enter an era of lower oil prices," Margoshes said. "We're weakening the financial strength of the American oil industry."

Traditionally, American oil companies have operated with much less debt than most other industrial companies. That's changing. Arco's restructuring will leave its debt-to-equity ratio at about 55 percent, twice the previous level.

The companies believe that their massive cash flows will give them the wherewithal to pay down the debt—albeit partially at the expense of exploration spending.

Nevertheless, critics fear that the higher debt loads will strip the companies of flexibility, slowing their ability to react to changes in the industry.

"In the aggregate, it's weakening the oil companies because it's reducing their resiliency in a time of increasingly competitive conditions," Margoshes said.

Other experts disagree, however. "If it becomes attractive to drill for oil because the price [of oil] begins to go up, I think you will find the capital," Lichtblau said. "If the price of oil will strengthen again, I think the financing system, the banking system, will find the money to drill."●

TEACHER DAY, U.S.A.

● Mr. SIMON. Mr. President, today is a special day for some special—but often unheralded—people. That day is Teacher Day, U.S.A. This is the one day of the year that local businesses, public officials, parents, and just about everybody in the country can take time to thank teachers for their contributions to our Nation.

Teacher Day is being celebrated this week in school districts all across the Nation as part of a State and national program developed by the National Education Association and the local groups nationwide.

This is a special day which has been set aside to honor our community's teachers, the men and women who have devoted their professional lives to our children. It is a time when we can say thanks for the important contributions teachers make to our community. It is also a time when we can encourage more of the better students in our Nation to consider teaching as a possible career for themselves—a career filled with community service and the reward of seeing young people reach their potential.

Let us also remind ourselves that democracy cannot survive without quality education, the cornerstone of every community that builds an informed electorate.

The National Parents and Teachers Association has set the week of May 5 to 11 as National Teacher Appreciation Week. They have joined in their support and recognition of our Nation's teachers.

Various teacher groups around Illinois have designed special events to mark the observance of Teacher Day, U.S.A., in their communities: Several mayors have signed proclamations creating teacher-recognition days; students are making and wearing buttons to show their respect and appreciation for their teachers; parent-teacher organizations are holding teas for the district's teachers; business establishments are proudly displaying marquees thanking the educators of the community; and newspaper ads are being run spotlighting teachers' contributions to their communities.

I would especially like to congratulate the teacher of the year, Ms. Terry Dozier of South Carolina, and the recipients of the Illinois Education Association 1985 Human Services and Relations Awards—Jerry and Larry Greer, counselors from East Moline, IL; and the Hinsdale High School Teachers' Association from Hinsdale, IL. These fine educators have all served their profession well—as well as their students, their schools, and their communities.

Mr. President, I would like to add my voice to those of my colleagues thanking the teachers of our Nation for their dedication and commitment to the young people in our Nation.●

DEE SCOFIELD AWARENESS PROGRAM

● Mrs. HAWKINS. Mr. President, during the rollcall of missing children and pictures and posters of missing children there is one picture which is different from all of the others. This picture differs because rather than a photo it is a computerized depiction of Dee Scofield, a 12-year-old Florida child who vanished on July 22, 1976, from Ocsala, FL. This computerized version is needed because Dee Scofield, if she has survived her abduction would be a woman of 21 years now and her smiling photograph of 12 would no longer be applicable.

The Dee Scofield Awareness Program, Inc. was founded by Betty DeNova, Dee's relative. I would like to commend this program for its intense efforts on behalf of missing children. The program was established in 1976, its initial goal being to create public awareness of the problem of vanishing children and to spur greater FBI involvement in these cases. Since this time, however, the Dee Scofield Program has expanded it services to include search guidance, counseling, media photo publicity, and compassionate support to families of missing nonparentally kidnaped children. It has also produced educational literature on such issues as safety/prevention/ID programs; lessons learned from specific cases; legislation; performance reports on police and other public officials; and guidance on citizen involvement. The program has also created an educational photo exhibit of flyer-type photos with case histories designed for study. These flyers are available to civic groups for awareness projects.

One such group which benefits from this program is the Palm Spring Mile Shopping Mall. One such campaign to aid in the search of missing children was organized by the Palm Springs Mile Shopping Complex in Hialeah, FL. In this mall, each of its 115 merchants has displayed posters of missing children in their stores. To help advertise this campaign, the posters were featured in the center spread of their shopper and was mailed to 81,000 homes in the market area. In addition, the posters were also distributed to the local police, fire and parks/recreation departments.

I'd like to thank Jerry Kaye, the managing/marketing director as well as each member of the 115 stores in the Palm Spring Mile Shopping Com-

plex for helping in this effort to locate missing children from across the United States.●

A DEMOCRATIC DEFENSE POLICY: DEFENSE WITHOUT NONSENSE

● Mr. BOREN. Mr. President, recently our colleague, Congressman LES ASPIN, the chairman of the House Committee on Armed Services, delivered a speech on defense policy to the Committee for a Democratic Majority. While the speech is directed to this specific Democratic audience, it reflects a solid commonsense approach to defense policy that should be heard and thoughtfully considered by all Members of the Congress in both parties. I commend him for it.

In short, he counsels us to spend what we need on defense, but not to spend more than we have to spend to get the job done. More importantly, while addressing a political audience, he rejects playing partisan politics with national security and places the emphasis on doing what is right for America. I ask that the text of his remarks be placed in the RECORD following my comments.

The text of the remarks follow:

A DEMOCRATIC DEFENSE POLICY: DEFENSE WITHOUT NONSENSE

(By Les Aspin)

The Democratic party is going through a period of painful soul-searching. We read a great deal about the pain, but the most important thing is the outcome of the soul-searching.

One element of this self-examination is the party outlook on defense. We have commonly been attacked from the right for being soft on defense. That's nothing new. But in recent years, we have come under attack from the middle for being soft on defense. That is new—and harmful.

Speaker O'Neill has been showing around a poll indicating that by a margin of more than three-to-one, America's voters believe the GOP will do a better job than the Democratic party in keeping U.S. defenses as strong as needed. The voters aren't wild reactionaries. The same poll shows overwhelming pluralities favoring lower defense budgets than President Reagan's, and opposing any drive for superiority over the Russians. In other words, the voters are rational on defense—and their positions on spending and superiority are our positions. Yet, they see the Democratic party as incapable of giving us a strong defense. In fact, of 14 issues listed in this poll, the difference between Republicans and Democrats is starker on defense than any other issue. Our weak point is our perceived weak stand on defense.

To a large extent, this is, of course, a bad rap. Most Americans—even most Democrats—might be surprised to learn how much defense Democrats do support. Take spending. Last year, the Republican-controlled Senate voted for 95 percent of President Reagan's defense request. The Democratic-controlled House voted for 91 percent—a difference of 4 percentage points.

The Democratic defense glass is almost entirely full. But a huge proportion of the public magnifies this difference of 4 percentage points and perceives that there is nothing in the Democratic glass at all.

Yes, this is a problem of perceptions. But in politics, perceptions this stark can be devastating.

Why are these perceptions about Democrats so negative? Mainly, I believe, because the public debate on defense has focused heavily on specific weapons. And on specific weapons, Democrats have stood for negatives. Look back over the last 15 years. The big issues have been successively: the ABM, the B-1, the neutron bomb, the MX, and now SDI or Star Wars. Throughout those 15 years, Democrats have been cast consistently in the roll of chief "anti." Anti-ABM. Anti-B-1. Anti-neutron bomb. Anti-MK. Anti-SDI. And, thus, in the public mind: anti-defense.

It hasn't always been this way. John F. Kennedy was elected on a pledge to rebuild America's defenses. Robert McNamara became secretary of defense and Democrats were identified as the party that stood for a stronger and a cost-effective defense. Don't spend more than you have to, but spend all you need. Efficient management, and get the job done. But now, that's history.

Today, the American people see a profligate Pentagon—truly a vast wasteland—home of the $700 pliers and the $8,000 coffee pot. Are Democrats identified today as the party that will do away with the waste, as the party of John F. Kennedy that will give us our dollar's worth? No, we're identified as the party that is anti-defense, the party that will cut defense—muscle as well as fat.

A detached analysis will show that Democrats do not oppose all weapons. The Trident missile sub, the F-15 Eagle, the Spruance-class destroyer, the Blackhawk helicopter are among the many examples of weapons that have been supported by a majority of Democrats. But two points penetrate the public's mind. First, whatever opposition there is to these weapons has come from Democrats. Second, what support we do give seems almost reluctant. We don't appear to support any weapon; we merely acquiesce in some.

Many of our positions opposing particular weapons have been quite reasonable. I don't want to suggest that we should mindlessly support whatever gold-plated gizmo the inventive brain of defense industry can come up with. The B-1 should have been canceled in favor of Stealth. The President's Star Wars program is riddled with holes. And I would be the first to admit that there are fair and reasonable grounds for questioning the MX. But that isn't the point.

The point is that we don't seem to stand for anything anymore. If Democrats want to spend the rest of their careers writing op-ed pieces and giving lectures at universities, then we can continue to stroke our anti-defense image. But if we want to make defense policy in the White House and the Pentagon, then we had better stand for something. The voters are not attracted to national security nay-sayers.

In the debate that goes on daily in the newspapers and on the television screens, Democrats are not shown being for anything in the defense arena. We are always against. We are the Doctor No of the defense debate. That must change.

It's appropriate then to ask, what should we be for? I don't pretend to have all the answers wrapped up neatly here. But I would like to outline some thoughts and some approaches that could help. At least, I hope they can get Democrats thinking about what they are for in the defense arena.

I think we need to break the issue into two topics. One is the philosophical question of how Democrats ought to approach defense issues. The other is the important political question of tactics. Let me take up tactics first.

TACTICS

I see three tactical propositions that I would suggest Democrats adopt.

First, the Democratic party should not simply oppose a weapon; it should stand for an alternative.

Second, the Democratic party should support additions to the defense budget—though the net of our deletions and additions would still put the Democratic defense budget under the Reagan alternative.

Third, the Democratic party should accentuate the positive—speaking loudly and often of things we stand for.

Let me go through these propositions in more detail.

ALTERNATIVES

First, the Democratic party should not simply oppose a weapon; it should stand for an alternative.

This wasn't so important in past decades. It is important now simply because we have saddled ourselves with the reputation of being against every new weapon proposed.

Let's take the example of the B-1 bomber. The problem there was the increasing age of the B-52s. The Republicans offered the B-1 as the solution. Our solution was no B-1. We could have offered a major life extension progrm for the B-52. And in recent years, we could have offered the Stealth as an alternative. But basically, we just offered the public no B-1.

Another example is the MX. The problem is the vulnerability of our land-based missiles. The Republicans offered the MX as part of a solution package put together by the Scowcroft Commission. Democrats ignored the package and concentrated on the MX. We didn't ever offer an alternative solution to the problem of land-based missile vulnerability. We simply offered no MX.

Democrats need not be put in this Doctor No role. We control the House of Representatives and can therefore lay out the legislative agenda was we choose. We can structure votes so they present alternatives—not just yes or no votes. We can and should structure the votes on weapons so they are choices between alternative ways of meeting a defense need.

ADDITIONS

The second proposition is that the Democratic party should support some additions to the defense budget—though the net of our deletions and additions would still put the Democratic defense budget under the Reagan alternative.

In other words, while cutting several billion from the Reagan request, we ought to consider adding a few billions back for programs Reagan has ignored—for defense programs Democrats can support.

Let me give you a few examples of where to look. Clearly, we don't want to add money just for the sake of adding money. But in any defense budget, some areas are likely to be underfunded. That's true even in budgets as large as Reagan's. That's especially true in budgets, like Reagan's, that are basically the bolted-together wish-lists of the services.

First, there are programs that fall between the stools of the services. This Ad-

ministration defers much decision-making to the individual services. The services, however, tend to slight spending that helps another service. For example, the Air Force thinks close air support is a bore—though the Army needs close air support to protect its infantrymen. Democrats can stand up for programs the service bureaucracies neglect.

Second, the Reagan budget gives its highest priority to modernization—that is, buying sophisticated new planes and missiles to replace older planes and missiles. It gives a much lower priority to sustainability—that is, the stocks of supplies needed if we are to fight a conventional war beyond a few weeks. One way to avoid a resort to nuclear arms is to make sure our troops have the supplies needed to remain in a conventional mode.

Third, we can look to innovative new approaches to old problems that may not be getting enough dollars. Smart conventional munitions are a major opportunity for avoiding recourse to battlefield nuclear weapons. Smart munitions are the kind of weapons Democrats ought to be pleased to back. A few years ago, the Israelis showed how to use cheap drones and electronic warfare to win a major battle over the Biqa valley. This Administration has been slow to learn those lessons.

Those are just three examples of the kinds of programs Democrats ought to be able to back enthusiastically. There are others. The point is that Democrats should not just cut the Reagan defense budget. Democrats should reshape the defense budget by cutting in some places and adding in others. The result would be a defense budget we could support—not just give grudging acquiescence to.

It's a common sense approach I'm suggesting—Democrats should stand for dee-fense without nonsense.

If we expect the public once again to give us stewardship of the nation, we must be prepared to be responsible stewards—to give the nation a strong defense. We must offer a better defense, not merely a leaner defense.

It will take considerable discussion and debate to nail down a specific agenda. I realize I just may be in the minority when I say that my defense package would include money for the MX and cut money for military retirement.

ACCENTUATE THE POSITIVE

The third proposition is that the Democratic party should accentuate the positive—speaking loudly and often of things we stand for.

Many of these are non-budget issues. There's a lot more to defense than what appears in the annual budget. In fact, many of the more important defense issues don't even appear in the budget. Take, for example, the procurement system, the defense decision-making structure, and attitudes toward people in uniform.

The public perceives the procurement system to be a mess. It may well have been a mess before, but it's now a mess on Ronald Reagan's watch. This Administration let the procurement issue get away from it politically. Ronald Reagan and Caspar Weinberger are in no position to deal with it with any credibility.

Democrats, therefore, have an opportunity here to confront a core defense issue in a creative and rational way. Perhaps the public is so cynical that it won't believe anything we propose. But I believe the majority is willing to listen—not to flippant or arrogant attacks on Caspar Weinberger—but to rational proposals for reform. This is a real Democratic opportunity. We must not let it pass us by.

A second Democratic opportunity lies in the area of Pentagon reform.

We have an Army policy, and a Navy policy, and an Air Force policy. We don't have much of a defense policy, however. One problem is that the Joint Chiefs of Staff essentially bolt together the individual service policies. The process just doesn't work well—as any number of people in uniform have made clear in speeches and articles.

The Weinberger Pentagon, however, has come down firmly against any change. It argues that the Defense Department is humming along just fine, thank you. But even strong supporters of the military on the right say that's crazy.

The Democratic party should be out front beating the drum for change, to give the chairman of the JCS and the Joint Staff more authority so they won't always be pushed around by the services. It makes sense politically, because the public is eager for proposals to cut down on service bickering. And it's the right thing to do. It's good defense policy. And it's standing for something positive—not just being anti-this or anti-that.

Reforming the decision-making process involves more than the Joint Chiefs. It involves the civilians in the Pentagon. And, frankly, Congress contributes to the problem. As one example, Congress has completed action on the defense budget before the beginning of the fiscal year only six times in the 35 years since. 1950. How can we demand efficiency of the military institution when it is common practice for Congress to play hide and seek with their budget? Congress needs to clean up its own act, and Democrats should call for that as well.

Third, Democrats should do more to identify with our people in uniform. Many Democrats wallow in an attitude that treats military careerists as Irish immigrants were treated in the 19th Century. It's as if we put up a sign on the party's front door: No military need apply. Democrats are against militarism; but we must not be against our own military. It should be a Democrat standing on the Normandy bluff bringing tears to the nation with praise for the courage of our fighting men. Today, many brilliant young men and women are donning the uniforms of our services. We ought to be encouraging the best to join—including the best of our young Democrats.

The Democratic party's major opportunities for improving the national defense come in standing for something. We can—and should—take the initiative to clean out the Augean stable of Pentagon procurement. We can—and should—take the initiative to reform the Pentagon decision-making muddle. We can—and should—embrace the uniforms that stand for defense and deterrence.

PHILOSOPHY

As I said earlier, we need to divide this issue into two parts—the tactical and the philosophical. So far, I have spoken of tactics. Let me turn briefly to philosophy.

Our philosophical debate is dominated by two contrasting world views of the Soviet threat and the nuclear threat.

On the right, we see those who take the Soviet threat very seriously. Their view is epitomized by the President's "evil empire" speech. The Soviet Union is seen as a major military machine driven by ideologues whose principal goal is our defeat. But those same people on the right often take almost a casual view of the threat of nuclear war. To be sure, they don't advocate embracing nuclear war, but they don't quake in their boots at the thought of it either. In the extreme, their outlook is epitomized by T.K. Jones' statement some years ago that we could survive a nuclear war, quote, "with enough shovels."

At the other end of the political spectrum, we see the opposite view. The threat posed by nuclear war is taken very seriously. Nuclear war means the end of civilization. But the threat posed by the Soviet system and its military machine is treated almost casually. No one any longer embraces the Politburo as good ole boys, as some once embraced "Uncle Joe," but excuses are commonly made for the Soviet Union's more despicable acts, and their propaganda hokum too often is given serious treatment. The Reagan Administration's arms control proposals—whether sound or outlandish—are dismissed on the grounds that they were designed to be rejected by the Russians; on the other hand, Moscow's most outlandish proposals are often said to contain a number of elements that could serve as the seeds for true arms control.

The right fears Moscow—and is too casual about nuclear war.

The left fears nuclear war—and is too casual about Soviet goals.

I would suggest that the current approach for all Americans—and especially for the Democratic party—would be to start with a healthy respect for the dangers of nuclear war, and a healthy respect for the dangers posed by Soviet ambitions. We ought not be paranoid about either. But we ought not be casual about either.

Scoop Jackson had a healthy view of what the Soviet Union was all about. He was neither paranoid, nor prone to excuse their excesses. Scoop's passing meant the loss of an important perspective to our party.

The response of Democrats is that they do not excuse Soviet oppression or expansionism. Most liberals say, in all honesty, "It goes without saying that a liberal Democrat seethes with opposition to the illiberal and anti-democratic practices of Moscow. It goes without saying.

My friends, it doesn't go without saying."

Democrats express our deep feeling about nuclear war day-in and day-out. Doesn't that go without saying? But we say it.

Let's start saying a few things about the Soviet system, too.

I'm not suggesting we imitate the extreme right. I'm not suggesting we try to exploit fear of the Russians. I am suggesting that we not abandon the ideological high ground of liberal democracy to the GOP with a simple flip of the hand and a dismissing comment that "it goes without saying." In politics, that which is unsaid doesn't count.

As my friends, Jim Woolsey and Walt Slocombe, have pointed out, World War II bequeathed us two insights into a possibly horrifying future, both named after two medium-sized cities. One is Hiroshima and the other is Auschwitz—Hiroshima symbolizing the worst of warfare, and Auschwitz symbolizing the worst of the modern nation state.

Anyone who tells you that only one of these problems confronts us is simply wrong. There is no difficulty averting Hiroshima—so long as you can stomach totalitarianism. Better Red than dead. There is also no trick to avoiding totalitarianism—so long as you aren't worried about total war.

There are no commies on a lifeless planet. The challenge to America is to build toward a future that avoids both Hiroshima and Auschwitz.

Hiroshima and Auschwitz are the pitfalls presented by modern science and by the powers available to the modern bureaucratic state. They are the cities to be avoided. But there is another city. The City on the Hill. The vision held up to our Pilgrim fathers. It is the vision of the future that America has always stood for—always striven for. It is the essence of the Democratic party. Ronald Reagan recently sought to appropriate the City on the Hill to himself. Ronald Reagan campaigned on the quotations of Roosevelt, Truman, and Kennedy. We must not stand silently by while he steals the visions and the heroes of the Democratic party.

Americans are always seeking a better future—fuller, fairer, cleaner, richer, safer. The voters will follow those with a clear vision of how to get there from here.

In defense, that means several things:

We must shed our Doctor No image.

We must offer dee-fense without nonsense.

We must speak of weapons we are for, not just weapons we're against.

We must respect the uniform, not debase the uniform.

We must speak of the Soviet threat, not just the nuclear threat.

We must offer a better defense, not just a leaner defense.

When we do that, we will win elections.

And, more important, we'll be doing what's right for America.●

IRELAND'S POET—SEAMUS HEANEY

● Mr. KENNEDY. Mr. President, I had the pleasure last week of meeting here in Washington with Seamus Heaney, the acclaimed Irish poet. Mr. Heaney has just completed a semester of teaching at Harvard, and was here in Washington for a series of lectures and readings of his poetry at the Library of Congress and the Folger Library.

Robert Lowell has called Seamus Heaney a worthy successor to Yeats in the great tradition of Irish poetry. And today, as with Yeats in the past, Heaney's poetry brings into focus the tragic struggles and conflicts of the Irish nation.

Seamus Heaney's eloquent poems delight audiences and critics. He is a national treasure in his homeland and a welcome guest in the United States. I commend his poetry to my colleagues in the Senate, particularly his recently published work, "Station Island," and I ask that an interview with Mr. Heaney from the Washington Post of May 3 may be printed in the RECORD.

[From the Washington Post, May 3, 1985]

THE BARD FROM THE BOG LAND—SEAMUS HEANEY AND HIS PASSION FOR PEACE

(By David Remnick)

Seamus Heaney, Ireland's best-known living poet, is a reluctant guest in an airless chamber. He opens the door, flips a single key on the table and inhales the cool hotel-smell of the room, the merciless universality of it, the dead, disinfected odor that settles on the tongue like a lump of nickel.

Heaney smiles at the strangeness of such an otherworldly fragrance. His eyes narrow to slits of delight, his wide throat reddens to rose. His woolly tie, like a strip of moss brought from home gives life to the sort of suit that all poets seem to own—forgettably academic, a herringboned "utility" garment. The odd delight of the hotel hits him: "It's a strange flavor, isn't it?"

He remembers the same smell from a Las Vegas hotel: "I was there for a rather odd occasion. It was New Year's Eve and my priest, who had baptized my eldest child, was getting married. It was a strange evening."

Stately plump Seamus Heaney settles into a chair and stares out the window at the ice-white panorama of Southwest Washington in spring light, the nonstop brightness of it. "I got here last night and I wondered where you could possibly get a drink," he says. "Where was everybody? I never did figure it out."

More often his visits are a rush of readings and classes and urban activity. "I love the energy of being in America," he says, "but by the end of four months, I'm quite ready for the indolence of Ireland."

Heaney is here on a poetry swing: last Monday night's memorial service for poet and translator Robert Fitzgerald, last night's lecture on the poets of Northern Ireland and tonight's reading of his own poems at the Folger. He has just finished teaching three spring semester courses at Harvard and will return soon to his waterside house in Dublin where he lives with his wife Marie and their three teenaged children.

Heaney is 46, the son of Catholic farmers from County Derry in Northern Ireland. He has published six volumes of verse—most recently, "Station Island"—a translation of the medieval Irish work "Sweeney Astray" and a book of remarkable essays on poetry and his "bogbound" roots, "Preoccupations." He has won countless awards and grants, critical acclaim, a tenured position at Harvard that "provides just about enough money, a base for the whole year" and, occasionally, the dubius pleasure of appearing before American audiences in the role of "Irish poet."

"Oh, there's the expectation that I'll play the jovial, voluble Celt," Heaney says. "Sometimes I get the sense that audiences at my readings would accept anything from me, even if I didn't bother to prepare or bring along my poems. In fact they might prefer it if I weren't prepared and just told stories. When my students in Cambridge ask me to go out, it's always to The Plough and the Stars, an Irish pub. And that's all fine. I'm probably more secure about my ethnicity than, say, an Irish-American might be. But for me the idea is not to punt the current offered you. I see it as my position to subvert it all by being a strict and serious poet."

He is skeptical of the "poetry scene" in America, the pervasive professionalism of poets here, the horse-trading and logrolling. "There is a lot of poetry here that seems unnecessary," he says. "Unnecessary to the poet." He is grateful to Ireland not only for the life and resources it has provided for poems, but also for its kind of readership.

"If I publish a poem in The Irish Times on a Saturday morning I can be sure that members of the government will read it," he says. "Perhaps not with a sense of panting discovery, but they read it. And the auctioneer may not read it, but he'll note it. In Ireland I'm part of a life rather than a literary salon."

Heaney's voice and accent are informed by the historical ambiguity of Ulster, its Gaelic roots and the centuries of British occupation.

Or as he writes in "Traditions":

Our gutteral muse
Was bulled long ago
by the alliterative tradition . . .

"My accent really hasn't changed much over the years," he says. "It may have softened a bit. If you were to talk to my brother—he works on building sites—you might find he talks a little faster, a little more from the back of the throat. But it's mainly the same sound, the same voice of home in the north."

In September 1938 William Butler Yeats wrote "Under Ben Bulben," a valedictory poem that included a directive for future generations: "Irish poets, learn your trade." A year later, Seamus Justin Heaney, the eldest of nine children, was born at the family farm of Mossbawn between the villages of Castledawson and Toome.

"I try very hard not to take that line from Yeats as a direct address," Heaney says through laughter. "I take it as an easy handle for book reviewers." Ireland has a number of fine poets writing today—Derek Mahon, Seamus Deane and Paul Muldoon among them—but Heaney has received the most notice and Robert Lowell's thorny blessing—that he is the successor to Yeats.

"I didn't grow up in a literary household, but it was not illiterate," Heaney says. The most prized reading materials in the house when he was a child were World War II ration books (pink for clothes, green for groceries), the Irish Weekly and the auction pages of the Northern Constitution. The one serious reader in the area was a solitary, bachelor farmer named Pat McGuckin "about whom stories were told."

After a few years of enhancement with cartoons—Keyhole Kate, Julius Sneezer, Lord Snooty and Hungry Horace—Heaney says he had his first "literary frisson" reading an illustrated textbook on Celtic mythology. It was Yeats who had implored Ireland to know its own history and mythology, and Heaney followed the order in innocence. He was absorbed in the "story of Dagda, a dream of harp music and light, confronting and defeating Balor of the Evil Eye on the dark fortress of Tory Island."

Heaney's imagination was also made shapely by the bogs surrounding his home, the "wide low apron of swamp on the west bank of the River Bann," the fields of peadrills, Sweet William and elderflower. The bog became both fact and symbol, the landscape of his youth and a sign of history and memory—the bottomless mud full of mythic skeletons, bogey men, mosscheepers, mankeepers.

Heaney also learned to adore the hard, glottal accents of Ireland, the wind-quick voices, the litany of place names in sight of that childhood home; Lough Beg, Slieve Gallon, Sandy Loaning, Bell's Hill, Brian's Field—each name "a kind of love made to each acre."

His ear was stunned by words the way we imagine a young artist's eye is stunned by color, shape and size. He listened to his mother recite lists of affixes and Latin roots. Or it may be that the fascination began, Heaney writes, "with the exotic listing on the wireless dial: Stuttgart, Leipzig, Oslo, Hilversum. Maybe it was stirred by the beautiful sprung rhythms of the old BBC

weather forecast: Dogger, Rockall, Malin, Shetland, Faroes, Finisterre; or with the gorgeous and inane phraseology of the catechism; or with the litany of the Blessed Virgin that was part of the enforced poetry of our household: Tower of Gold, Ark of the Covenant, Gate of Heaven, Morning Star, Health of the Sick, Refuge of Sinners, Comforter of the Afflicted."

With the help of a scholarship, Heaney left Mossbawn in 1951 to study at St. Columb's, College a boarding school in Londonderry, and later at Queen's College in Belfast, where he became absorbed in Gaelic literature and poetry, especially the spectacular rhythms of Gerard Manley Hopkins. After graduating Queen's with first-class honors in 1961, Heaney studied at St. Joseph's College of Education in Belfast for a year.

While teaching high school in Belfast, Heaney began writing his first serious poems and learned to trust his past and delve into Mossbawn and the resonant bog. Heaney wrote "Digging" in the summer of 1964 and published it in The New Statesman. He thinks of it as his first real poem. It is an assertive ars poetica, a clear declaration of purpose and dedication to an exalted form of parochialism. Here are the final lines:

The cold smell of potato mould,
the squelch and slap
Of soggy peat, the curt cuts of an edge
Through living roots awaken in my head.
But I've no spade to follow men like them.
Between my finger and my thumb
The squat pen rests.
I'll dig with that.

In 1972, Heaney and his family moved from their home in Belfast to a cottage in County Wicklow:

"I was leading the generic life of my generation of Irish writers: the scholarship, the study, the first book, the marriage and the mortgage, the trip over to the United States. I left Belfast as a somnambulist, acting out of some inner command. I didn't leave because of 'the troubles.' It had to do with going into silence and wilderness. It was the first real move I had made that stepped away from the generic life."

Because he had rapidly become the most celebrated living poet in a country that honors its poets, Heaney's move from the British-occupied north to the independent Republic of Ireland was a move fraught with political implication. But Heaney insists it was a decision made for personal, artistic reasons:

"By leaving the north I didn't feel I was betraying anyone," he says, "but I did sense the pressure. The people you leave often feel they've been deserted somehow. There were even editorials in The Irish Times. But I suppose the submerged politics of leaving was that I did not want to be just an Ulster poet. I wanted to be an Irish poet."

Much of Heaney's work can be viewed as an extension of Yeats' project, the desire to explore and celebrate the history of a place and its particulars. His reading of P.V. Glob's "The Bog People," coupled with his personal experience of that landscape, helped produce many of the remarkable poems of the 1970s, including "Bone Dreams," "Bogland," "The Grauballe Man" and "Kinship": "earth pantry, bone-vault . . . /Ground that will strip/its dark side,/nesting ground,/outback of my mind."

But to be an Irish poet means to be, at least in part, an explicitly political poet. Heaney says he is not a follower of any of the country's myriad political parties and factions. In a new poem, "Chekhov on Sakhalin," he aligns himself with a political poetry that is "not tract, not theses," but rather a personal account of experience, something more like song than slogan.

"I wrote the poem during the hunger strikes in 1981 when the IRA was making demands for political status," he says. "I was haunted by that dirty protest and did not want to write something that merely became part of a violent propaganda campaign.

"Chekhov was exemplary to me, the way he is determined to be cool, to record, not preach," Heaney says. "When he was 30 he spent the summer of 1890 interviewing and ministering to the prisoners on the island of Sakhalin. You could say that he took a year off for politics, although it was much more serious than the modern version of getting a foundation grant or of Joan Didion spending two weeks in El Salvador. He was distraught about the conditions, the brutality there. Before he left for Sakhalin, his friends gave him a bottle of cognac. He drank it when he got there and the luxury and pleasure of drinking brandy on a prison island became an emblem to me, an emblem of a right to practice lyric art in the face of public horror and indifference."

Heaney and his family moved from the country cottage in County Wicklow to Dublin recently "for reasons of practicality, schools for the children and the rest." For four months of the year, Heaney teaches two poetry workshops and a course on modern poetry at Harvard. The rest of the time "I live a strange combination of a family and literary life" in Dublin.

He has tried to navigate a steady course between the instructions offered by the Scylla and Charybdis of modern Irish literature and the distinctive ways of life and literature they offer:

"Yeats says take everything into yourself, make for yourself the heroic role. While Joyce is the opposite, you get on with your secret vision, withdrawing from the world to write for the sake of writing."

Heaney's life keeps shifting, between the public and private, the Harvard lectern and the secluded countryside. "And as soon as I feel myself settling into some extreme, it might be time to shift the balance."

Poetry is the constant, the way of understanding history and Ireland. The poems Heaney writes are the way he defines himself. Or as he says in an elegy dedicated to his friend and predecessor at Harvard, Robert Lowell:

The way we are living,
timorous or bold,
will have been our life . . .

"DOCKER"

(By Seamus Heaney)

There, in the corner, staring at his drink,
The cap juts like a gantry's crossbeam,
Cowling plated forehead and sledgehead
jaw,
Speech is clamped in the lips' vice.
That fist would drop a hammer on a Catholic—
Oh yes, that kind of thing could start again;
The only Roman collar he tolerates
Smiles all around his sleek pint of porter.
Mosaic imperatives bang home like rivits;
God is a foreman with certain definite views
Who orders life in shifts of work and leisure.
A factory horn will blare Resurrection.
He sits, strong and blunt as a Celtic cross,
Clearly used to silence and an armchair:
Tonight the wife and children will be quiet
At slammed door and smoker's cough in the
hall.●

EVGENY MATSKIN

● Mr. METZENBAUM. Mr. President, I bring to the attention of the Senate the outrageous and demeaning treatment inflicted by the Soviet authorities upon Evgeny Matskin and his family of Leningrad, whose only offense against the Soviet State is their desire to leave it.

In 1979, when he applied for permission to emigrate to Israel, Evgeny Matskin was a Ph.D. in electrical communications with 10 years of experience in computer design. He was fired immediately from his professional position and required to take a job as a stoker in a boiler room.

Mr. Matskin did not give up.

He applied again in 1981 for an exit visa.

This time, he was taken from the boiler room job and made the assistant administrator of a public bathroom. His income dropped from 250 rubles a month to 85.

But the Matskin family persists—and so does the stubborn refusal of the Soviet authorities to grant them permission to emigrate.

That Soviet attitude is something I find incomprehensible.

Do the Soviet authorities fear that as a computer designer, Mr. Matskin may know state secrets?

Not likely.

Anything that was happening in the computer field in 1979 is ancient history today.

No, Mr. President, I think it is clear that Soviet policy is to hold hostage the Matskin family and thousands like them to be used coldly and callously as bargaining chips in future talks with this and other Western countries.

The Soviet position is an outrage—a mockery of the Helsinki accords, of the Universal Declaration of Human Rights and even of the Soviet Constitution itself.

Mr. President, during my 1983 visit to the Soviet Union, I raised the Matskin case directly with Soviet officials.

I have asked our State Department to do the same.

I have written to the Matskin's to assure them that they are not forgotten.

And on April 28, 1985, I telephoned the Matskin's in order to let them know that efforts on their behalf will continue until they are free to leave the Soviet Union.

I repeat that statement here on the Senate floor and invite my colleagues to join me in these efforts.●

HONORING THE FLINT BOARD OF EDUCATION AND THE C.S. MOTT FOUNDATION ON 50TH ANNIVERSARY OF COMMUNITY EDUCATION

● Mr. RIEGLE. Mr. President, I am very pleased to be able to join in the tribute to community education on the occasion of the dedication of the Freeman Elementary School gymnasium in honor of William Minardo, Flint's first community school director, and in the commemoration of the 50th anniversary of community education in Flint. I had the opportunity to attend community schools in Flint where this concept originated 50 years ago, and I am particularly proud of the success of this program in my home community. The C.S. Mott Foundation and the Flint Board of Education together with hundreds of dedicated individuals have shown that citizen involvement can do a great deal to improve the quality of life in our communities.

What began as a small recreation program in 1935 has now become a strong, positive force not only in Flint but in many other communities across the country. The community education programs now provide needed recreational, educational, cultural, social, and medical services in some 3,500 school districts across the country.

Strengthening community involvement through this concept has helped to improve the classroom performance of our younger students and to open up classrooms for adult education programs to fight illiteracy and help people gain the skills they need to participate fully in our increasingly technical workplace and society. The program has also helped reach alienated and isolated groups in our society, such as delinquent youth and seniors who need special assistance. One of the greatest values of community schools is that they help to reestablish a sense of community, to give people a sense of connection and of shared purpose.

As the original sponsor of legislation to provide Federal support for the community schools program, I am pleased to find this concept thriving across the country. This is a tribute to local school districts including the fine school board in Flint and to the foresight of the Mott Foundation which has worked so hard through the years to spread this idea to other communities.●

NEW YORK'S SALUTE TO VIETNAM VETERANS

● Mr. MOYNIHAN. Mr. President, on the 10th anniversary of the end of the Vietnam war, New York is hosting a welcome home party. For the last 2 days, the people of New York have been paying homage to all the men and women of the Empire State who served in the Vietnam war, and especially those 4,108 New Yorkers who lost their lives in Vietnam during the war.

The commemoration began last night, with the dedication of New York's Vietnam Veterans Memorial in lower Manhattan. The memorial, a transluscent glass-block wall, 70 feet long and 16 feet high, is etched with excerpts from 83 letters that were written by or to the soldiers who served in the Vietnam war. This striking monument was designed by William Fellows, Peter Wormser, and Joseph Ferrandino. This ceremony was followed by a massive fireworks display over the East River.

The celebration continued today with one of New York's legendary ticker tape parades from Brooklyn to the Battery—a parade which included more than 13,000 Vietnam veterans. Festivities were to conclude with a reunion for veterans aboard the aircraft carrier U.S.S. *Intrepid.*

Mr. President, this commemoration was the culmination of more than 2½ years of planning and fundraising by the New York Vietnam Veterans Commission, which was appointed by Mayor Edward I. Koch in November 1982. Composed of over 100 citizens of New York—half of whom are Vietnam era veterans—the commission was ably guided by cochairmen H. Scott Higgins and Donald J. Trump and Executive Director James M. Hebron. More than raising funds for a memorial for Vietnam veterans, the commission has raised funds for a living memorial—a job program to help alleviate the unemployment and underemployment of New York's Vietnam veterans. Money was raised from New Yorkers in all walks of life and all parts of the country. As Scott Higgins said:

> This will be a people's memorial, so that the men who fought, and their families, will know that at last the healing has begun.

The New York salute to its Vietnam veterans should emphasize how very important it is to express to all Vietnam veterans just how grateful this Nation is to them for the courage they showed and the sacrifices they made.

For too long, we as a people have forgotten, or neglected to say aloud to these veterans what we have always known in our hearts: Those who have not been sent into combat, and who have sought to serve their country in other ways, are eternally in the debt of those who have taken the more fearsome risk, and especially to those who have made the supreme sacrifice.

It is important not least because the respect and recognition we accord to our military veterans teaches our children what are honorable callings in life—and we would always hope to have the most perceptive of our young people choose careers in uniform.

America's treatment of its veterans also tells the world something illuminating about the character of our people—whether ours is a nation which respects and reveres those individuals who accept society's most difficult mandate, and fulfill it honorably.

It has been long in coming, too long certainly, but yesterday and today, New York is welcoming its veterans home. This Senator is proud again to be a New Yorker this week. Mr. President, I hope everyone everywhere can join New York in saying "Welcome Home."●

BALTIMORE: "WHERE THE WHIZ KIDS ARE"

● Mr. MATHIAS. Mr. President, front-page stories in today's editions of the Baltimore Sun and New York Times give the city of Baltimore and all Marylanders much to be proud of. In the words of Thomas H. Sherlock, executive vice president of Blue Cross and Blue Shield of Maryland, "that's where the whiz kids are."

Mr. Sherlock was referring in one of the articles to three young Baltimoreans who have developed a process for packing 800 pages of information onto a single card about the size of a credit card. The system will be used by Blue Cross and Blue Shield of Maryland to manage vital information about the medical histories of over 1.6 million Marylanders.

The young scientists who have succeeded in making the "smart card" even smarter are Douglas L. Becker, 19; his brother, Eric Becker, 23; and Christopher Hoehn-Seric, also 23, all of Baltimore. Also contributing were Steven Taslitz, 26, and Dr. Frederik Hansen, 58. Their adaptation of laser optics technology will enable each subscriber to carry on a card his or her own complete medical history, including a digitalized photograph of the carrier, copies of electrocardiograms or x rays, a complete list of medications prescribed, and other data. According to the reports, each card will cost only $1.25 to $1.75 to manufacture and encode.

The two articles give further details about this new development in information storage. I ask that the text of the articles from the May 7 New York Times, "Insurance Cards to Detail Medical Histories," and from the May 7 Baltimore Sun, "Blue Cross will put your records in your wallet," be printed in the RECORD at the conclusion of my remarks.

Mr. President, I know that my colleagues join me in commending the remarkable achievement of these three young Marylanders. Their work illustrates the astounding potential of today's information technology. It also underscores the challenges that face the Congress as we strive to keep our laws up-to-date with the rapid developments in this field. Almost daily we learn of new breakthroughs in the

ability to collect, store, and use electronically encoded information. As Baltimore's "Whiz Kids" well know, these advances are the result of both ingenuity and hard work. We will need plenty of both if we are to succeed in our efforts to give further encouragement to technological progress, to provide appropriate legal protection for the fruits of creative and inventive activities, and to protect the privacy of Americans in the new information age.

The articles follow:

BLUE CROSS WILL PUT YOUR RECORDS IN YOUR WALLET

(By Mary Knudson)

A 19-year-old Baltimore computer jock got the idea.

And within 8 months, he and his 23-year-old brother and three friends had sold Maryland's largest health insurer a technique for storing huge amounts of medical history and insurance data on members' wallet-size insurance cards.

Blue Cross and Blue Shield of Maryland threw its support behind development of the technique, and as a result, 1.6 million Maryland subscribers will be carrying the new cards within the next two years. Thomas H. Sherlock, the company's president, announced yesterday.

Known as LifeCard, the card would provide emergency room doctors instant access to a patient's medical history, including allergies, operations he has had, drugs he is taking, pictures of X-rays and results of any other tests. In an emergency outside a patients hometown, that could save lives, Mr. Sherlock suggested.

The card will be designed with a wide laser optic memory strip, like the material on video discs and compact audio discs, capable of storing up to 800 pages of data.

After a Blue Cross-Blue Shield subsidiary tests the card and information retrieval system, the company will begin issuing cards in November to plan members free of charge. Hospitals will need to spend some $6,600 for computer equipment to use the cards.

Hospitals will benefit because the insurance card will carry more complete identification of the member's coverage for specific health services than present Blue Cross-Blue Shield cards have. And by carrying the member's photograph and signature, the card will reduce the chances of its unauthorized use, Mr. Sherlock said.

"Medicaid [the state's insurance program for the poor] is extremely interested in using this technology because of their higher incidence of fraud," said James Thornton, president of the new Blue Cross-Blue Shield subsidiary, Health Management Systems, Inc., which will oversee the implementation and marketing of LifeCard.

Maryland Blue Cross-Blue Shield plans soon to begin offering the license to use the LifeCard technology to other Blue Cross-Blue Shield plans throughout the United States, Mr. Sherlock said.

The five who invented the technique were on hand yesterday when Blue Cross announced the development at the Baltimore Plaza Hotel.

Douglas Becker, 19, was a senior at Gilman High School and worked part-time at a Baltimore computer store when he became aware that the technology exists to develop this type of card. Christopher Hoehn-Saric, 23, was working at the same store and became an instant ally.

Mr. Becker was also a volunteer in the microsurgery laboratory of the hand surgery center at Union Memorial Hospital, where he got to know Dr. Frederik Hansen, a plastic surgeon. As the idea began to jell, Mr. Becker and Mr. Hoehn-Saric talked it out with Dr. Hansen, who shot down some early suggestions as unworkable and provided the direction for what medical use could be made of the card.

Dr. Hansen also organized an advisory board of doctors, hospital administrators and medical records technicians, who set up guidelines for what information would appear on the card and who would have access to it.

The card is designed with built-in security access codes so that a pharmacist would have access only to drug information, for instance. Blue Cross-Blue Shield would not have access to its members' medical information, nor would a non-health provider such as a member's employer, Mr. Hoehn-Saric said.

Early on in the card's development, Douglas Becker called his brother, Eric Becker, 23, who was working in Chicago in business finance and real estate, about the project. Eric Becker and Steven Taslitz, 26, who was working with him, left their jobs to join in the medical card venture.

The young inventors have traveled to California and to Japan to interest companies in developing the technique for manufacturing the cards. Doctors and hospitals who want to be able to use the card will be able to buy the required computer hardware and software from Blue Cross-Blue Shield. The five inventors have become paid consultants to Blue Cross-Blue Shield and will be minor stockholders in the subsidiary company that markets the card.

[From the New York Times, May 7, 1985]

INSURANCE CARDS TO DETAIL MEDICAL HISTORIES

(BY IRVIN MOLOTSKY)

WASHINGTON, May 6.—Blue Cross and Blue Shield of Maryland annouced today that subscribers would receive membership cards that can contain the equivalent of 800 pages of information on their medical history. Nationwide adoption, the insurer said, is expected in a few years.

The card, which health-care providers like hospitals would use in determining treatment, was developed by a group whose leaders were a 19-year-old youth who put off entering college and two 23-years-olds who dropped out of college in their senior year to work on the card.

"I feel like a chaperone some of the time," said Thomas H. Sherlock, executive vice prsident of Blue Cross and Blue Shield of Maryland and chairman of Health Management Systems, a subsidiary formed by the health insurer to develop the card with the young scientists.

The 19-year-old, Douglas L. Becker, had the idea of using the laser optics technology used in video disks and compact audio disks.

The information can include a digitalized photograph of the carrier, a facsimile of his or her signature, the extent of the health insurance, a copy of an electrocardiogram, a chest X-ray, a list of medicines being taken, the names of physicians who have provided treatment and other elements.

The information, retrived by way of personal computers and laser optics technology, could prove life-saving in an emergency, Blue Cross said, or it could allow a hospital to avoid unnecessary procedures, saving money and perhaps avoiding unnecessary risks.

Mr. Sherlock said the card would be distributed to Blue Cross and Blue Shield's 1.6 million members in Maryland at no cost to them. He said doctors, hospitals and other health-care providers had indicated that they would update information on the subscribers' cards without cost, as well.

Full distribution is expected next year after further testing this fall, Mr. Sherlock said, with availability to the rest of the country expected in 1987.

The laser technology is copyrighted by Drexler Industries, he said, while the software to run the medical programs is owned by Health Management Systems. "That's where the whiz kids are," Mr. Sherlock.

CHEAPER THAN PHONE LINKS

Development of the card was announced at the health insurer's headquarters in suburban Bethesda and at a news conference in Baltimore, the hometown of the developers of the card, which they are calling the LifeCard.

The principal developers were Mr. Becker, who won a deferral from the University of Pennsylvania to put off entering the college's premedical program; his brother, Eric, 23, who left school in his last semester as a University of Chicago economics student, and Christopher Hoehn-Saric, also 23, who dropped out of John Hopkins University, where he was pursuing a degree in electrical engineering. Also involved were Stephen Taslitz, 26, and Dr. Frederik Hansen, 58.

Douglas Becker said the system would be less costly than using expensive telephone connections to link the Blue Cross and Blue Shield computer with, say, a hospital. Instead, a person would carry the health-care record directly to the hospital.

INCREASED PRIVACY SEEN

In addition, some people concerned with privacy in the computer age have advocated such a personal card as a way of increasing confidentiality. Constitutional protections on privacy extend to a person or to the home, but not to records kept by a third party like a bank or insurance company.

A card encoded with medical history and carried by a person could restrict access by others to such information.

The information could not be retrieved without a laser optical scanner, along with an I.B.M. or compatible personal computer and the software. In addition, Blue Cross said access codes would prevent unauthorized use even by people with the equipment.

The card costs $1.25 to $1.75 to make and encode, Douglas Becker said. He said a health-care provider would need to spend less than $1,000 for the equipment to read and encode the card.

"I had been following the technology," he said. "I was reading the technical journals and had the idea of applying optical technology to medical records."

Mr. Sherlock said Blue Cross had spent $1 million to develop the technology with the young Baltimoreans.●

EQUAL ACCESS TO JUSTICE ACT: A HELP TO OUR NATION'S 14 MILLION SMALL BUSINESSES

● Mr. DOMENICI. Mr. President, I am pleased to cosponsor legislation introduced by my esteemed colleague, Senator GRASSLEY, on the Equal Access to Justice Act [EAJA]. I have

been trying ever since I arrived in Washington to find a way for individuals and small businesses to fight against unjustified Federal Government action. Some of the greatest injustices in this country occur through regulators out in the field who can walk into a small business and charge the company with a fine just because they violated some technicality of an arbitrary Federal regulation. I perceive this to be an administrative and bureaucratic denial of equal justice.

Senator GRASSLEY's bill will equalize the balance between the Federal Government's corps of lawyers and regulators and the individuals and small businesses who pay the taxes to fund the Federal regulatory agencies. The legislation will send a warning signal to the Federal bureaucracy that arbitrary and capricious regulations may not continue without challenge from private citizens. An estimated $100 billion of the U.S. annual deficit may come directly and indirectly from errors in Government contracting. EAJA will help to correct these mistakes.

The Equal Access to Justice Act expired in 1984 when the President vetoed reauthorizing legislation. I am confident that this new bill, which has the support of the White House, will benefit both citizens and the Government, and I urge my colleagues to support its swift enactment.●

PRAISE FOR THE FOREIGN SERVICE

● Mr. PELL. Mr. President, our career Foreign Service, of which I am proud to have been a member prior to my political career, often comes under attack. One departing noncareer ambassador recently accused the Foreign Service of being "gutless." Another noncareer ambassador has challenged that characterization; and he correctly pointed out that far from being gutless, the men and women of our Foreign Service have performed heroically in the face of security threats and heavy work demands.

This noncareer admirer of the Foreign Service is Joseph Verner Reed, who serves as Ambassador to Morocco. He stated in a recent op-ed article in the Wall Street Journal that, "The professional staff in our embassies is clearly on par with the best in industry, but unsung, underpaid, and undervalued at home."

I agree wholeheartedly with this assessment, and I ask that the full text of Ambassador Reed's article be printed at this point in the RECORD.

The article follows:

[From the Wall Street Journal, Mar. 26, 1985]

DIPLOMATS ABROAD: TIME TO RESTORE MORALE

(By Joseph Verner Reed)

How relevant are career diplomats, the proverbial boys in striped pants, in a profession where the vital interests and rules of play of U.S. foreign policy are often ill-defined, even murky? As a non-career diplomat now serving as U.S. ambassador to Morocco, I have come to believe they are vitally important.

While serving abroad I have found many parallels with my previous experience as an executive in a bank comparable with the State Department in size and world-wide interests. Yet, there are many differences. In banking or business, management by objective and therefore achievement is far more measurable; motivation more clear-cut. In government, responsibility is diffuse, hiring and firing almost impossible, and the buck rarely stops anywhere.

The Foreign Service has been maligned, even called "gutless" by another ambassador, yet it is often a more dangerous occupation than serving in our armed forces. Far more ambassadors than generals are shot at each year. In the past two years, three embassies have been obliterated, 19 U.S. diplomats assassinated and 59 others have been the victims of terrorist attack. One needs to be continually alert to security threats. Few in the medium-sized embassy I head have not had close friends murdered in "peacetime" in the line of duty. And yet there is little public support for our professional diplomats.

Nor is "daily life" especially easy, even in a welcoming environment like Morocco. For example, secretaries, usually without training in the local language, are isolated here in a foreign, male-oriented culture. Elsewhere—in Kabul, Afghanistan, Beirut, Lebanon, or Bogota, Colombia, for example—day-to-day survival is uppermost. At all posts, code clerks and others work long hours in windowless vaults and everyone is on active call 24 hours a day, seven days a week.

Among our diplomats, decades of haphazard reform and contradictory plans have undercut morale and confidence in promotion for merit. The 1980 Foreign Service Act required the restructuring of our diplomatic corps so as to reduce a then-existing surplus of senior officers. But it has also resulted in the promotion of only a tiny fraction of midcareer officers. If not promoted into the Senior Service within a fixed number of years, many of these officers face forced retirement in their 40s at the taxpayer's expense. The result of this gross inequity is resignation by those with other options or a "take what you can get" attitude by many who stay.

As ambassador, I have found in our Morocco mission loyalty and teamwork, as well as drive, inventiveness and a willingness to go the extra mile. The professional staff in our embassies is clearly on a par with the best in industry, but unsung, underpaid and undervalued at home. The individual officers are, in short, far better than the system they serve.

The department cries out for long-term, enlightened management to motivate and lead our diplomats. The last years of the 20th century will not be easy. We face a new generation of Soviet leaders, the most crucial disarmament talks in history and widespread famines. To cope with these challenges we should take pride in our career diplomats and build up their morale. Ours is still the best diplomatic corps in the world, and as a nation we neglect this wasting asset at our peril.●

PUBLIC'S CONCERN ABOUT TAKEOVER OF MEDIA OUTLETS

● Mr. EAGLETON. Mr. President, I would like to bring to my colleagues' attention the cover story in the May 13, 1985 issue of U.S. News & World Report entitled "Who Will Control TV?" As my colleagues may recall that on April 29 of this year, six members, including myself, wrote a letter to Chairman Fowler of the FCC urging him to take a careful look at the recent bid by Ted Turner to purchase CBS. I was pleased to read the aforementioned article which documents the public's concern about hostile takeovers of media outlets.

A poll conducted for U.S. News & World Report found that when the public was asked to choose between having the network stay in control of present owners and having it taken over by Ted Turner, only 15 percent supported the Turner takeover. The poll also shows that the overwhelming majority of Americans trust the news coverage they get—and most of the people who deliver it.

Mr. President, I ask that the cover article of the May 13, 1985, issue of U.S. News & World Report be inserted in the RECORD.

To supplement the article's conclusions and the poll data cited in the article regarding the public's concerns about hostile takeovers of the media, the following additional information was provided by Lawrence Maloney, deputy editor of U.S. News & World Report. I ask that this material also be included in the RECORD.

The material follows:

WHO WILL CONTROL TV?

This battle has it all—power, money, politics. On the outcome rides the future of America's most pervasive medium and the programs it brings into homes.

Once just the name of a TV show, "Let's Make a Deal" is fast becoming the motto of the entire television industry.

Since mid-March, the world of TV has resembled a giant auction block, with bidders for networks and station groups striding forward with bold offers that have stunned—and sometimes angered—what used to be a fairly exclusive club.

The frantic action is sending prices of television stocks zooming. Seemingly overnight, Wall Street has discovered that ownership of TV stations is tantamount to running a money machine that churns out profits in good times and bad. Helping to fuel the frenzy is the laissez-faire stance of the Federal Communications Commission, which, under Chairman Mark Fowler, has opened the door to a video revolution on two levels—the rapid turnover of local stations and hostile takeovers of powerful networks, including Ted Turner's recent bid for CBS.

While major broadcasters gobble up still more stations, newcomers to the field, in-

cluding former Treasury Secretary William Simon, are being lured by the hope of huge payoffs. Controversial Australian publisher Rupert Murdoch, who owns a European cable network, also wants to get into U.S. television. Already this year, six transactions have been proposed worth nearly 12 billion dollars, more than four times the value of all deals in 1984. The profits are almost unbelievable. The Gulf Broadcast Group is selling a Tampa TV station to Taft Broadcasting of Cincinnati for 197.5 million dollars. Its purchase price for the same station just six years ago: 17.6 million.

Properties change hands with lightning speed, now that the FCC no longer requires new owners to hold stations for at least three years. Stations in Dallas and Houston will soon have their third owner in less than a year. The rule change "encourages people to trade in broadcast licenses as if they were pork bellies or bushels of wheat," says Andrew Schwartzman of the Media Access Project, a public-interest group.

Notes Grant Tinker, chairman of NBC: "To the extent television gets into the hands of people just in it for an investment, that does not augur well."

When all the wheeling and dealing is sorted out, who will control television and the type of news and entertainment that comes into American homes?

"Oldest maxim." One scenario has those with a conservative political bent, such as Senator Jesse Helms (R-NC) and the Fairness in Media group, gaining control of CBS and riding herd on Dan Rather and his colleagues. It's a prospect that alarms many media watchers. "They would violate the oldest maxim in the business: You don't rewrite a hit," says Les Brown, editor of Channels of Communications magazine.

The public agrees. A poll for U.S. News & World Report (page 67) probing attitudes on TV finds Americans overwhelmingly pefer that CBS stay in the hands of its current management.

Another scenario holds out the real possibility of a fourth network to rival the present Big Three. "If you have a company that has a whole lot of stations and can afford to put up money for programing that could open up a new marketplace," notes Stephen J. Cannell, producer of such popular shows as "The A-Team" and "Hardcastle and McCormick." Adds Dick Block, executive vice president of Metromedia Television: "There will be more networks, more music, even prime-time news."

Just who is right, no one can say, not when television is still trying to digest a plateful of new acquisitions. Yet few doubt that the industry—and TV viewers—are in for some interesting times as televison works through its midlife crisis.

TURNER VS. CBS

What makes the current climate particularly unusual is the eruption of hostile-takeover deals. The greatest controversy is being generated by Turner's offer for CBS, Inc., owner of the nation's most watched network.

Turner's bid for 67 percent of CBS stock has been roundly criticized by most financial analysts, who value the offer at between $120 and $150 a share, or about 3 billion dollars. That is well below what CBS holdings would bring if the company sold off its TV, radio, record and publishing properties piece by piece.

Media analyst R. Joesph Fuchs of the Kidder Peabody brokerage firm says that Turner's no-money-down proposal, which relies heavily on high-yield, high-risk "junk bonds," is "the ultimate in financial mirrors." Others argue that the only way the offer would work is if Turner liquidated most of the company. He plans to do precisely that, keeping the network and most of its lucrative television stations.

CBS directors have rebuffed Turner, who is supported by Helms and Fairness in Media, and have filed suit against him for allegedly violating insider-trading and securities-registration laws. They also will urge the FCC to block him.

The conflict goes beyond pure dollars and cents. While CBS Chairman Thomas Wyman has said that the Atlanta entrepreneur "doesn't have the conscience" to run a network, Turner has called the networks "the greatest enemies America has ever had." CBS founder William Paley said that to change the management or structure of the company through a hostile takeover "would be a tragedy."

One observer of the fray, Ben Bagdikian, professor of journalism at the University of California at Berkeley, says a Turner takeover "would be disastrous journalistically. If one believes what Turner and his friends have said in the past, they see it as their religious and political responsibility to change news in the direction of their politics." Yet journalists formerly at Turner's Cable News Network say that he generally followed a handsoff policy on program content.

CBS staff members have been keeping a low profile during the battle, but any fears are tempered by the belief that a Turner victory seems unlikely. But anyone who has ever dealt with Turner has learned that he is tenacious and takes pleasure in thumbing his nose at the broadcast establishment, which scoffed when he started CNN.

If it looks as if he has a chance of winning, CBS could be forced, among other options, to find a friendly suitor, repurchase much of its stock above the market price or buy a large stake in another company, a move that would complicate Turner's acquisition. Although denied by company officials, rumors are now circulating that General Electric might buy the network or that CBS and Time, Inc., might each buy a large block of one another's stock to give both leverage against unfriendly bidders.

RAIDERS, WHITE KNIGHTS

CBS is not alone in fending off a hostile attack. The New York investment firm of Coniston Partners wants to buy Storer Communications, contending that the firm's 1.2 billion dollars in assets—seven TV stations and cable systems in 18 states—are worth far more if split up and sold.

Such bust-up strategies could have dangerous effects. Says media analyst Ed Atorino of the Smith Barney brokerage firm: "What investors seem to be saying in their infinite quest for maximum value is that all that counts is the buck and, if they destroy the business in the process, too bad."

To protect itself, Storer, preparing for a key stockholders meeting on May 7, has joined hands with Kohlberg Kravis Roberts & Company, a New York firm specializing in "leveraged buyouts." Under the concept, a publicly held company borrows the funds to purchase its own stock, then takes the firm private. The cash flow from TV stations—a rough measure of profitability—is normally so great that companies can count on it to pay off what they have borrowed. Cox Enterprises, a nonpublic newspaper-publishing company, is using a similar method in attempting to take Cox Communications of Atlanta private.

But such buyouts are not always the final answer. Metromedia, which owns seven television stations in major markets such as New York, Los Angeles and Chicago, went private in a 1.6-billion-dollar transaction last year but now is considering selling stations to Twentieth Century Fox, owned in part by publisher Murdoch.

"If this deal comes to pass," says media analyst John Reidy, "you could have an interesting new television force."

In another deal, a financial brawl broke out after Multimedia, which owns five TV stations and 13 daily newspapers and which syndicates "The Phil Donahue Show," proposed an 825-million-dollar buyout. In short order, William Simon, Lorimar Productions and Washington Redskins owner Jack Kent Cooke offered bids that were turned down. Multimedia's controlling families now propose an 890-million-dollar package to retain control.

In this unstable environment, the March announcement of a 3.5-billion-dollar acquisition of ABC by Capital Cities Communications seems positively tame. The friendly takeover, which will take months to consummate, marks the first sale of a network.

The transaction will link troubled ABC, which has sunk to third place in viewer ratings, with a company many analysts consider the best managed in broadcasting. Some at ABC are putting together résumés in fear that the tough-minded and highly profitable Capital Cities will trim jobs, but others are upbeat about the prospect of working for a company that is said to have a keen interest in news and public affairs. Says broadcasting consultant John Bowen: "They don't spare money for investigative reporting."

In a deal that Roone Arledge, president of ABC News, describes as akin to "the canary eating the cat," Capital Cities, which also publishes 10 daily papers, is buying a company with almost four times its revenue. To do that, it must borrow 2.2 billion dollars but is expected to have no trouble paying off the debt. The company is likely to reap at least 1 billion dollars from media properties that have to be sold to satisfy FCC requirements, including a prohibition on any company's owning stations that reach more than 25 percent of the national television audience.

Among the three networks, only NBC seems immune to the takeover mania. RCA, its powerful parent, has no intention of selling the network and has made bylaw changes to thwart unfriendly bidders.

MILKING THE CASH COWS

Behind all these transactions is a sea change in the attitudes of Wall Street, which once evaluated the stocks of television companies purely on the basis of a firm's profitability. In the past year, the financial community began to consider the eye-popping prices that broadcast properties bring when they are sold as well as the industry's reputation for generating an uncommonly high level of cash flow. Investors also realized that broadcasters turn a profit that is not only substantial and predictable but also keeps well ahead of inflation.

The growth in income of the companies that make up Standard & Poor's TV-broadcasting stock group rose 132 percent between 1976 and 1984, compared with 68 percent for all industrial companies the S&P 400-Stock Index.

The values in broadcasting not only lured investors but also speculators, who saw that stocks were undervalued and began to smell

takeover potential. Since the end of 1984, the S&P TV group jumped a phenomenal 51.5 percent, compared with the 6.6 percent rise in the S&P 500 Stock Index.

Meanwhile, the Federal Communications Commission is smoothing the way for more investor action. Under Chairman Fowler, a strong believer in the free market, the FCC has expanded the number of TV stations one company can own from seven to 12. The change has stimulated the market for properties as companies whose growth was stymied under the old limit seek to expand. Taft Broadcasting in buying a total of five stations from the Gulf Broadcast Group, has in one swoop made a deal that will bring it up to 12 stations, and others are expected to follow suit. Such firms as Gannett, the Times Mirror Company and Media General reportedly are all in the market.

The FCC's moves are igniting controversy, even on the commission itself. When a majority headed by Fowler said it would not stand in the way of hostile takeovers, Commissioner James Quello vigorously dissented. Said Quello: "I'm afraid the FCC is promoting bust-up liquidations promoted by professional raiders and causing potential anarchy throughout the communications industry."

With only a limited number of properties for sale, prices are ratcheting up. Stations that once sold for 10 times cash flow are now going for as much as 40 times that. Says Washington, D.C., media broker Ron Ninowski: "You can run a station into the ground and still sell it for more than what you paid."

Investor Warren Buffett, who has made a fortune buying media stocks and has a 518-million-dollar stake in the merged ABC-Capital Cities company, likens the bidding for a limited number of stations to the market for rare art. "If you collect Rembrandts and there aren't any more, what are you going to do?" he asks.

NEW CAST OF CHARACTERS

Deregulation is helping to attract new people into the business. In addition to bidding for Multimedia, William Simon has purchased Forward Communications, which has six stations in the Midwest and South. Financier Ivan Boesky, whose usual stock in trade is making a quick profit on potential takeovers, has acquired a substantial interest in a station in Minneapolis. Boesky, who for a time last month was the single largest stockholder in CBS, already has a stake in stations in Oklahoma City and Schenectady.

Kohlberg Kravis Roberts, the leveraged-buyout specialist, has stations in several cities, including Los Angeles and Miami. It also owned WZZM in Grand Rapids, Mich., which it sold on April 29 for 62 million dollars, almost double what the city's other network affiliate brought when it changed hands in 1983.

Increasingly, limited partnerships, with investments of as little as $50,000, are being established to purchase stations. There is some tax-shelter advantage, but the primary attraction is the money-to-be-made when the station is turned over to those anxious to get into broadcasting. This trend worries industry veterans who fear the entry of business people less likely to take seriously the notion that ownership of a license is a public trust. "We're drifting away from the kinds of people who have run broadcasting enterprises and understand the special relationships between TV stations and the communities they serve," says Peter Kizer, executive vice president of the broadcast division of the Evening News Association in Detroit.

Analysts draw an analogy with the book industry, which was invaded by conglomerates two decades ago, tipping the balance heavily toward the economic side and away from the literary. Some experts worry about cutbacks in news and public-affairs shows by fast-buck artists anxious to turn a speedy profit. Others are concerned about fledgling entrepreneurs' getting into the business with debts that are so high that they must skimp on quality to pay off their bills. Les Brown of Channels of Communications says that government regulators are no longer standing in the way of "the rape of the airwaves."

"That's all baloney," counters John Massey, president of Gulf Broadcast Company, who contends that broadcast people are critical of new entrants because "they have been sitting on a gold mine and want to keep others out." Others insist that station owners dare not skimp on news and public affairs, which can be big moneymakers for those who attract the largest number of viewers.

All of this controversy has generated little reaction on Capitol Hill. "I do not think Congress should be in the act of deciding who should own a TV station.' says Representative Tim Wirth (D-Colo.), chairman of the House Telecommunications Subcommittee. Wirth may hold hearings that focus on hostile takeovers, although little is expected to result because Turner's CNN is generally well regarded by Congress, while CBS and the other networks are viewed by some as arrogant and biased. The only thing that might energize Congress is a serious move by Senator Helms and his supporters for CBS, which most experts say is implausible.

MORE CHOICES FOR TV VIEWERS?

Changes now afoot inevitably point to even tighter control of television by ever more powerful firms. While some media experts deplore that trend, others predict that the result will be a wider selection of programs for TV watchers.

"There will be less reliance on the three major networks and more creativity," predicts Don Curran, a San Francisco broadcasting consultant. Metromedia, which can reach more than 24 percent of the nation with its stations, is moving ahead with plans for a national evening newscast in prime time as well as daily medical and travel shows, though sale of its stations could change that. In combination with Taft, Storer, Hearst and Gannett, Metromedia is producing a half-hour situation comedy.

The new breed of local-station owners may also be less willing to follow the lead of the networks. Already, such network suggestions as hour-long evening news shows consistently are snubbled by affiliates in favor of quiz programs popular with local viewers and profitable for the stations.

Still, no one is saying that the networks are ready to retreat, although their share of the prime-time audience has fallen from 91 percent in 1977 to 74 percent last year in the wake of expansion by independent stations and cable TV.

But with a new owner at ABC and a change possible at CBS, there may be some shifts at the top of the programming mountain. Because of Capital Cities' reputation for stressing the bottom line, the joke now is that Joan Collins will be wearing hand-me-downs on "Dynasty."

Special shows. A glimpse of what may lie in store can be discerned in Capital Cities' relationship with Paulist Productions, a Catholic nonprofit company that since 1977 has supplied the broadcaster with a series of teenage dramas that treat such issues as drugs and alcohol.

The Rev. Elwood Kieser, president of the Paulist firm, says that top executives of Capital Cities "feel a keen obligation to the viewing public." Although he is not sure that the company will continue to buy his products once it officially acquires ABC, Kieser says that the Paulist group will be trying to sell such offerings as movies about Dorothy Day, founder of the Catholic worker movement, and Archbishop Oscar Romero of El Salvador, killed in 1980, allegedly by rightist death squads.

As for what Ted Turner might do at the network he claims has been "taken over by the sleaze artists," longtime observers say that he just might transform some of his rhetoric into reality and put on the air more profamily shows in the style of "The Waltons," a Turner favorite. Two situation comedies that appear on WTBS, his Atlanta-based superstation, are considered "very clean" by TV standards.

Whatever the personal philosophies of television's changing lineup of owners, media analysts agree that, in the end, economics will dictate what people see. "The consumer will not allow owners to get too far out of line," says Fuchs of Kidder Peabody. "The Nielsen meter will tell them, 'Wait a minute, nobody's watching,' "—(By Alvin P. Sanoff with Clemens P. Work, Manuel Schiffres, Kenneth T. Walsh, Linda K. Lanier, Ronald A. Taylor, Robert J. Morse of the Economic Unit and the magazine's domestic bureaus).

WHAT THEY MAKE—REVENUES AND PROFITS OF MAJOR BROADCASTING COMPANIES IN 1984

[Dollar amounts in millions]

	Revenue	Profit or loss	Profit as share of revenue (percent)	Current status
CBS	$4,925	$212	4.3	Fighting Ted Turner takeover bid.
ABC	3,708	195	5.3	Merging with Capital Cities.
NBC Broadcasting Group.	2,371	[1] 218		Improving ratings.
Westinghouse Broadcast & Cable.	985	[1] 71		Considering expanding.
Capital Cities Communications.	940	135	14.4	Acquiring ABC.
Cox Communications	743	87	11.8	Trying to go private.
Metromedia	656			Selling stations to 20th Century Fox?
Storer Communications	537	17		Trying to go private.
Taft Broadcasting	454	39	8.6	Buying Gulf Broadcast.
A.H. Belo	354	54	15.3	Consolidating 1984 TV purchases.

[1] Figures for NBC and Westinghouse Broadcast are profits before taxes for parent corporations USN&WR—Basic data: Corporate annual reports.

WHEN LOCAL STATIONS CHANGE HANDS

Talk of network takeovers grabs the headlines, but what makes the average viewer applaud or jeer is the impact of musical chairs at the local level.

When Capital Cities bought WFTS in Tampa-St. Petersburg last August, it took preachers, who accounted for about 10 percent of programing, off the screen and put on 30 New York Yankee games. Another addition: Elvira, mistress of the macabre movie. Now, it's the fastest-growing station in its market.

In Madison, Wis., Tak Communications of Maryland bought station WKOW in March

and promptly scrapped Saturday-night wrestling for movies and substituted documentaries for Sunday religious programs.

Lin Broadcasting's purchase of WOTV in Grand Rapids, Mich., in 1983 led to the firing of several veteran news people. To blunt the uproar that followed, management expanded the news staff and added an early-morning newscast and more public-affairs shows.

PROGRAM SHIFTS

When George Lilly purchased the four-station Montana Television Network last year, he shifted the site of its nightly statewide report from Great Falls to Billings, generating some ill will in Great Falls. Evening newscasts, which used to start with the statewide segment, now begin with local reports.

After the Dallas-based A. H. Belo Corporation purchased KHOU-TV in Houston last year, it imported anchors from Dallas and New York and designed a new set. The aim: To bolster ratings of a station that had fallen to last place in local news after leading the pack in the '60s when it spawned stars such as Dan Rather. So far, however, the audience is not watching in greater numbers. Says Prof. William Hawes of the University of Houston School of Communications: "Mostly, there has been a change in personalities, and that won't do it."

IS A VIDEO REVOLUTION BREWING? HOW HOLLYWOOD SEES TV'S FUTURE

Will the shake-up in TV ownership change what's on the air? From the people who create the shows—

Larry Gelbart, creator of "M*A*S*H": "Somebody once said: 'An organization is the death of fun.' I think a giant organization can be deadening to entertainment. I'm just afraid that big business will try to appeal to more and more people as consumers, and the sure way to do that is to put out the least offensive product or do the least amount of risk taking. I'm afraid of less color in our shows, if that's possible."

Stephen J. Cannell, president, Stephen J. Cannell Productions ("The A-Team," "Riptide"): "My hope is that the new owners aren't going to come in with a broom and change everything. Given the horrendous production schedules—22 to 25 hours of a show in eight months—the quality is remarkably good. TV tends to be attacked by intellectual, college-educated people. They say we're not doing enough Faulkner, but networks have the responsibility to program for a huge population."

Glenn Padnick, president, Embassy TV ("The Jeffersons," "The Facts of Life"): "If I were a CBS stockholder and I thought Ted Turner was going to impose his personal, creative judgments on the television network along the lines of his speeches, then I would be very scared about him taking over that network. It would not be artistically or commercially a very successful enterprise."

Dick Clark, president, Dick Clark Productions ("TV's Bloopers & Practical Jokes," "American Bandstand"): "There'll be more alternatives to network programs, but networks aren't going away. They are still going to reach the masses and continue to be the best buy there is. Money is the driving force. When somebody makes a lot of money making Westerns, you'll find a lot of Westerns."

Mel Blumenthal, executive vice president, MTM Productions ("Hill Street Blues," "Newhart"): "Hypothetically, if you have one network that had a philosophical viewpoint based upon an individual's outlook of the world, and he programed his network along those lines, I'd guess a lot of people would watch. But I would side with a diverse plate."

Lee Rich, president, Lorimar Productions ("Dallas," "Knots Landing," "Falcon Crest"): "If you have personal tastes in running a network, you have problems. You can come into the job with prejudices, but you'd better get rid of them in a hurry. Turner doesn't like 'Dallas,' but he loves 'The Waltons.' If he's going to be a responsible broadcaster and a businessman responsible to stockholders, to cancel 'Dallas,' the No. 1 show on the air, would be inappropriate."

Steven Goldman, senior vice president, Paramount Domestic Television ("Cheers," "Webster"): In spite of mergers and greater concentration of power, you have greater demand for products than ever before, and the public has much more choice."—By Steve L. Hawkins in Los Angeles.

DOES TELEVISION NEWS TILT TO THE LEFT—TWO VIEWS

INTERVIEW WITH REPRESENTATIVE PHILIP CRANE (R-ILL.) AND SPOKESMAN FOR FAIRNESS IN MEDIA

Q. Representative Crane, how do you justify claims that TV news is too liberal?

A. Any number of independent studies that go back for better than a decade show a liberal bias, especially with regard to CBS. Its coverage in Vietnam leaned disproportionately toward critics of our policy. In 1972 and '73, the Institute for American Strategy found that CBS quoted the statements of critics 842 times, while those partial to our policy were quoted only 23 times.

CBS News has also been much more critical of President Reagan than the other networks. In 1983, TV Guide looked at pro-Reagan vs. anti-Reagan coverage and found that while NBC was critical 10 percent of the time and ABC 12 percent, CBS stood out because it was critical 52 percent of the time.

Then, if you look at CBS and NBC coverage of the political conventions last summer, they used such terms as "right wing" and "hard right" for the Republicans, but rarely used the word "liberal" for the Democrats and never used the term "left wing," which apparently isn't in their vocabulary.

Q. Are you arguing that CBS is the worst offender and the rest aren't too bad?

A. I'm focusing on CBS because I've really looked into that situation more than the other networks. But let me point out that a study of 240 top print and broadcast journalists found that, at the most, 19 percent of them voted for a Republican presidential candidate from 1964 through 1976. And when asked their views on social issues, about 90 percent were pro-abortion. That is at considerable variance with the views of the public at large.

It's always been a source of curiosity to me that the media attract people who are left of center. You find fewer conservatives who tend to gravitate into journalism. Probably someone could give a psychological explanation as to why this has happened.

Q. Whatever the voting pattern of journalists, doesn't the President's landslide win suggest media coverage is objective?

A. What it indicates is that the American people are willing to rise above some of the misinformation that comes across on the news.

Q. If Jesse Helms were to become Dan Rather's boss, wouldn't conservative bias creep into news coverage?

A. The imbalance at CBS can be redressed without making the news biased. Fred Friendly, former president of CBS News, said that the network should absolutely guarantee equal time to someone attacked in the way General Westmoreland was. The problem with CBS is the lack of opportunity to reply and the absence of a differing viewpoint. Unlike ABC, they don't have a George Will juxtaposed with a Sam Donaldson. Trying to get someone balanced against Bill Moyers would really improve the editorial commentary coming out of CBS.

Q. Could you work with a Dan Rather?

A. Rather has marketable qualities, or CBS wouldn't have the ratings it has. He has demonstrable show-biz, starlike qualities. To that extent, I wouldn't have trouble, if I were owner of CBS, in keeping Rather in his position. My concern is guaranteeing that there is more rigid supervision of what is defined as news and avoiding the kind of imbalanced reporting I have referred to. Fair is fair. Let's treat both sides equally.

Q. Hasn't the public indicated that it would be uneasy if a conservative group took over a network?

A. Yes, because there has been the implication that they would turn it into a conservative network. My question is: Would the public not be equally uneasy if liberals took over a network? And I think the American people do not realize the degree to which liberals have a monopoly at CBS.

Q. Do you support Ted Turner's bid for CBS?

A. I find him infinitely preferable to the current management.

Q. Do you agree with Ted Turner that television news is tearing down the fabric of America?

A. To the degree that TV inordinately focuses on negatives, that's a source of some despair to me. The overall impact is demoralizing. The media say, "Well, that's news." But there are times when a healthy balance would dictate accentuating the positive.

INTERVIEW WITH DON HEWITT, EXECUTIVE PRODUCER, CBS NEWS "60 MINUTES"

Q. Mr. Hewitt, does network news have a liberal bias?

A. I would suggest that critics try that out on Geraldine Ferraro. If we had the liberal bias Jesse Helms says we have, and we were as influential as he says we are, how did Ronald Reagan end up in the White House? Why aren't Mondale and Ferrarro in the White House?

CBS News is neither liberal nor conservative. CBS News is an observer of liberals and conservatives, and sometimes we find them both wanting. We once had a guy on "60 Minutes" who runs a halfway house for drug addicts and criminals who said the underprivileged are "caught in a bind between right-wing nuts who want to hit everybody in the head, and radical-chic creepos who want to kiss everybody's backside." I believe that. I defy anybody to tag "60 Minutes" as left or right, liberal or conservative. A good story is a good story.

Q. What about studies that show journalists are liberal in the way they vote?

A. I've never seen any evidence of that. But let me tell you about myself. I lost my left-wing bias when I turned 21. I'm a big fan of both conservative columnist George Will and liberal writer Izzy Stone. I look at 1988, and I'm torn between New York Democratic Governor Mario Cuomo and Senate Republican Leader Bob Dole. Now, what kind of liberal bias is that?

Q. Doesn't TV news tend to distort or exaggerate often with a liberal bent?

A. If I detect a left-wing bent around here, that person's out the door—and I haven't detected it. I don't like left-wingers any more than I like right-wingers. I love the middle. I broadcast for cops and firemen and Lions, Rotarians and Kiwanians—hardly people who would take to a left-wing bent. The left think we're right, and the right think we're left. The National Council of Churches thinks we're all a bunch of fascists, and the National Rifle Association thinks we're all a bunch of Communists. We like it that way.

Q. If television news is doing such a good job, why is its credibility slipping?

A. I don't believe that for a minute. But if the public isn't too crazy about us, that's very understandable. We sell murders and rapes, starvation and cruelty. You name it, we peddle it. I don't think we've changed. The nature of the product has changed. Stories about opium dens and hashish made great reading when the dateline was Tangier. It's not so great when the dateline is the empty building around the corner from the high school. When you deliver that kind of news to people's homes, don't expect to be liked.

Being believed is quite another matter. If we're not believed, why are the networks doing so well? The highest-rated show in television, which gets a blockbuster 60 percent share of the audience every night, is a show called "The Evening News." Some people watch it on ABC, some watch it on NBC, more watch it on CBS. If so many people are turned off, how come so many people are tuned in?

Q. Are you suggesting there's nothing wrong with TV news?

A. Absolutely not. Tell me anything there's nothing wrong with.

Just look at the poll your own magazine did about who are the heroes of American young people. It was an excuse to put Eddie Murphy and Clint Eastwood on your cover. If we did that on "60 Minutes," we'd get laughed off the air. I'll tell you something else that would have gotten us laughed off the air. If Dan Rather went on during Watergate and said: "There's this guy named Deep Throat, and I meet him every night down in this garage. The way I know he's there is I look for flowerpots on a terrace." If he did that, the TV critics would have had a field day.

Q. Isn't there a need for television to give people more opportunity to respond to programs?

A. That's the one place we fall down badly. I've suggested that we take 12 of our documentary hours and give six of them to the public—not only give them the time, but also the producers, director, cameras, videotape, editors, so they can do as slick a job answering as we do in our pieces.

We've got a big public-relations problem on this and need to do something about making time and facilities available for counterattacks.

A Look at FCC's Fowler: Apostle of the Free Market

Mark Fowler insists he is not the king of the air-waves, but he'll get an argument from many who call him the most powerful figure in broadcasting today.

In four years as chairman of the Federal Communications Commission, the former Florida disc jockey turned lawyer has doggedly worked to make freedom the watchword in an industry used to federal fetters.

His goal: "The elimination of pervasive government control over the lives and commerce of the American people." To that end, Fowler, 43, has sparked a rapid-fire series of actions designed to give broadcasters their head. The five-member FCC has eased investors' entry into the broadcasting market and has cleared the way for new technologies, such as low-power TV.

The free-market views of "Madman Mark," Fowler's DJ name in the late '60s, arose in part from his frustrations at the minutiae of FCC regulations. Now, as head of the agency that once made him jump through hoops, Fowler is moving swiftly to erase what he says is Washington's all-too-visible hand. He calls broadcasting regulators censors who "have no place in a democratic, free society." The best regulator, he adds, is the dial on the television set.

"Good" programing, by Fowler's lights, is what viewers want to see. Yet he criticizes networks for "confrontation, not coverage." He also would like to see less worry about ratings, which he says have "become the master, instead of the servant, of broadcasting." While conceding that ratings reflect what most people watch, he wishes television would try harder to show fresh ideas. "Why don't we have a 'risk hour' where networks don't worry about ratings?"

Another concern is children's TV, which, Fowler thinks, deserves special support with public dollars. Market forces are not yet able, he says, to spur enough privately funded programs of "Sesame Street" quality.

The chairman's zeal and combative style often backfire on Capitol Hill. Efforts to cut networks in on the Hollywood-dominated syndication market, for example, were rebuffed. Congress may bar any move to kill the Fairness Doctrine, which makes stations air opposing views. "He has a wonderful talent for the absurd and the extreme," says Sam Simon of the Telecommunications Research and Action Committee.

Despite critics, the Fowler-led FCC clearly has become one of the more exciting agencies in Washington.—(By Clemens P. Work.)

What America Thinks of TV

They may grumble about the quality of entertainment on television, but an overwhelming majority of Americans trust the news coverage they get—and most of the people who deliver it.

That is one of the principal findings of a wide-ranging survey of public attitudes toward television conducted exclusively for the magazine by the Roper Organization.

Over all, the 1,051 persons sampled across the country strongly supported the networks and felt that CBS should remain under it present ownership.

Asked to choose between having the network stay in control of present owners and having it taken over by Ted Turner, only 15 percent opted for the Atlanta businessman. Other possible suitors, Senator Jesse Helms (R-N.C.) and General Electric, fared even worse. "General Electric? That's Reagan's old company," said a Maryland man. "I don't think they should take it over."

Perfering status quo. Even among those who described themselves as conservative, a clear majority preferred the status quo at CBS. Despite persistent criticism by conservatives of TV's "liberal bias," 58 percent of those surveyed characterized coverage as neutral and objective.

Twenty-two percent said that they detected a tilt to the left, while 10 percent said that if any bias existed it seemed to favor the conservative point of view. "I think the networks do a decent job on the news," offered a New England man. "They are believable most of the time."

The evening news shows of all three networks were judged roughly the same on fairness and balance. Yet viewers seemed less familiar with "NBC Nightly News." Fifty-four percent knew too little about the show to comment, a fact that may also explain why, among news personalities, NBC anchor Tom Brokaw ranked fifth in job performance.

Even more unknown to viewers were broadcast journalists Robert MacNeil and Jim Lehrer, who appear on Public TV. Also unfamiliar to many were those on morning shows, such as Bryant Gumbel and Diane Sawyer, who now appears on "60 Minutes," and late-night newsman Ted Koppel, host of "Nightline." Yet among those who recognized him, the ABC journalist scored high. "You can stop right there," exclaimed one women. "Ted Koppel is terrific."

By far the biggest winner in the ratings turned out to be a gray-haired veteran who is semiretired, Walter Cronkite of CBS. "Walter was, is and always will be the best," said one admirer. CBS's Dan Rather and Mike Wallace followed, with Wallace just ahead of ABC's Peter Jennings. Barbara Walters of ABC drew the largest number of negative marks—as well as the harshest criticism. But she tied Rather as the second-most-recognized news person after Cronkite.

In general, CBS news people, despite the conservative attacks on them, got the best ratings. ABC edged out NBC for second place. "CBS, the network that conservatives love to hate, seems to be viewed quite positively by the general public," said Roper of the results.

While the poll made no attempt to gauge television's credibility against other news media, earlier surveys have consistently shown the networks out front. In one recent sampling, TV news commanded a 2-to-1 margin over print.

Too powerful? On the question of power, television comes off far better in the public mind than other large American institutions. Only 41 percent said that they felt the medium had too much influence, compared with 53 percent for big business, 52 percent of government and 49 percent for organized labor.

"I wouldn't say the networks have too much power, because it would have shown up in the election of Reagan, reasoned an elderly New Yorker. But a Maryland viewer disagreed, saying: "They all have too much power. The little guy always gets the short end of the stick."

Television earned its worst marks for what many saw as mediocre entertainment programming. Just 8 percent claimed complete happiness with what they saw, and 43 percent said that they were only "moderately satisfied."Nearly half reflected some degree of disappointment.

"TV bores me to tears," said a Pennsylvanian, echoing the comments of many. Others disliked what they saw as a trend toward sex, violence and profanity on TV. "I disagree with the smut they shove down your throat," said an Ohio man.

The results, however, would probably have been more positive, said Roper, if viewers had been asked about specific programs, such as "Dallas." An elderly New York woman seemed to back him up: "I like to watch my favorite shows," she noted. "The TV is kind of a companion."

That's entertainment. Roper also reasoned that NBC's entertainment lineup—not its news—accounted for the fact that 74 percent of respondents rated that network as highly favorable or moderately favorable, compared with a favorable rating of 71 percent each for its competitors.

The lukewarm response to TV entertainment squares with earlier surveys. In a poll taken last fall, 21 percent said they considered television about as boring as raking a yard. What is TV's overall grade with the public? The results of the USN & WR poll might indicate a respectable B.—(By William L. Chaze with Daniel Collins and Ron Scherer in New York.)

WHAT VIEWERS SAY

Questions and answers in the Roper Poll of 1,051 homes taken on April 30 and May 1*

Q. Do you think the following institutions have too much power in our society, not enough or about the right amount?

[In percent]

	Too much	Not enough	About right	Don't know
Big business	53	4	33	10
Government	52	9	33	6
Labor unions	49	19	23	9
TV networks	41	5	47	7

Q. How would you describe your opinion of the three television networks?

[In percent]

	Highly favorable	Moderately favorable	Not too favorable	Not at all favorable	Don't know
ABC	17	54	14	4	10
CBS	16	55	15	5	9
NBC	18	56	13	4	9

Q. In terms of your values, how satisfied are you with the entertainment shows on television?

	Percent
Very satisfied	8
Moderately satisfied	43
Not too satisfied	31
Not at all satisfied	16
Don't know	2

Q. In coverage of political and social issues, do you think television news—

	Percent
Favors liberals and leans to the left?	22
Favors conservatives and leans to the right?	10
Is neutral, objective and middle of the road?	58
Don't know	10

Q. How would you rate the job performance of the following individuals on television?

* Some totals are less than 100 percent because of roundings.

[In percent]

	Excellent or good	Only fair or poor	Don't know
Walter Cronkite, CBS	84	10	6
Dan Rather, CBS	72	18	10
Mike Wallace, CBS	59	22	19
Peter Jennings, ABC	58	14	28
Tom Brokaw, NBC	54	18	28
Roger Mudd, NBC	54	17	29
Barbara Walters, ABC	53	37	10
Ted Koppel, ABC	46	10	43
Diane Sawyer, CBS	40	18	42
Bryant Gumbel, NBC	36	16	48
Robert MacNeil, PBS	24	10	66
Jim Lehrer, PBS	18	9	73

Q. If 10 means completely fair and balanced and 1 means totally unfair and biased, how would you rate the following shows?

	Percent
"ABC World News Tonight" with Peter Jennings?	8.32
"CBS Evening News" with Dan Rather?	8.27
"NBC Nightly News" with Tom Brokaw?	7.97

Note—Answering "don't know" were 35 percent on ABC, 32 percent on CBS and 54 percent on NBC.

*Some totals are less than 100 percent because of rounding.

U.S. NEWS & WORLD REPORT—ROPER POLL

On April 30 and May 1, on behalf of U.S. News & World Report, the Roper Organization conducted a nationwide poll of 1,051 households on public attitudes toward television. Overall, those sampled strongly supported the television networks in general, and overwhelmingly believed CBS should remain under its current ownership. When asked to choose between CBS's present ownership and a takeover by Ted Turner, General Electric or Senator Jesse Helms, the public responded as follows:

Question: Ted Turner is interested in taking over CBS. Do you think this would be in the public interest?

Answer by all respondents: 15% favor a Turner takeover; 69% favor present ownership; 16% don't know.

Answer by respondents calling themsevles conservatives: 22% favor a Turner takeover; 58 favor present ownership; 20% don't know.

Answer by respondents who believe the news "leans to the left": 28% favor a Turner takeover; 55% favor present ownership; 17% don't know.

Question: Would it be in the public interest if Senator Helms' group took over the CBS?

Answer by all respondents: 7% favor a Helms' group takeover; 78% favor present ownership; 15% don't know.

Answer by respondents calling themselves conservatives: 15% favor a Helms' group takeover; 66% favor present ownership; 13% don't know.

Answer by respondents who believe the news "leans to the left": 22% favor a Helms' takeover; 65% favor present ownership; 13% don't know.

Question: General Electric has been talked about as a potential purchaser of CBS. Would such a takeover serve the public interest?

Answer by all respondents: 7% favor GE; 74% favor present ownership; 19% don't know.

Answer by respondents calling themselves conservatives: 10% favor GE; 67% favor present ownership; 23% don't know.

Answer by respondents who believe the news "leans to the left": 12% favor GE; 68% favor present ownership; 20% don't know.

These results were carried, along with other findings, in today's *U.S. News & World Report* cover story (attached).

The population surveyed was divided along the following regional breakdown: 23% Northeast; 27% Midwest; 32% South; 18% Far West.●

CONCLUSION OF MORNING BUSINESS

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

THE 50TH ANNIVERSARY OF REA

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota [Mr. DURENBERGER] is recognized for not to exceed 1 hour.

Mr. DURENBERGER. Mr. President, I rise today to acknowledge, honor, and join in the 50th anniversary celebration of the Rural Electrification Administration.

The REA was created on May 11, 1935 by Executive Order 7037 by President Roosevelt. REA was made a permanent agency of the Federal Government 1 year later with the passage of the Rural Electrification Act.

The creation of that Agency, the REA, made possible a partnership that literally lit up the rural countryside of this Nation.

In this time of changing roles of government, we must not forget that there is and always will be a role for government in regulating and assisting a free enterprise economy. The marketplace by itself does not always produce a socially efficient allocation of benefits and costs.

The 50-year history of the REA is a case in point. In the 1930's it became clear that the private sector alone could not raise the capital necessary to deliver electricity to the rural parts of this Nation. So the President, and then Congress, created the REA. This Government program was and is one of the real success stories in our history. Today 99 percent of rural America is served by the REA-financed electric cooperative system.

The history of the telephone and electrification programs of the REA cannot be read as government excess. Without the power and telephone lines reaching virtually every American, the economic and social cleavage between urban and rural America would be deep and difficult to bridge. And we would be without the strength that our farms and small towns provide.

Bringing light to the countryside is an obvious and appropriate symbol of

what this program has accomplished in its first 50 years. But the effects of rural electrification extend far beyond the simple phenomenon of having light after the sun goes down. As a result of reliable electric power in rural America, this country has developed one of the most productive agricultural industry in the world. The rural economy is more diverse. There are more Main Street businesses, and some manufacturers have begun to appreciate the economic value of locating in rural America.

Beyond the irrefutable quantum leap in the productivity of business, agriculture and other industry in rural America, is the remarkable improvement in the quality of life available to people in rural areas. With electricity came progress in education, health care, communication and a myraid of other benefits we take for granted today.

We now have 48 rural electric cooperatives in Minnesota, bringing reliable light and power to more than 433,000 consumers—homes and churches, cottages and farmsteads, businesses and industries. And the job of rural electrification in Minnesota is far from finished. Last year alone, more than 7,000 new consumers moved onto rural electric lines. While more of the areas served by REA are small, rural communities, Minnesota is a microcosm of the entire country.

In some of the more rural areas, there is an average of only one and one-half consumers per mile of line. In the more urban areas where there are more consumers per square mile, the challenge is to keep up with the demand brought on by new consumers. The average across the State is 4.3 consumers per square mile, an average not substantially different from what it was in the early days, when farmers and other rural families banded together to form that partnership with REA.

Across the Nation, the figures are about the same. Only about five families live along each mile of rural electric line, and across the country, as in Minnesota, co-ops must invest about one and a half times the capital of an urban utility invests to serve each consumer.

Under these conditions, it has been a challenge to contain costs. A challenge which was compounded by the need some years ago for cooperatives to form their own power supply systems to assure their consumers of a continuing reliable source of power. The co-ops undertook these expensive projects at a time of high inflation and punishing interest rates. There is no question that this requirement for power supply affected the rates consumers pay for co-op electricity.

Yet it appears that the cooperatives in Minnesota are beginning to meet this challenge as well. I think it is significant that the wholesale power costs decreased by 1 percent during the last year. A number of things have contributed to this: efficient operation of plants like Coal Creek, new transmission lines, to some extent the advent of new consumers. An important factor, though, is the strong effort of the cooperatives to promote energy conservation, an effort that rural electric consumers have undertaken with enthusiasm.

Certainly, I am proud of those efforts in Minnesota. I have personally been associated with those efforts for exactly 26 years from this date, when I attended my first meeting of a rural electric distribution cooperative in the State of Minnesota, as their counsel. But such efforts are by no means unique to my home State. This is a story that is repeated throughout the 46 States and among the 25 million people served by rural electric systems in the United States.

These kinds of efforts reflect the energetic cooperative spirit that those pioneers of some 50 years ago brought to the first organizational efforts to bring electricity to rural people, when farmers went from house to house to sign up people for electricity. Despite the dismal outlook of the Great Depression, those pioneers had the faith and confidence that they could prevail, that it was worth $5 to sign up for electricity, that the lights would go on in rural America.

The accomplishments of rural electrification are truly unrivaled, and it is appropriate that we take not of this great achievement. The REA is an ongoing success story, it is a vital partnership between the people and the Government that has literally transformed the countryside. At the same time, it is appropriate to acknowledge the great task that remains before us—the restoration of rural America to full economic and spiritual health—and to acknowledge the critical role of rural electrification in the achievement of that objective.

We should resolve here, today, that the celebration of Rural Electrification's first 50 years marks the beginning of a productive, progressive new era, that our energies shall be renewed to assure the continued achievements of this remarkable partnership between the people and their Government.

Mr. DOLE. Mr. President, it is a pleasure to join my colleagues today in commemorating the 50th anniversary of the Rural Electrification Administration [REA], and in honoring REA's contribution to the growth and vitality of rural America.

REA NATIONWIDE

In 1935, only 11 percent of U.S. farms were receiving electrical power. That fact would change dramatically after President Franklin D. Roosevelt signed an executive order on May 11, 1935, creating the REA under authority of the Emergency Relief Appropriations Act.

In the ensuing 50 years, Mr. President, more than $15 billion has been loaned through REA's revolving fund, with no defaults on repayments. The percentage of farms receiving electricity has risen to 99 percent. More than 25 million rural Americans are served today by 1,000 rural electric systems nationwide in 2,600 of approximately 3,100 counties.

REA IN KANSAS

Mr. President, the record of accomplishment of the Rural Electrification Administration in the development of economic and social life in Kansas has been just as prominent as its role nationwide. The first REA loan in my State was made to the Brown-Atchison Electric Cooperative Association of Horton in May 1936. Since then, $474 million in loans and $787 million in loan guarantees have been advanced to the 38 Kansas REA borrowers.

These borrowers today are providing service to 189,000 rural customers over more than 71,000 miles of line. Where only 7.6 percent of Kansas farms had power in 1935, today nearly all of the 74,000 farms in the State receive REA-generated electricity. These services cover fully 80 percent of the State's area and 20 percent of our population.

A PROUD RECORD

Clearly, the Rural Electrification Administration can point to a proud record of achievement at both the State and National levels over the past 50 years. It has been a crucial link in the development of our Nation's infrastructure during a period which saw frontier life transformed into an integrated and modern society and economy.

And REA did more for rural America than just "turning on the lights." It has contributed to our unparalled growth in agricultural productivity, making the United States the foremost supplier of food and fiber and the envy of the world.

Mr. President, I commend all those Americans whose lives have been associated with this remarkable program, and whose efforts have enriched the lives of so many of their countrymen and women.

Mr. PRESSLER. Mr. President, I join several of our colleagues today in paying tribute to the Rural Electrification Administration on its 50th birthday. On May 11, 1935, President Franklin Roosevelt issued an executive order establishing the REA Program. Since that day, the REA Program has been one of our most successful and productive programs. Without the REA, many areas of this great country would be without affordable electric power and telephone services.

Fifty years ago, the REA Program started with an appropriation of $100

million. The program was first intended to provide unemployment relief. However, on May 20, 1936, the Rural Electrification Act was passed. This act established a permanent program. In 1949 the program was expanded to include funding for rural telephone services. As the financial needs of rural electric and telephone cooperatives grew, the program continued to expand. During the late 1960's and 1970's, the Rural Telephone Bank and the Rural Electrification and Telephone Revolving Fund were established.

During the 50-year history of the REA Program, electric and telephone service has been delivered to nearly all rural residents. When the program began, 89 percent of the farms in the United States were without electricity. Most of the farms served were along major roads and the cost of hooking up to utility lines was very expensive. Hookup fees then ranged from $200 to $3,000. It soon became clear that the public utilities were not going to serve rural areas. Thus, farmers joined together to form rural electric cooperatives.

The first rural electric cooperative in South Dakota was formed in 1935 near Vermillion. The Farmview Rural Electric System was formed in 1935 but it was determined to be too small to be eligible for a loan. The farmers expanded the cooperative and, on May 21, 1936, the Clay-Union Electric Cooperative was formed. By 1955, 33 distribution and 2 transmission cooperatives had been formed throughout South Dakota.

Nearly every farm family had a unique experience when electricity was first delivered to their farms. I can remember well when our farm near Humboldt, SD, first received electricity from the Sioux Valley Electric Cooperative. Electricity brought many new conveniences to the family farm. But what stands out most in my memory is not having to carry the old lantern to do chores early in the morning. Electricity certainly made milking the cows much more enjoyable.

After 50 years, the job of the REA Program is not completed. Some rural areas are still not provided electricity and telephone services. Many of the rural electric and telephone systems are outdated and need to be modernized. Many telephone cooperatives are using equipment that is 25 and 30 years old. Parts are no longer made for this equipment. Without the REA Program, these systems cannot be modernized.

Also, with the current financial troubles in rural America, few farmers and ranchers can afford to pay substantially higher utility costs. On the average, rural residents are already paying higher utility rates than are urban consumers. In South Dakota, only 17 percent of the rural residents pay lower utility rates than do urban consumers in the State.

In recent years the REA Program has come under fire as having completed its job, and some say it is no longer needed. It is clear that the job of providing electric and telephone service to rural areas is not finished. If we are to properly maintain these systems, there will always be a need for the REA Program. I, for one, will continue to fight to maintain an effective REA Program and urge my colleagues to join me in this effort.

Mr. WARNER. Mr. President; one of the greatest success stories in the history of the development of the United States of America has been the electrification of our rural areas.

The partnership of the Federal Government and local leaders through a system of local cooperatives has been responsible for the installation and continued availability of electric and telephone service in rural America.

In the 53-year period from 1881, when the first central generating system went into service, to 1936 when the Rural Electrification Administration was created, only 10 percent of all farms in the United States were receiving electric service.

In its half century of existence, REA has provided technical assistance and long-term financing to rural electric and telephone systems throughout the Nation, and has played a vital role in bringing the rural areas of our Nation into the mainstream of modern life.

The success of this effort is well established in the fact that some 99 percent of the Nation's farms now have access to electric service and 95 percent have basic telephone service available to them.

Electric power encourages industrial and economic development in rural areas, and results in a rural market for electrical appliances and equipment valued at over $1 billion a year.

Rural electric cooperatives are operating in areas where other utilities cannot or will not service, as was the case when the REA program was created 50 years ago.

Co-ops by and large serve thinly populated territories.

They have built and maintained 50 percent of the Nation's electric lines but account for less than 10 percent of total electricity sales.

The REA telephone loan program has also been an unqualified success. It has brought modern telephone service to rural America equal to that rendered in urban areas.

The program has been instrumental in developing and maintaining the Nation's universal telephone network. It has made modern, affordable telephone service possible for some 11 million Americans.

The achievements of the REA program go beyond its role in bringing basic electric and telephone services to rural areas.

REA and the rural electric and telephone systems, which it has helped to create and nurture, deserve much credit for the growth in agricultural productivity that has made America the world's leading supplier of food and fiber, and for the overall improvements in the quality of life in rural America that reversed the longstanding trend of rural to urban migration.

Mr. President, with the budget problems we are facing today, we must make difficult choices with respect to where we spend Federal dollars.

I hope that all of my colleagues will carefully examine the history and impressive accomplishments of the Rural Electrification Administration and the Rural Electric Cooperatives as they make these choices.

Mr. HOLLINGS. Mr. President, it is with great pleasure that I rise today to join my colleagues in celebration of the golden anniversary of the REA. The REA came to South Carolina in July 1937 with the Greenwood County rural electric system. Since that time we have expanded to 22 rural electric systems with 46,599 miles of line that provide 900,000 of South Carolina's citizens with power. Nationally, over 25 million people get electricity from the rural electric cooperatives.

Now, Mr. President, these are impressive statistics that should indicate to anyone how valuable the co-ops are to our people, but the real story is not the miles of line strung. The real story is what these lines provided to the individual, to the community, and to the Nation.

In the 1930's REA lines carried two things every where they went, electricity and opportunity. Rural America, which many people remember fondly as a Norman Rockwell painting and an example of a time when things were simpler, was actually a very harsh place. Oh, sure, things were simpler. Either you chopped wood and put it in the stove or you went cold and hungry; you went and pumped water by hand or you had none. The REA gave the farmer an opportunity to have an electric pump to provide water for his family and his farm. It gave his wife an opportunity to get out from under backbreaking labor with an electric stove and an electric refrigerator. It gave their children a chance to read at night. Mr. President, the REA literally and figuratively brought light to the darkness.

The current state of U.S. agriculture, the greatest food producing machine ever imagined, would hae been impossible without REA. And where would our economy be without the positive impact agriculture has had on our balance of payments.

Tell me, Mr. President, what industry would consider moving to a rural

area and providing desperately needed jobs if there were no electricity? None. REA paved the way for industrial development.

Further, Mr. President, the REA provided these services when no one else would. The private power companies would not run the lines because they said it wasn't profitable, that there would not be enough people per mile of line to make it worth their while. Today, the rural electric systems still average only about five consumers per mile while public and investor owned power companies average 7 and 10 times this number respectively. So, there is no question that the need for the REA is still there. There only question is whether we in the Congress have the commitment to the REA. I can tell you that this Senator has always had this commitment and always will.

In closing, I would like to commend the electric cooperatives of South Carolina for the fine work they do, and congratulate them on an outstanding commemoration of the 50th anniversary of the REA. They have commissioned Jim Harrison, a fine artist from South Carolina, to create a print which will remind us of life when the REA was created.

Mr. DURENBERGER. Mr. President, I yield at this time to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am very pleased to be able to join my dear friend and distinguished colleague from Minnesota [Mr. DURENBERGER] in honoring the rural electrification program, which has been a great success story nationally and particularly in Mississippi on the occassion of its 50th anniversary

Millions of Americans receive their electric service from what some people still call the REA. What they are referring to is a locally owned institution that borrows a portion of its funds with assistance from the Federal Government in order to extend electric service to its members. These organizations, depending on the State in which they are located are known sometimes as: Electric Power Associations, Rural Electric Cooperatives, Electric Membership Corp., or just plain Electric Co-Ops. What they all have in common is that they are owned by the people who use the service, and they obtain a portion of their capital financing from the Rural Electrification Administration.

To understand why these rural electric systems and their milestone of service are special, we need to look to the rural America of 50 years ago. In 1935, 50 years after residents of the Nation's large cities had begun to enjoy the benefits of electricity, less than 10 percent of America's rural farms and homes had access to electricity. In Mississippi, the picture was even more bleak, with less than 1 percent of all rural homes receiving electric service.

However, by the time President Roosevelt signed the Executive order in May 1935 that created the REA, Congressman John E. Rankin and his constituents in northeast Mississippi were already making historic strides to bring electric power to that area of our State. The Alcorn County Electric Power Association, in Corinth, MS, had become the Nation's first rural electric cooperative. Chartered in January of 1934, the cooperative was first organized as a nonprofit civic improvement corporation under the newly created Tennessee Valley Authority and was a model for the REA cooperative corporation that followed. The Alcorn County cooperative became an REA borrower in February of 1949, and was one of the first in the Nation to repay its loan in full. That account is found in a well-researched and recently published book by Winnie Ellis Phillips, entitled "Rural Electrification in Mississippi 1934–1970."

Ten months after the creation of the REA, and 3 months before the Rural Electrification Act was signed into law, the Monroe County Electric Power Association, in Amory, MS, became the Nation's first REA cooperative to energize its system. Mrs. Lois Faulkner, whose family was a member of that cooperative, described what happened on that day:

> When the day came, the lines were up, the house was wired, the connections were made. * * * Daddy reached up to the hanging bulb and turned the switch. Blinding light! It hurt our eyes. We'd have to get smaller sized bulbs, we thought. We could never stand 100 watts! But Mama devised some shades and we eventually became accustomed to the brightness. We put the coal oil lamps away. We paid $2.98 for an electric iron and $6.98 for a little radio—an outrageous expense, but how happily we skimped to pay for them. * * * For a few nights, every room in every house in the neighborhood was lit up, needed or not. We all wanted the world to know that we had electricity.

Mr. President, as I noted earlier, REA involvement in Mississippi has been a great success. REA funds have helped finance distribution and power supply facilities that currently serve well over a quarter of a million rural customers in Mississippi. Their repayment record is outstanding. To date, REA borrowers in Mississippi have repaid nearly $275 million in principal and interest on their REA loans, some of it ahead of schedule. Finally, of the 50,000 farms in the State, nearly all are receiving electric service: a much different situation than we had 50 years ago.

I take great pride in having been a strong supporter of REA. For the rural people of my State, the program has been immeasurably helpful in providing them with affordable electric service.

The rural electric leaders from my State and from throughout the Nation are to be commended on this occasion for their significant and important contributions to the well-being of this country. Happy 50th anniversary to REA!

Mr. DURENBERGER. Mr. President, I ask unanimous consent that under the order the RECORD remain open for a couple hours so that Senators who were confused by the hour of the special order might have an opportunity to insert in the RECORD birthday statements such as the excellent statement just made here on the floor by our colleague from Mississippi.

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

Mr. DURENBERGER. Mr. President, I yield back my time on the order..

Mr. THURMOND. Mr. President, I rise to commemorate the 50th birthday of the Rural Electric Administration. In May 1935, in the midst of the worst economic times this country has ever seen, President Roosevelt created the Rural Electric Administration. One year later the Rural Electric Administration was made an official Government agency with the passage of the Rural Electrification Act. Since those troubled times, the Rural Electric Administration [REA] has served to bring light and warmth and the sounds of far-away voices into the homes of rural America.

HISTORY

Mr. President, on the anniversary of this auspicious occasion, I would like to briefly examine the forces behind the creation of, and the early development, of, the REA. I personally have been involved with rural electrification since the REA was created. As a South Carolina State Senator, I coauthored the State Rural Electrification Authority Act in 1935 and also the Santee-Cooper project. Later, as Governor of South Carolina, I continued to support the projects of the South Carolina Public Service Authority (Santee-Cooper), which was and is involved with activities that improve rural electrical power in my home State. I have supported the REA throughout my Senate career and will continue to do so in the future.

In 1935, electrical power and telephone service was provided in many urban centers, but the private sector was not willing and did not have the capital necessary to build the wires and towers needed to bring these services into the rural areas. Even with the promise of REA loans, the Agency's stipulations of area-wide service prevented companies, which needed guaranteed higher profits, from investing in rural America. Ultimately, it was the farmers and other rural residents

themselves who took the initative of forming rural cooperatives to bring electricity out of the city and into the country. The REA aided these farmers' groups not only by providing start-up loans, but also by standardizing procedures and hardware. With these assembly line techniques, the costs of providing services in sparsely populated areas dropped, making power available to more people. As more and more people joined cooperatives, costs of service decreased even further.

With these valuable services made available by the REA, farmers benefit from electric-powered, work-saving machinery, and are no longer constrained in their work schedules to daylight hours. Rural citizens can telephone others in case of emergency, and generally enjoy a higher standard of living with their families.

ACCOMPLISHMENTS

In 1935, only 12 percent of all U.S. farms had electricity. Thanks to the REA, by 1952, more than 88 percent of American farms were electrified. These co-ops have received no operating subsidies from the Federal Government, and virtually all have repaid their loans on or ahead of schedule at rates often higher than the Treasury paid to borrow.

The impact that electrification has had on rural America, and particularly the agricultural sector, is astounding. Can any of us imagine operating an economic-sized farm today without electricity? Power has brought efficiency and the highest possible level of productivity to the typical American farm. In addition to all the modern onfarm technology, electrification of the typical rural home has eased the lives of those who live there, freeing them to pursue other productive or leisure-time activities.

Another component of the REA system, the Rural Telephone Bank, has brought the means and magic of voice communication to the countryside. The telephone not only brings together distant neighbors and friends, but its use improves the organization of economic activity, thereby contributing to economic efficiency. Experience has shown that adding one telephone per 100 people, of whom 80 already have telephones, will lead to a 0.01-percent increase in the gross domestic product the following year. Increased usage of the telephone has contributed to the growth of this Nation's economy by allowing scarce resources to be utilized more efficiently.

PRESENT NEEDS

Today, the rate of telephones to main stations in REA areas is 23 percent lower than the national average. Today, there are still areas of this country that do not have electricity. The REA continues to be a vital force in rural areas of this country, and many of these local cooperatives cannot realistically be expected to survive without its help. Now, more than ever before, our farmers must be as efficient as possible to survive in this difficult and increasingly competitive agricultural economy. Farmers increasingly must use new technology and must communicate frequently with information sources in order to produce efficiently and compete in world markets. The REA helps our Nation's farmers and other rural citizens to have these electrical and communication capabilities.

REA loans increase efficiency and communications, which in turn contribute to the economy as a whole. This means more jobs and higher standards of living for all Americans.

Mr. President, the REA's plans have worked because the rural people of this Nation looked to the future with vision and did what had to be done. The people, with the aid and guidance of their Government, have worked together to bring the wonders of electricity and communication into rural America. On this auspicious occasion of the 50th anniversary of the REA system, it is appropriate to mark the tremendous progress that has occurred because of this successful program. More importantly, it is important to plan for the future and to take steps to see that cost-effective REA electric and telephone programs will continue.

Mr. BAUCUS. Mr. President, from the day the first electric cooperative lines was energized on December 5, 1937, life in rural America was changed. Electrification has been critically important to the development of Montana, and to all rural America.

It has created jobs.

It has removed much of the drudgery that consumed many farmers' waking hours.

It has enhanced rural life. And it has been instrumental in making America the most productive agricultural economy in the world.

Since its creation, the Rural Electrification Program has provided reliable, dependable central-station electric service to rural America. Today, there are 25 rural electric cooperative systems in Montana serving some 300,000 consumers throughout the State.

Today we offer congratulations on the 50th anniversary of the Rural Electrification Administration and what is one of the most successful partnerships ever formed between this Nation's citizens and its Government—the Rural Electrification Program.

Yet, in order for the Rural Electric Program to continue on a solid foundation, it is necessary that the cooperative systems have access to the capital required to build and operate powerplants, distribute the electricity and to maintain their lines.

INVESTMENT OF FUNDS BY RURAL ELECTRIC SYSTEMS

However, some critics of REA want to weaken REA by raising false charges. I want to address my remarks to those critics of the REA who frequently contend that some borrowers are abusing access to the agency's lending program by borrowing funds—which aren't really needed—at REA's favorable interest rate. Then, according to these critics, they invest those funds in high-yield instruments such as certificates of deposit or commercial paper.

This has been an attractive argument for those who want to discredit REA and the rural electric borrowers.

It's simple. It's easily understood. Unfortunately, however, it's also dead wrong.

Every loan application approved by REA is done so after scrutiny of what is to be done with these funds. These tasks might include expanding service to new consumers or increasing capacity to meet the growing power needs of existing consumers.

No loan is approved, nor are funds advanced, for any purpose which is not consistent with the goals and purposes set forth in the Rural Electrification Act.

Borrowers are required to provide hard evidence that every loan dollar received is spent for the purposes for which it was approved. Because of this, the idea that a rural electric system can borrow money simply to invest it at a higher rate of interest, is outrageous.

This is not to say that REA borrowers do not or should not have money in secure, interest-bearing accounts and investments. Like any other business, a rural electric system must maintain a reasonable reserve of ready funds to meet unforeseen expenses such as natural disasters. Borrowers have been strongly encouraged by REA and other lenders to develop stronger balance sheets. If the managers and directors of these systems did not seek the best possible return on their funds, they would be subject to just criticism for failing to practice sound financial management.

Throughout its 50-year history, REA has always had its detractors. But I am confident that, as in the past, the merits of REA will help to guarantee its future success.

● Mr. ANDREWS. Mr. President, I am delighted to make brief remarks today on the eve of the 50th anniversary of the signing of the Executive order creating the Rural Electrification Administration. When President Franklin Delano Roosevelt signed Executive Order 7037 on May 11, 1935, less than 10 percent of the countryside was electrified. In my own State of North Dakota even a smaller percentage of the farms were electrified. Those that

were able to enjoy the benefits of electricity, obtained power from either a wind charger unit, or a few, fortunate enough to live near town, from local power companies. The small number of farmers not served by the local municipalities found the noncentralized station electricity to be expensive and not particularly reliable.

In North Dakota, a few rural systems, cooperatively owned, were formed in 1937. An additional 20 distribution cooperatives were later established followed by generation and transmission systems to utilize the abundant lignite resources located in my State.

North Dakota by any definition is still a rural State. North Dakota farms, compared with those in other States, are few and far between. The majority of the State's rural electric systems still serve less than two consumers per mile of distribution lines. By contrast, investor owned and municipals serve over 35 consumers for every mile of line. That fact alone shows how important rural electrification is to a State like mine. The return per line mile simply does not justify the infusion of ordinary investment capital. It is an undeniable fact, that without REA, many North Dakota farm families would not have had access to electricity until much later in this century if at all.

One cannot imagine what the rural American landscape would look like today had it not been for the REA, let alone the likely state of our agricultural production capacity without REC power. America's agricultural abundance owes much to electrification; power made available through REA financed cooperatives.

The home owned—home operated cooperatives, which are governed by a local board of directors and elected by those they served, are responsible for adopting a rate structure that will cover the costs of operating a small utility, and meet the needs of the community. As members of the systems themselves, cooperatives have a vested interest in keeping power rates as low as possible. However, given the disparity in costs per mile, prudently managed REA cooperatives must charge higher rates than those of neighboring investor-owned utilities.

It is for that reason, that REA is so important. REA has allowed "country cousins" to enjoy the benefits that only dependable electricity can provide. During the past few years, attacks have been made on the rural electric system by those who oppose the continuation of this strong, vital function.

Opponents of REA erroneously state that rural electric systems have rates which are 12 percent lower than rates charged by investor owned utilities. Nothing could be further from the truth. Currently, 75 percent of all rural electric systems have rates that are higher and increasing faster than those of their urban counterparts. Rising rates coupled with the substantially lower incomes in rural America make the economic advantage argument indefensable.

In addition, Mr. President, I see a rather disturbing trend occurring as a result of continual threats to shut down the REA by those opposed to it as an institution. I am disturbed by the impact of these threats on REA employees. Over the years, rural America has been blessed with aggressive, competent, and imaginative Federal employees with a sense of mission and genuine commitment to REA programs. We must nurture that feeling and take special care to ensure that we never lose it. Our REA employees are the sinew behind the REA success story. By attracting and keeping this type of employee, REA's future will be as bright as its past.

As we near the 50th anniversary celebration of REA, I want to join my colleagues in the Senate saluting REA and the REC's it supports for a job well done, and to pledge my continued support to the 1,000 systems across this Nation for their fine work. I also would like to offer my best wishes to those REC members who are celebrating this occasion throughout the country, especially back in North Dakota.

One should never forget that the REC's represent the true democratic spirit of American institutions—in mutual cooperation for the common good. In their great successes, they stand without peer, as a real symbol of that spirit.

● Mrs. KASSEBAUM. Mr. President, I want to offer a few comments today in honor of the 50th anniversary of rural electrification. When President Roosevelt turned on the lights for rural America by creating the Rural Electrification Administration, our farms and ranches took a major step forward.

In 1935, those who lived on farms were doing everything by hand and using virtually the same methods employed generations before. The Federal Government saw the need and undertook the task of assuring farmers, ranchers, and other rural residents that they would enjoy the benefits of reliable electric service at rates comparable to those available in urban areas.

The proof of the huge success of this program is in the numbers, in 1935 only 11.6 percent of all U.S. farms enjoyed electrical service, by 1962 it had increased to over 97 percent. In Kansas during 1935 only 7.6 percent of farms had central station service, now over 170,000 homes and businesses are served by the rural electrical distribution cooperatives.

I would like to repeat what two Kansans remembered as their homes were connected to electricity. Maxine Brown of Liberal, KS, wrote:

What a happy change from carrying the gasoline lamp from room to room, buying mantles and generators, and being able to see the things we were doing. At first, we were sure we would not use very much—just for lights—but soon, electricity was doing so many things for us. We even purchased an electric incubator and used it instead of letting the old hens set.

According to Eva Reese of Mt. Hope:

Mother and our nearest neighbor lady had been writing, calling, traveling back and forth between Caney and Fredonia, trying to get one of the companies to set poles, run lines, etc. We lived there at least 5 years before rural electric was ready to serve our no-man land with electricity. Now, on the rare occasions when the electricity goes off for an hour or so, I get out my lamp and wonder how in the world did Mother manage?●

● Mr. GLENN. Mr. President, I rise today to join my colleagues in celebrating the 50th anniversary of the creation of the Rural Electrification Administration. I take a lot of pride that it was in Piqua, OH, that one of the first REA poles was planted in 1935. Back in those days only about 11 percent of Ohio's farms were electrified. They were the ones close to towns.

The labor was hard, backbreaking, muscle labor. It was hard for the whole family. Women, men, and children worked on the farm. I know that from my own experience visiting the farms that were just outside of our home town of New Concord. But of course that kind of labor has changed over the years. Today about 99 percent of our farms in Ohio have access to electricity, and that accounts for the change.

We have 28 electric cooperatives in Ohio and we are very proud of that. Although they serve a fairly small percentage of the State's population, their importance in the whole agricultural community has been tremendous. They remain important for farms today. Privately owned electric utilities have an average of 33 customers on a mile of distribution line in town or in the city. But on REA lines, the rural co-ops average only about six customers per mile. So that's a little different basis on which to gain revenues. It makes it more difficult. And that's the reason why there has been support for REA all through the years. REA and the co-ops, through favorable financing, have been able to bring lights, and pumps, and water, and television sets, and all the other things that electrical energy provides, onto the farms of Ohio and indeed all across our whole country. They do it even though it's not as profitable as the city lines are for the private companies.

The success of REA and what it has done through the years, beyond any question, has literally revolutionized the agricultural community and the

farm, and the way rural people live. So it has been a 50-year success story.

The role of REA in the future, is every bit as important as in the past. Certainly REA has played a very vital role and will continue to play a vital role. The 50th anniversary of Franklin D. Roosevelt's Executive order is a good time to restate the commitment to modernize our whole American countryside. The irony is that the rural electric cooperative movement is in someways endangered by its own success. Some people feel that the job has been finished, but I don't think it ever will be, as long as there is a need to modernize and maintain the system. We must ensure our capability of providing high-quality, affordable service to consumers in rural America. And that's true not just in Ohio, but all across our Nation.●

● Mr. ZORINSKY. Mr. President, I am pleased to join my colleagues in commemorating the 50th anniversary of the rural electrification movement.

The Rural Electrification Administration programs are vitally important to Nebraska. Without the credit assistance provided under the REA programs, many of the sparsely populated areas of Nebraska would still be without dependable electric and telephone service.

It is difficult for many of us to imagine what it was like in the years before 1935, when there was no Rural Electrification Administration and little prospect for bringing electricity or telephone service to rural America.

Because we take the convenience of electricity for granted, it is difficult to appreciate the joy felt by a farmer who, while still amazed by the novel experience of having electricity on his farm, said "The greatest thing on Earth is to have the love of God in your heart, and the next greatest thing is to have electricity in your house."

Rural America had little access to electricity prior to 1935 and the creation of the Rural Electrification Administration.

That was all changed by the Rural Electrification Administration programs—programs fathered by Nebraska's own Senator George Norris. By providing loans to finance distribution, generation, transmission of power, and—more recently—telephone service in rural areas, REA brought about a tremendous increase in productivity and in the quality of life for rural citizens.

In a half century, more than $20 billion in REA loans helped finance construction of rural utility systems that today serve more than 34 million people in 47 States.

The REA programs are some of the most successful, if not the most successful, Government programs. The Rural Electrification Administration programs have made it possible for nearly everyone to enjoy the benefits of electric and telephone service. That accomplishment was achieved not with handouts or grants but with loans repaid with interest.

After having met its original objective, REA continues to make it possible for rural utilities to keep up with changes in technology and provide rural consumers a level of service comparable to that available in urban areas. This being accomplished with a credit performance by borrowers that is outstanding. The Government's investment is safe and sound.

There has been an additional benefit of the REA programs—a social and political consequence of tremendous value to the strength of our democracy. The REA programs foster local ownership and control. They encourage local management, local initiative, and the development of local leadership.

The member-owners of the rural electric and telephone cooperatives are not functionaries of some colossal, impersonal corporate giant. They are responsible leaders of an enterprise they own and control. This independence provides an opportunity for unlimited development and achievement and for initiative and experimentation. This is a unique and vital byproduct of the REA programs.

Although the challenge of bringing electricity and telephone service to rural areas has been successfully met by the Rural Electrification Administration programs, the job of the agency is not done. Like the utility systems in large cities where utility services have been available for decades, rural utility systems continue to need financing to replace obsolete facilities and equipment, extend service to new customers, and repair damaged equipment.

Without viable REA programs, for many rural utilities there would be no investment for the future and utility rates would be increased to prohibitively high levels. In addition, without viable REA programs, high quality affordable electric and telephone service would once again become a luxury not available to our rural citizens.

I commend the members of our Nation's rural electric and telephone cooperatives who have made the REA programs so successful. Those member-owners understand the significance of the achievements made possible by the REA programs during the past 50 years.

In addition, they possess the vision needed to anticipate the problems of tomorrow. In the tradition of the rural electrification movement, those problems will be addressed by developing responsible solutions so that future generations of rural Americans will enjoy the benefits of reliable electric and telephone service at affordable rates.

In recognition of these efforts, I have joined Senator HELMS in introducing Senate Resolution 148. That measure will place the Senate on record as firmly supporting the REA programs.

I urge my colleagues to join us in sponsoring that resolution.●

● Mr. GORE. Mr. President, as we commemorate the 50th anniversary of the creation of the Rural Electrification Administration, I want to join my colleagues today in citing the extraordinary achievements of this example of a can-do attitude by an entire nation and its government.

I grew up in an area of the South, in the Upper Cumberland region of Tennessee, where, until REA, electricity and telephone service were only dreams. Turning on the lights and picking up the phone are not simply footnotes of economic development to my part of the country—it was the beginning of a new era.

And so it was for millions of other Americans throughout rural America in the thirties and forties. Interconnected electric and telephone systems had been kept to the cities, by private utilities determined to exploit the advantages of their natural monoplies. The money is not in rural America, they said, so why go there?

Mr. President, I think it is safe to say that, without the kind of New Deal optimism and determination that characterized the creation of the Rural Electrification Administration, the lights would have stayed off, the telephone lines would have not gone up for many more years.

Instead, we can stand here today and salute the remarkable achievement of rural electrification and rural telephone programs that have given much of this country a chance to survive, to grow, and prosper. The statistic speaks for itself—from only 10 percent of the Nation's rural residents wired for electricity and telephone service 50 years ago, we now have more than 99 percent with access to readily available, affordable service. As an engineering feat alone, that is a success story.

But Mr. President, the story of REA is also a story of political courage, of men and women fighting the entrenched utilities, of a President faced with a nation in deep economic crises, of members of Congress attempting to balance the critical needs of many constituencies in trouble. But courage was the watchword of the Great Depression, and courage was what they called up to lead this country back to prosperity. The creation of REA is a lasting tribute to those who bucked the tide to get the job done.

Certainly, REA joins Social Security as great public achievements of the New Deal, actions which would not have occurred without foresight and

political courage. And whether you come from an area served by public power or private power, by cooperative telephone companies or private phone companies, you can appreciate the enormous contribution REA programs have made in bringing the basic elements of economic growth to all of America.

As the institutional focus of rural electrification and universal telephone service, the REA is far more than simply another Federal office dispensing resources to meet a need. REA represents our fundamental national commitment to these services as a right of every family, every farm or small business, wherever it exists.

And the job is not done. While we have wired almost all of rural America, it still costs much more to maintain these systems than in urban areas. And, contrary to what OMB would have us believe, electricity and telephone rates in rural areas are not lower than everywhere else, indeed they are often higher, reflecting the greater costs involved in serving rural areas.

Anyone of us who regularly visits our constituents in small towns and farm communities knows that, in most cases, the economic recovery has been slow coming to rural America. Unemployment is still too high, incomes still lag, health problems persist, educational resources are still limited in contrast to our cities.

Yet this administration persists in characterizing REA as little more than—and I quote from one of their recent budget documents—"a subsidy for those fortunate enough to live in REA-eligible areas." Fortunately, the wisdom of the leadership on both sides of the Senate aisle has apparently prevailed, and a good compromise has been reached. This is a clear and strong signal to the administration that the Congress believes in REA, and that—"if it ain't broke, don't fix it!"

Mr. President, while we cannot ignore the timeliness of the REA budget implications today, we are really here this afternoon to praise the extraordinary, consistent achievements of the Rural Electrification Administration. I believe there can be no better time to show the historical evidence of this Agency in fulfilling an ongoing public need, and I appreciate the opportunity to join my colleagues in doing so today.●

Mr. BURDICK. Mr. President, this week we are celebrating the 50th anniversary of the Rural Electrification Administration. It is truly a cause for a grand celebration, for without the Rural Electrification Administration [REA], this country would have a drastically different face today.

When the REA was created 50 years ago, the rural residents of this Nation by and large did not have electricity. For many of us in this modern day of electrical convenience, it is difficult to imagine what it would be like without electricity, because we use it, not only many times a day, but continuously all day and night. However, if we go out into the country, and even into our cities, and talk to those people who lived in the country not so many years ago, they will be able to tell you what it was like without electricity.

They will tell you stories about pumping water by hand for their cattle, about doing all of their laundry by hand, about keeping their milk and cream in a hole in the ground to keep it cool, about being at the mercy of the wind which charged their batteries for the few electrical uses they had developed, and about heating their food and houses with wood stoves. And, of course, they didn't even dream about air-conditioning which people in Washington think is so essential to their livelihood. These people will also tell you that because of the Rural Electrification Administration and the rural electric cooperatives, electricity was brought to their houses and farms and changed their lives in such a way that not even they can imagine going back to the days before electricity.

These are the people who truly understand and have reason to celebrate the 50th anniversary of the REA.

However, this year's celebration is marred. It is marred by a President who believes that the REA is no longer needed. It is marred by a President whose eyes see the REA Program as a subsidy which constitutes an unnecesary windfall to those people it serves. Such beliefs could not be further from the truth. When the President talks about an economic recovery, he is talking about the urban areas. Our rural people are facing the worst economic situation in decades. To propose the elimination of REA financing for our rural communities at this time is the most insensitive gesture the President can make.

I first want to make clear that the REA Program does not provide a subsidy to cooperatives through its lending program. About four-fifths of the loan commitments which have gone to rural communities have been made at the Government's cost of funds plus one-eighth of 1 percent. Therefore, the great bulk of REA financing is at market rates and involves no subsidy. To label the program a subsidy in the hope of turning the public against it is outrageous and irresponsible.

Second, the need for REA remains substantial. This administration has stated that consumers served by REA pay lower electric rates than non-REA consumers. This simply is not true. The REA's analysis itself concludes that in 1984 almost three-fourths of all rural electric systems had rates higher than comparable investor-owned utilities. Furthermore, in 1982, about half of the rural systems had rates higher than the investor-owned utilities. So the situation is growing worse.

Fifty years ago, the REA was established because the utilities could not afford to provide electricity to rural areas. Because of the sparse population, the utilities did not find it cost efficient to wire all those miles for so few farmsteads. So the REA stepped in and saved the day.

The facts speak for themselves. The average investor-owned utility serves 40 consumers per mile of line, while the average rural cooperative serves only four consumers per mile of line. Similarly, rural telephone systems, which also receive REA loans, serve about 5.6 customers, per route mile of line compared with 50 customers served by nonrural systems.

The sparse population has not changed. You can still drive for miles in my State of North Dakota without seeing anyone. Those utilities which did not find it economical to serve rural America 50 years ago will not find it suitable now.

Therefore, it is easy to see that without the REA financing, electric and telephone rates for rural consumers—already higher than for their urban counterparts—would skyrocket. Such a result is not fair; it is not tolerable; it is not affordable.

The past 50 years represent a tremendous success story for the Rural Electrification Administration. I look ahead to the next 50 years and want to see a continuing success unfold. So let us honor the past with appropriate celebration. And let us guarantee the future with determined resolve.

● Mr. CHILES. Mr. President, I am very pleased to add my voice to my colleagues today and celebrate 50 years of dedicated service by the Rural Electrification Administration.

It has been 50 years since President Franklin Roosevelt signed the Executive order which transformed life in rural America. With the establishment of REA, the millions of residents of rural United States were awed by the miracle of electricity. It is an understatement to say it changed their lives overnight.

In this day of computer wizardry, it is difficult for us to remember life without electricity. But it wasn't that long ago in rural Florida that the chief means of light was the kerosene lamp. I can still recall the smell of burning kerosene. So when the REA lines were constructed throughout Florida, a celebration took place from north to south, from coast to coast. Not only did rural residents have lights at the touch of a switch, but they had the means to share in some of the luxuries city folks had enjoyed for years.

REA meant that rural folks could be linked to the world through the miracle of radio. To have news hourly instead of waiting to read the weekly newspaper was the talk of the town.

And, who can forget the excitement in town when each new appliance was delivered to a lucky household. A new form of entertainment emerged as people sat and watched the wonders of a washing machine, a refrigerator or the vacuum cleaner.

In Florida, farmers found out REA was not limited to making work easier for the housewives when they discovered that electricity meant they could pump water, heat citrus groves and chicken coops and power all farm machinery.

Yes, REA brought light and power to rural America. But it also was the catalyst to a cooperative movement between Government and people that has yet to be matched in America. In Florida we have 18 of the most successful rural cooperatives who provide service to more than 400,000 families and businesses. The Florida Rural Electric Cooperatives still stand today as they did 50 years ago as cooperatives which work for and with people.

Mr. President, I think it is especially important for us to remember this cooperative spirit today as we celebrate REA. Lately, it seems that we have been bogged down with the REA budget cuts, REA trust funds, and so forth. Yes, there is a need to update some of these financial structures and we'll continue to work with the rural cooperatives toward this goal. REA will survive.

So, let us celebrate REA. Yes, there will be a commemorative stamp, a celebration by the Smithsonian and resolutions by both the House and the Senate. But to me the true symbol of REA's success is the cooperative spirit it brought to rural America. With the light bulb, that spirit lit up rural America and continues to shine. Happy anniversary REA.●

Mr. SPECTER. Mr. President, today we celebrate the 50th anniversary of the establishment of the Rural Electrification Administration. I believe it is important that we do more than just remember a Government agency and its programs. Cooperative rural electrification, since its beginning, has been a partnership between the people and their Government. The Government provided the tools, but the people did the work.

It is hard to imagine a life without electricity. Today, we consider electricity to be a necessity of life, just like air and water. But just 50 years ago, only 1 rural resident in 10 in our Nation enjoyed the benefits of central station electric service. Even in my densely populated Commonwealth of Pennsylvania, most rural people lived without electricity; more than 75 percent of all farms and rural residences had no electric over 50 years ago in Pennsylvania.

Efforts had been made to extend electric service into the countryside, but little progress was made. In Pennsylvania in the 1920's, Governor Gifford Pinchot's giant power survey proposed wide-scale rural electrification by the Commonwealth's private power companies. While many companies did extend service between the towns they served, the truly rural areas off the main highways still lacked central station electric service.

The farmers and other people who resided in these areas lived much like their ancestors who opened the wilds of Pennsylvania to settlement a century and a half before. Theirs were lives of darkness and drudgery. The length of their workday was determined by the Sun. Work was done by muscle power. Women, who had to pump water by hand and cook over hot woodburning stoves, grew old before their time. Although these people lived in the heart of the great industrial Northeast, they might as well have lived on the Moon because they lacked radios and telephones, the vital communications links that tied the society together. By any measure, rural people were second-class citizens because they lacked the wires that carried light, power, music, and news.

It was a Pennsylvanian, Governor Gifford Pinchot, who dreamed that someday everyone would have central station electric service. It was another Pennsylvanian, Morris Llewellyn Cooke, who turned the dream into reality. Cook, Philadelphia's progressive city engineer, headed Pinchot's giant power survey. He carefully studied the cost of building distribution lines and concluded that, through careful planning and uniform construction standards, electric service could be provided economically to everyone who wanted it.

When Franklin Roosevelt signed the Executive order that established the Rural Electrification Administration, he called on Morris Cooke to serve as the first Administrator of the new agency. Finally, after a decade of study and thought, Cooke was in a position to do what he knew in his heart could be done. At first, the emphasis was placed on attempting to encourage private power companies to run lines into the countryside. A few did, but most believed that there was not enough profit in the enterprise, even with low interest Government loans; they believed the land was too rugged, remote, and sparsely populated and that, even if the lines were run, farmers wouldn't use enough electricity to cover the investment in the distribution facilities.

Faced with failure, Cooke turned to a form of business enterprise that had served farmers well; nonprofit, consumer-owned cooperatives. Farmers used cooperatives extensively. They bought their seed and equipment from supply cooperatives. They borrowed from mutual savings banks and bought their insurance from mutual insurance companies. And, when the growing season was ended, they sold the fruits of their labors through marketing cooperatives. Farmers knew that, as individuals, they were powerless. But, that when they banded together, their strength exceeded their numbers.

Initially, farmers and other rural residents were suspicious of the new rural electric cooperatives because of their link to the REA; of their link to the Government. They were afraid the Government would take their farms if the cooperatives failed. But soon, they saw that the partnership that was forged between their locally owned and controlled, rural electric cooperative, and the Federal Government represented the best expression of the belief that Government should do only those things that the people cannot do by themselves. They could not provide themselves with electric service individually. They could not do so even when they joined together in cooperatives. But, with the help of their Government, they could get the job done. The Government provided the tools, the people provided the work.

Today, 50 years after the establishment of the Rural Electrification Administration, some voices suggest that REA is no longer needed. The facts, however, indicate that just the opposite is true. Although virtually every American farm and rural residence has central station electric service, the job of rural electrification is not done. Each year, there are new consumers to be served and facilities serving existing consumers must be upgraded to meet the needs of today's generation of electric users. Because they continue to face many of the challenges they faced originally—such as low population density and high costs caused by rugged service territories—cooperatives continue to need the REA's financing programs. And the technical and engineering standards of REA that assure system uniformity and the lowest possible construction and maintenance costs still are in the best interest of consumers.

We continue to need REA and rural electric cooperatives for all of these reasons. But, there is another reason which is possibly more important. America's experience with cooperative rural electrification is an excellent example of a responsible, progressive partnership between a people and their Government. By providing loans, repaid with interest, the Government provides locally owned and controlled cooperatives with the tools they need to provide their consumer-owners with

the necessity of electricity. On their side of the ledger, cooperative members provide the leadership, the talent, and the plain hard work to do what most people thought was impossible.

Today it is fitting and refreshing to remember our continuing positive experience with cooperative rural electrification. It is possible for the people and their Government, working together, to do what needs to be done, to turn dreams into reality.

Mr. ABDNOR. Mr. President, I am pleased to join in this special order celebrating the 50th anniversary of the Rural Electrification Administration [REA].

"It was the best and the worst of times." These words, written by the great author Charles Dickens in his "A Tale of Two Cities," could describe rural electrification today.

It is the best of times. Today we are celebrating 50 years of rural electrification. It as been 50 years since President Franklin Roosevelt signed the Executive order establishing the Rural Electrification Administration. REA was created to bring needed electrical power to the rural and isolated areas of our Nation that the big power companies refused to serve. These companies said that there weren't enough people in rural America to bother with—that rural folks, or, in their minds country hicks, didn't need electrical lighting or the other luxuries enjoyed by their city brethren.

Thankfully, enough men and women had the foresight, the courage, and the ambition to attempt what seemed like the impossible; to bring electricity to every farm, ranch, school, business, and community in rural America.

Today we are honoring the system that these men and women developed and that current rural electric leaders have nurtured throughout the past 50 years. It is a great honor to have led the recent budget negotiations in which the REA program was saved.

To me, South Dakota's rural families who dot our prairies and hills symbolize why REA was created—to bring needed electric power to the rural and sparsely populated areas of America. Even today, South Dakota's rural electric cooperatives provide economical electric power to families who live in areas with fewer than one customer per mile of line. I don't believe that there is a service area in South Dakota which has more than four customers per mile of line. Truly this is REA country. Surely this is why REA was needed 50 years ago and why it is needed today.

The rich heritage of REA make this the best of times. There is no doubt in my mind that rural electrification has enabled us in South Dakota and throughout rural America to enjoy and lavish the "best of times."

I would be remiss and not totally honest with you if I didn't also tell you that these are, as Charles Dickens put it, "the worst of times."

Today, as we celebrate 50 years of rural electrification, some Members of Congress and the Reagan administration are saying that 50 years of rural electrification is enough. The REA system, which has served South Dakota and our Nation so well, has been besieged at all fronts. The administration has made attempts to raise the hydroelectric power rates that rural electric cooperatives depend upon. The administration has attempted to raise the interest rates on loan funds that rural electric cooperatives depend upon to improve their plants, repair electrical distribution facilities, and serve new customers. Some even say the administration hopes to totally "phase-out" REA in a short time.

These are the things that make this the most trying and the worst of times for all of us who believe in and have fought for the rural electrification system. But I don't want to leave my colleagues with such a gloomy outlook. I've always been an optimist and have believed that if you know that you are right, that if you have faith in a program, that if you fight hard enough, and if you have the support of good, decent, hard-working people like those in rural America, that you can succeed.

Just recently, I successfully negotiated a compromise with Majority Leader DOLE, Budget Committee Chairman DOMENICI, Budget Director Stockman, and the National Rural Electric Cooperative Association under which the REA Program will be saved. Under the terms of my agreement, the budget assumption that REA loans would be phased out over a period of 8 years has been dropped. Additionally, the assumption that interest rates on REA loans would be increased from the current rate of 5 percent to the Treasury's cost of borrowing plus 1⅛ percent has been dropped. In essence, none of the budget savings are assumed to come from either of these two devastating proposals.

In exchange for these concessions, Bob Bergland and the National Rural Electric Cooperative Association have agreed to accept a reduction in loan levels in fiscal year 1985 and in fiscal years 1986–88. This is a compromise which our Nation's rural electric cooperatives can readily accept and is a compromise which the administration and Senate leadership can accept.

The job of REA is not done. Fifty years of rural electrification has transformed rural America and I am confident that the next 50 years will be just as magnificent. Hats off to REA on its 50th birthday, and I pray that our children and grandchildren will celebrate the 100th birthday of REA in another 50 years.

Mr. GORTON. Mr. President, these days one seldom hears talk of rural America that is not fraught with references to the crisis that is griping America's farm economy. The nightly news is filled with scenes of bankrupt farmers selling their equipment and their land at auction. Farm leaders have marched on Washington, DC, seeking assistance in their plight. America has witnessed the heart-wrenching problems that threaten to change the face of American agriculture and we, as the elected representatives of the people, struggle to help find solutions to the problem.

Through all of the debate that has risen, fallen and risen again about the problems facing rural America one fact has shown clear: we have faith, farmers and city dwellers alike, that a solution will be found. The problem will be solved. We can be optimistic because rural America has never accepted failure and never will. In fact rural America has been a guiding light of innovation and determination for the rest of the Nation throughout our history. Perhaps the greatest example of this heritage—this desire and determination to accomplish great things against great odds—is the success of the Rural Electrification Administration whose golden anniversary we celebrate this month.

By Executive order on May, 11, 1985, at the depth of the darkest depression our Nation has ever experienced, President Franklin Roosevelt created the Rural Electrification Administration under emergency conditions. So began one of the boldest cooperative movements the world has seen. The Federal Government and local cooperative associations worked hand in hand to bring the goals of the REA to fruition. Our success has helped make the United States the most productive agricultural nation in the world. Our success has lifted the twin drudgeries of darkness and backbreaking, life-shortening toil from the lives of farm families. Our success continues to prove that no task is too great when we have the will power and the people power to carry it out.

I am proud to say that my own State of Washington was among the first to jump onboard the REA Program. At least 18 co-ops were formed across the frontier of the Evergreen State early in 1937. These original co-ops have since consolidated into nine strong organizations which serve 72,440 consumers through 17,200 miles of line.

The success of the REA cannot be exaggerated. Simply put, there has not been a more revolutionary movement in the history of the United States. The challenge facing the nation in 1935 was a countryside nearly void of electricity and all the benefits it offers. Today, the electric glow of light fills milking barns where

highly flammable kerosene lamps once hung and the power of electricity drives irrigation pumps and feedgrinders and washing machines where manual exertion was once required. America has moved into the 20th century thanks to REA and it is only fitting that we pay tribute to the men and women of the past 50 years who have made the dream of rural electrification come true.

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Wednesday, May 8.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS HUMPHREY AND PROXMIRE TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that, following the recognition of the two leaders under the standing order, there be special orders in favor of the distinguished Senator from New Hampshire [Mr. HUMPHREY] and the distinguished Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes each.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that, following the special orders, there be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m., with statements limited therein to 5 minutes each.

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

RESUMPTION OF CONSIDERATION OF SENATE CONCURRENT RESOLUTION 32 TOMORROW

Mr. DOLE. Mr. President, following the special orders, the Senate will resume consideration of Senate Concurrent Resolution 32, the budget resolution. The time remaining on the resolution as of 4 p.m. today is for the distinguished minority leader, 7 hours, 22 minutes, for the majority leader, 3 hours 46 minutes, bringing the total to 11 hours, 8 minutes.

Mr. President, it is my hope that tomorrow morning at 10:30 a.m. we will recognize the distinguished Senator from Massachusetts [Mr. KERRY] to offer an amendment on tax compliance and that, following the disposition of that amendment, the distinguished Senator from Georgia [Mr. MATTINGLY] be recognized to offer an amendment on Social Security.

TIME LIMITATION AGREEMENT ON AMENDMENTS

Mr. President, I would guess that will take us until about 1 o'clock tomorrow.

At that time, I ask unanimous consent that the distinguished Senator from Florida [Mr. CHILES] and the distinguished Senator from South Carolina [Mr. HOLLINGS] be recognized to offer a package amendment; that the time on that amendment be limited to 90 minutes—1 hour for the proponents and 30 minutes for the opponents of that package.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I wonder if we could have the rest of the package, please.

Mr. DOLE. Following the disposition of that amendment, and I assume there will be a rollcall vote, I ask unanimous consent that the distinguished minority leader [Mr. BYRD] be recognized to offer an amendment and that the time be limited to 90 minutes—1 hour for the proponents, 30 minutes for the opponents of the amendment.

Mr. BYRD. Mr. President, I thank the distinguished majority leader for presenting this request.

Would the distinguished majority leader mind including in his request a time limit on the amendment that is to be offered by Mr. KERRY and a time limit on the amendment to be offered by Mr. MATTINGLY and set a specific time for the calling up of the Chiles amendment and a specific time for the calling up of the Byrd amendment?

Mr. DOLE. Mr. President, the time limit under the statute would be 1 hour for Senator KERRY's amendment, 1 hour for Senator MATTINGLY's, which would take us to about 1 o'clock; at which time I think I indicated that, at 1 o'clock, the distinguished Senator from Florida and the distinguished Senator from South Carolina be recognized to call up their amendment. With reference to the amendment of the distinguished minority leader, it would be 3 o'clock.

Mr. BYRD. Three o'clock right on the nose.

The reason I referred to the amendment by Mr. KERRY is he had indicated to me a little earlier that he would be willing to make it a half-hour, but he is not here now and I would like to clarify that.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Mr. President, I think I stated that the Chiles-Hollings amendment would be at 1 o'clock and that the amendment of the distinguished minority leader be at 3 o'clock.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, I have no objection. I thank the majority leader.

ORDER OF PROCEDURE TOMORROW ON CERTAIN AMENDMENTS

Mr. DOLE. Mr. President, it would be my hope that following that disposition of the amendment of the distinguished minority leader and others, if there be no objection, we then would recognize either the distinguished Senator from Delaware [Mr. BIDEN] or the distinguished Senator from Kansas [Mrs. KASSEBAUM] to lay down the so-called KGB amendment and maybe have some debate, but not dispose of that until Thursday morning.

Mr. BYRD. Mr. President, that is agreeable on this side.

Mr. DOLE. Mr. President, I am not prepared to ask unanimous consent at this time, because it is my understanding that the distinguished Senator from Delaware [Mr. BIDEN] needed to check to see if that is agreeable with other Senators interested in that amendment, but it would be our intention that that would happen following the disposition of the amendment or the package of the distinguished minority leader; that we would then turn to consideration of the so-called KGB amendment and, following that, it would be my hope that we then would recognize the distinguished Senator from Pennsylvania [Mr. SPECTER] for an amendment.

It is still my hope that that would permit us to complete action on the budget resolution, hopefully on Thursday. But I indicate that there will still be about 6 or 7 hours remaining on the resolution Thursday morning.

UNANIMOUS CONSENT AGREEMENT ON BYRD AND CHILES AMENDMENT

Mr. BYRD. Mr. President, if the distinguished majority leader would yield, could we have an understanding that there will be no amendments to the Chiles amendment and the Byrd amendment and that we could have an up-or-down vote on both?

Mr. DOLE. Yes, we can have that understanding, Mr. President.

Mr. BYRD. In my case, anyhow, it is a perfecting amendment, so there could not be any amendment to mine. But could the distinguished majority leader say that?

Mr. DOLE. That would be satisfactory. I am certain the manager would have no objection.

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

The text of the agreement follows:

Ordered, That on Wednesday, May 8, 1985, when the Senate resumes consideration of S. Con. Res. 32, a concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1986, 1987, and 1988 and revising the congressional budget for the U.S. Government for the fiscal year 1985, the Senator from Massachusetts (Mr. Kerry) be recognized to offer an amendment.

Ordered further, That upon the disposition of the Kerry amendment, the Senator from Georgia (Mr. Mattingly) be recognized to offer an amendment.

Ordered further, That at the hour of 1:00 p.m., the Senator from Florida (Mr. Chiles) be recognized to offer an amendment on behalf of himself and the Senator from South Carolina (Mr. Hollings), on which there shall be 90 minutes, with 60 minutes

under the control of the proponents and 30 minutes under the control of the opponents.

Ordered further, That at the hour of 3:00 p.m., the Senator from West Virginia (Mr. Byrd) be recognized to offer an amendment, on which there shall be 90 minutes, with 60 minutes under the control of the proponents and 30 minutes under the control of the opponents.

Ordered further, That no amendments to the Byrd and Chiles amendments and no motions to table those amendments shall be in order.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DURENBERGER. Mr. President, there being no further business to come before the Senate, I move that the Senate now stand in recess, in accordance with previous order, until 9:30 a.m. on Wednesday, May 8, 1985.

The motion was agreed to; and, at 6:51 p.m., the Senate recessed until Wednesday, May 8, 1985, at 9:30 a.m.